



STANDING ORDERS

OF

THE COUNCIL

AND

SCHEMES OF ADMINISTRATION

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**STANDING ORDERS
OF
THE COUNCIL
2017 (FEBRUARY)**

STANDING ORDERS OF THE COUNCIL

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DUNDEE CITY COUNCIL STANDING ORDERS

PART I PRELIMINARY

Definitions

1. In these Standing Orders the following words and expressions shall have the meanings hereinafter respectively assigned to them, viz:-

"*the 1973 Act*" means the Local Government (Scotland) Act 1973 as amended or extended by or under any other enactment.

"*Council*" means the Dundee City Council established by the Local Government etc (Scotland) Act 1994.

"*Standing Committees*" are those so specified or referred to in Standing Order 44 and any others which may be so designated by the Council at any time.

"*functions*" includes powers and duties.

"*delegated*" means remitted with power to exercise on behalf of the remitting body the functions specified in the remit, in the like manner as the remitting body would have exercised such functions, and the expressions "*delegation*" and "*stand delegated*" shall be construed accordingly.

"*referred*" means remitted for consideration and report but without power to exercise any function on behalf of the remitting body, and the expressions "*reference*" and "*stand referred*" shall be construed accordingly.

"*Order of Reference*" means the Order of Reference specifying the functions referred and the functions delegated to the respective Standing Committees annexed to these Standing Orders.

"*single block nominations*" means members must vote for one single list of candidates.

Returning Officer for Elections

2. The Chief Executive of the Council or such other officer as the Council may appoint shall be the Returning Officer for each election of Councillors in accordance with Section 6 of the 1973 Act.

Proper Officer of the Council

3. The Proper Officer of the Council for the purposes of Sections 33A, 34, 40, 231 and Schedule 7 of the 1973 Act shall be the Chief Executive, whom failing for any reason, the Head of Democratic and Legal Services; the Proper Officer for the purposes of Sections 92, 145, 190, 191, 197, 202 and 204 shall be the Head of Democratic and Legal Services who shall also be the Proper Officer for the purposes of Sections 50B, 50C and 50F; the Proper Officer for the purposes of Section 50D (identification of background papers for reports) shall be the Head of the Service in whose name a report is issued, with the first named being so designated in the case of a joint report; the Proper Officer for the administration of the financial affairs of the Council in accordance with Section 95 of the 1973 Act shall be the Executive Director of Corporate Services of the Council; and the Proper Officer for any other purposes of the 1973 Act shall be such officer as the Council may appoint at any time. In the case of the Proper Officer for the purpose of signing deeds (Requirements of Writing (Scotland) Act 1995) the authorised signatories shall be the Chief Executive, Head of Democratic and Legal Services and Legal Manager. The Proper Officer for the purposes of the Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003 shall be the Head of Democratic and Legal Services. The Proper Officer for the purposes of the Freedom of Information (Scotland) Act 2002 shall be the Head of Democratic and Legal Services. The Head of Democratic and Legal Services shall also be the proper officer under Rule 60(b) of the Scottish Local Government Elections Order 2011.

Use of Seal

4. The Chief Executive, whom failing for any reason, the Head of Democratic and Legal Services of the Council may have the common seal of the Council affixed to any deed or other document to which the Council is a party.

Application of Standing Orders to Committees and Sub-Committees

5. Standing Orders in Part II, marked thus † in the margin shall apply with the necessary changes to Committees and Sub-Committees.

Application of Interpretation Act

6. The Interpretation Act 1978, shall apply to the interpretation of these Standing Orders as it applies to the interpretation of an Act of Parliament.

Commencement

7. These Standing Orders shall apply and have effect on and from the day they are adopted by the Policy and Resources Committee with such amendments as may be made by the Policy and Resources Committee from time to time in accordance with Standing Order 70 hereof.

PART II

MEETINGS AND PROCEEDINGS OF THE COUNCIL

Days and Times of the Meetings

8.
 - (1) The ordinary meetings of the Council shall, except as hereinafter provided, be held in accordance with the timetable approved by the Policy and Resources Committee.
 - (2) The meeting of the Council to be held in pursuance of Paragraph 1(1) of Schedule 7 to the 1973 Act (first meeting after election day) shall be held on a day following the date of the election and to be selected by the Council *and at that meeting the Council shall as their first business, appoint the Convener*, and thereafter the Depute Convener and the Conveners and Depute Conveners of the Standing Committees so far as appropriate.
 - (3) For the avoidance of doubt the appointment of Conveners and Depute Conveners of the Standing Committees and representatives on outside bodies shall be dealt with as a single item of business, ie a block. Any vacancies arising thereafter will be considered on a similar basis except in the case of an individual casual vacancy occurring in which event the vacancy shall be filled in accordance with Standing Order No 33.
- †9.
 - (1) Regular meetings of the Council shall be held in accordance with the timetable approved by the Policy and Resources Committee and all other meetings shall be held on such days and as at such times as may be fixed from time to time by the respective Convener or in his or her absence, the Depute Convener.
 - (2) Unless in special circumstances (of which the Convener or, in his or her absence, the Depute Convener, shall be the sole judge) or as required by Standing Order 13, no meetings of the Council shall be held:-
 - (a) on any days designated public holidays in the City of Dundee including any days designated as public holidays for employees of Dundee City Council;

- (b) during any designated Recess period;

Notwithstanding paragraph 9(2)(b) above, a Recess Sub-Committee shall be set up to deal with any urgent business which the Chief Executive or Head of Democratic and Legal Services determine cannot wait to the next ordinary meeting of the Committee concerned during the Summer Recess.

- (c) no meetings of the Council shall be held on Saturdays or Sundays;
- (d) on such other days as the Council may fix.

- 10. All meetings of the Council shall be held at 6.00 pm except that in the event of the Convener or, in his or her absence, the Depute Convener, considering special circumstances so require, he or she may fix another hour for any meeting.

- †11. When necessary, in the interests of the expeditious transaction of the Council's business, the Chief Executive shall, in liaison with the Convener, be authorised to alter the timetable with regard to any regular meeting of the Council, on a one-off basis.

Precedence of Council Meetings

- 12. Meetings of the Council in any capacity shall, unless the Convener or, in his or her absence, the Depute Convener, otherwise decides, take precedence over meetings of all Committees subject to a Council meeting being held immediately after a pre-determination hearing held by the Development Management Committee in terms of Section 38A(1) of the Town and Country Planning (Scotland) Act 1997 and Regulation 27 of the Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008 to determine the application.

Special Meetings

- 13. (1) *The Chief Executive shall call a meeting of the Council at any time on being required to do so by the Convener or, in his or her absence, the Depute Convener, or on receiving a requisition in writing for that purpose signed by at least eight members of the Council specifying the business proposed to be transacted at the meeting, which meeting shall be held within fourteen days of receipt of the requisition.*
- (2) The Chief Executive shall call a special meeting of a Committee on being required to do so by the Convener of such Committee or by the Convener of the Council, or on receiving a requisition in writing for that purpose specifying the business proposed to be considered at the meeting, signed by members of such Committee not less in number than a quorum, and on receipt of such requisition the Chief Executive shall call a special meeting for the consideration of the business specified in the requisition within twenty one days of receipt of the requisition, and it shall not be competent, notwithstanding anything contained in these Standing Orders, to consider any other business at such special meeting.

Calling of Meetings

- †14. (1) Notice of all meetings of the Council shall be given by the Chief Executive and the notice shall specify the business proposed to be transacted at the meeting and the order in which such business is to be brought before the meeting.
- (2) *Not less than three clear days before a meeting of the Council:-*
 - (a) *notice of the time and place of the meeting shall be published at the Principal Offices of the Council, and where the meeting is called by members of the Council the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; and*

- (b) *a summons to attend the meeting, specifying the business to be transacted thereat and signed by the Chief Executive shall be left at or sent by post either to the usual place of residence of every member of the Council or (if a member gives notice in writing to the Chief Executive that he desires summonses to be sent to him at some address specified in the notice other than his place of residence) to that other address.*
- (3) *Want of service of a summons on any member of the Council shall not affect the validity of a meeting of the Council.*
- (4) *Unless in cases of urgency, members shall receive written notice of all meetings of the Council five clear days before the date of the meeting.*

Quorum

15. *The quorum of the Council shall be determined in accordance with Paragraph 4 of Schedule 7 to the 1973 Act.*

- "4. (1) *Subject to sub-paragraph (2) below, no business shall be transacted at a meeting of a Council unless at least one-fourth of the whole number of members of the Council are present.*
- (2) *Where there are at the same time vacancies in the case of more than one-third of the members of a Council, then until the number of members in office is increased to not less than two-thirds of the whole number of members of the Council, the quorum of the Council shall be determined by reference to the number of members of the Council remaining instead of by reference to the whole number of members of the Council, so however that the quorum shall never be less than one-eighth of the whole number of members of the Council or three members, whichever is the greater number."*

Order of Business

†16. *The business of the Council at an ordinary meeting shall (unless otherwise directed by the Convener who may, at his or her discretion, alter the order of business at any stage) proceed in the following order:-*

- (a) *Reception of deputations.*
- (b) *Minutes of the Council and Committees (which shall be read, or held as read, and, so far as not reported for information only, considered and disposed of).*
- (c) *Ordinary business including business on agenda at the request of members.*
- (d) *Matters of urgency of which no previous notice has been given, provided that consideration of any such matters shall be subject to the provisions of Standing Order 17.*

Matters of Urgency

†17. *Without prejudice to the provisions of Schedule 7 to the 1973 Act no item of business shall be considered at a meeting of the Council unless either:-*

- (a) *a copy of the agenda, including the item, has been open to inspection by the public in terms of Part IIIA of the 1973 Act; or*
- (b) *by reason of special circumstances, which shall be specified in the minutes, the Convener of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.*

- †18. The Council shall not at any meeting consider the minutes of any Committee which have not been in the hands of the members for at least twenty four hours before the meeting unless by reason of special circumstances, which shall be specified in the minutes, the Convener of the meeting is of the opinion that the said minutes should be considered at the meeting as a matter of urgency.

Convener

19. (1) *The Lord Provost, if present, shall preside at meetings of the Council and, in his/her absence, the Depute Lord Provost shall preside at such meetings. If both are absent, the Leader of the Administration shall preside, whom failing, another member of the Council chosen by the members present shall preside.*
- (2) The Lord Provost shall not preside over any meeting called for the purpose of removing him/her from office. The Depute Lord Provost shall preside at such meetings. In his/her absence, the Leader of the Administration shall preside, whom failing, another member of the Council chosen by members shall preside.
- (3) The Depute Lord Provost shall not preside over any meetings called for the purpose of removing him/her from office. The Lord Provost shall preside at such meetings. In his/her absence, the Leader of the Administration shall preside, whom failing, another member of the Council chosen by members shall preside.

Removal of Lord Provost, Depute Lord Provost, Conveners and Depute Conveners

Removal of Lord Provost

20. (1) A simple majority of Councillors present and voting at any meeting of the Council called for that purpose may remove the Lord Provost from office with immediate effect.

Removal of Depute Lord Provost

- (2) A simple majority of Councillors present and voting at any meeting of the Council called for that purpose may remove the Depute Lord Provost from office with immediate effect.

Removal of Conveners and Depute Conveners

- (3) A simple majority of Councillors present and voting at any meeting of the Council called for that purpose may remove all Conveners and Depute Conveners including, for the avoidance of doubt, the Convener and Depute Convener of the Council (Lord Provost and Depute Lord Provost), from office with immediate effect.

Powers and Duties of Convener

- †21. It shall be the duty of the Convener:-
- (a) to preserve order, and to ensure that every member of the Council shall have a fair hearing;
 - (b) to decide all matters of order, competency and relevancy;
 - (c) to decide between two or more members of the Council rising to speak by calling on the member who has first caught his or her eye; and
 - (d) to ensure that due and sufficient opportunity is given to members of the Council who wish to speak to express their views on the subject under discussion.
- †22. The decision of the Convener on all matters within his or her competency shall be final, and shall not be open to question or discussion.

- †23. Deference shall at all times be paid to the authority of the Convener. When he or she rises to speak he or she shall be heard without interruption, and any member then standing shall resume his or her seat and no member shall rise to speak until the Convener is seated.

Suspension of Members

- †24. If any member of the Council disregards the authority of the Convener, or obstructs the meeting, or conducts himself or herself offensively at the meeting, such member may be suspended for the remainder of the sitting. A motion to suspend a member shall be made and seconded without discussion and forthwith put to the meeting. Any member of the Council so suspended, shall forthwith leave the meeting and shall not, without the consent of the meeting again enter the meeting, and if any member so suspended refuses to leave the meeting when so required by the Convener, he or she may immediately by order of the Convener be removed from the meeting by a Council Officer or by any other person authorised by the Convener to remove him/her.

Adjournment of Meetings

- †25. (1) In the event of disorder arising at any meeting of the Council, the person in the Chair may adjourn the meeting to a date he or she may fix or which the Convener of the Council may afterwards fix, and the quitting of the Chair by the Chairperson shall be the signal that the meeting is adjourned.
- (2) The Council may, at any of their meetings, adjourn the same to such date as they may then fix, failing which as the Convener of the Council or, in his or her absence, the Deputy Convener, may thereafter fix.
- (3) A motion for the adjournment of the meeting may be made at any time (not being in the course of a speech) and shall have precedence over all other motions. It shall be moved and seconded without discussion, and shall forthwith be put to the meeting.
- †26. Meetings of the Council shall end not later than 9.30 pm and on that hour being reached, any meeting then in session shall stand adjourned until such time as may then be fixed by the Chairperson or as may thereafter be fixed by the Convener, or, in his or her absence, the Deputy Convener.
- †27. When an adjourned meeting is resumed, the proceedings shall (subject to the discretion conferred on the Convener under Standing Order 16) be commenced at the point at which they ceased at the adjournment.

Reception of Deputations

- †28. (1) All applications requesting the Council to receive a deputation shall be in writing, duly signed, addressed and, where possible, delivered to the Chief Executive at least five clear working days prior to the date of the meeting at which the subject may be considered. Any later requests for deputations to be received shall be reported to the meeting and shall be dealt with in accordance with the provisions of the remainder of this Standing Order except in the case of the Development Management Committee where no later requests for deputations will be considered or reported.
- (2) No deputation exceeding ten in number shall be received by the Council or any Committee.
- (3) Not more than two speakers on any deputation shall be heard, and the time allowed to the deputation for speaking shall not exceed seven minutes except at the discretion of the Convener.
- (4) Any member of the Council may put any relevant question to the deputation, but no member shall express an opinion upon, nor shall the Council discuss, the subject on which the deputation has been heard, until the deputation has withdrawn.

- (5) In addition to requests for deputations to speak to items on the agenda, the Scrutiny Committee may also invite deputations to seek their views in relation to items on the agenda.

Order of Debate

- †29. (1) Any member of the Council desiring to speak at any meeting of the Council shall rise in his/her place and when called upon, shall address the Chair, and direct his/her speech:-
- (a) to the matter before the meeting by proposing, seconding, or supporting a motion or any amendment relative thereto;
 - (b) to a point of order; or
 - (c) to asking a question.
- (2) A member shall not speak supporting a motion or any amendment until the same shall have been seconded.
- (3) Subject to the right of the mover of a motion to reply, a member shall not speak more than once on the same issue at any meeting of the Council, except on a point of order, or with the permission of the Convener, in explanation or to clear up a misunderstanding in regard to some material part of his/her speech, in which case he/she shall introduce no new matter.
- (4) The mover of an original motion shall have a right of reply, but he/she shall introduce no new matter, and, after he/she has commenced his/her reply, no other member shall speak on the issue except as provided in the immediately preceding paragraph of this Standing Order.

Motions and Amendments

- †30. (1) All motions and amendments should be submitted in writing to the Head of Democratic and Legal Services on or before 12 noon on the day of the meeting at which the item is to be considered. The Head of Democratic and Legal Services will check motions and amendments for compliance with law, Standing Orders, Code of Conduct, previous decisions of the Council and financial accuracy.
- (2) Any further motions and amendments not anticipated in advance of the meeting should be submitted in writing to the Head of Democratic and Legal Services at the meeting and will be checked for compliance with law, Standing Orders, Code of Conduct, previous decisions of the Council and financial accuracy.
- (3) The Chair will determine their competency (including whether they are relevant to the motion, substantially different to it and to all other amendments).
- (4) The import of all motions and amendments shall be stated immediately on their being proposed to the meeting by the mover before being spoken to, and such motions and amendments (except motions for the approval or disapproval, simpliciter, of any matter before the Council, purely negative amendments, amendments to remit for further consideration and report, and motions and amendments which are fully set out in a minute of a Committee) shall be reduced to writing, signed by the mover, and delivered to the Head of Democratic and Legal Services immediately on being moved.
- (5) All amendments must be relative to the motion and after the first amendment has been voted upon, all subsequent amendments must be substantially different from the first amendment.
- (6) In any case, where a motion or an amendment has been duly seconded, neither the motion nor the amendment, as the case may be, shall be altered in substance or withdrawn without the consent of a majority of the members present.

- (7) Except as provided at paragraphs (8) and (9) of this Standing Order, whenever an amendment upon an original motion has been moved and seconded, no further amendment shall be moved until the result of the first amendment has been determined. If an amendment be rejected, further amendments to the original motion may be moved. If any amendment be carried, such amendment shall take the place of the original motion and shall become the motion upon which any further amendments may be moved.
- (8) Subject to the provisions of paragraph (9) below, in the case of the Development Management Committee, when there are more amendments to the motion than one, the first amendment shall be voted on against the second amendment and the amendment which is carried shall be voted on against the third amendment and so on until there remains only one amendment which shall be voted on against the original motion and whichever is carried that shall be the finding of the meeting.
- (9) In dealing with an application for planning consent, as soon as it becomes apparent that there is not unanimity, the Convener of the Development Management Committee shall ascertain whether there is any competent motion for a deferral and if such a motion is moved and seconded, it shall be voted on against any amendment for the direct negative should such be moved and seconded, before any further motions or amendments are proceeded with as outlined in paragraph (8) above.
- (10) A motion for the approval of a minute of a meeting of a Committee, or of any part of such minute, shall be considered as an original motion and any motion involving alteration or rejection of such minute or any part of such minute shall be dealt with as an amendment.
- (11) The Convener of a Committee shall, if present, have the right to move the approval of the minute of any meeting of that Committee or of any part of such minute.
- (12) Motions and amendments moved but not seconded shall not be put to the meeting, nor shall they be recorded in the minutes unless the movers shall, at such meetings, request that they be so recorded.
- (13) Where any motion or proposal is accepted by a meeting, the name of the mover and of the seconder, if any, shall, notwithstanding that there may not be a division, be recorded in the minutes.

Time Allowed for Speaking

- †31. In moving a motion (other than a motion for the adoption of Annual Reports, Accounts or Estimates) or an amendment, a member shall not speak for more than seven minutes, each other speaker shall not speak for more than four minutes, and the mover of the original motion in his/her reply shall not speak for more than four minutes. The foregoing limits of time may be exceeded with the consent of a majority of the members present, and it shall be competent for the Chairperson to determine (without the necessity of taking a division) whether a majority of the members present are agreeable to the foregoing limits of time being exceeded in any speech.

Closure of Debate

- †32. (1) At any meeting of the Council it shall be competent, after not fewer than five members (excluding the mover and seconder of the original motion) shall have spoken on the subject under discussion, for any member of the Council who has not spoken on the subject to move that the question be now put.
- (2) Such motion shall be moved and seconded without discussion and shall forthwith be put to the meeting, and if a majority of the members present vote for the motion, the debate on the matter under discussion shall cease (subject to the right of the mover of the original motion to reply) and thereafter the subject under discussion shall be voted on in the ordinary way. No further amendment shall be competent on that particular item of business unless with the consent of the Convener. If the motion for closure is not carried, the debate shall be resumed.

- (3) Subsequent motions for closure may be made after every three additional members have spoken.
- (4) A motion for closure shall not be made during the course of a speech.

Vacancies and Appointments Voting

- †33. (1) In the filling of vacancies and making of appointments, the following provisions as to voting shall apply:-
- (a) Nominations for vacancies or appointments shall be moved and seconded without discussion and shall forthwith be put to the meeting.
 - (b) Except as aftermentioned, members shall be entitled to vote for as many candidates as there are vacancies to be filled.
 - (c) If, as a result of voting, there is an absolute majority of those present and voting in favour of the number of candidates equal to the number of vacancies to be filled, such candidate or candidates shall be declared duly appointed.
 - (d) If no such absolute majority is obtained, the names of the candidates receiving the lowest number of votes (together with any candidate receiving no votes) shall be struck out, and a further vote shall be taken, provided, however, that:-
 - (i) if two or more candidates tie as receiving the lowest number of votes, a vote (with each member exercising only one vote) shall be taken between such candidates, and the candidate who receives the lower or lowest number of votes shall be dropped; and
 - (ii) after any vote the members may by unanimous agreement exclude from a further vote candidates whom they consider have no prospect of being appointed.

In subsequent votes, the same procedure shall be followed until there is an absolute majority in favour of the number of candidates equal to the number of vacancies to be filled, when such candidate or candidates shall be declared duly appointed.

Vacancies and Appointments (Single Block Nominations)

- (2) In the case of appointments being made in terms of Standing Order 8(3), members shall vote for a single block nomination. If as a result of voting there is an absolute majority of those present and voting in favour of one single block, such candidates as are named in the block shall be declared duly appointed.

If no such absolute majority is obtained, the block receiving the lowest number of votes shall be struck out and a further vote shall be taken providing however that:-

- (i) if two or more blocks tie as receiving the lowest number of votes, a vote (with each member exercising only one vote) shall be taken between such blocks, and the block which receives the lower or lowest number of votes shall be dropped; and
- (ii) after any vote the members may by unanimous agreement exclude from further vote blocks which they consider have no prospect of succeeding.

In subsequent votes, the same procedure shall be followed until there is an absolute majority in favour of one single block, such candidates as are named in the block shall then be declared duly appointed.

Method of Voting

- †34. (1) The vote of the Council shall be taken by calling the roll of those present, beginning with the Convener, and the voting shall be recorded in the minutes.
- (2) After the Convener or the Chief Executive has announced the issue on which the vote is to be taken, no member shall interrupt the proceedings in any way whatsoever (except that, in the case where his or her name has not been called, a member may direct attention to the fact and request that his or her name be called) until the result of the division has been intimated.
- (3) A member who is absent from the meeting when his or her name is called in a division shall be entitled to record his or her vote if he or she enters the meeting before the result of the division has been intimated, provided the attention of the Chief Executive is directed to the return of such member before the result of the division has been intimated.
- (4) The provisions of paragraph (3) of this Standing Order shall not apply in the case of proceedings of a judicial or quasi-judicial nature, and in such cases only those members present during the whole of the proceedings shall be entitled to vote or take part in the deliberations.

In the case of proceedings to which this paragraph applies:-

- (a) intimation to that effect shall so far as reasonably practicable be given in the notice calling the meeting; and
- (b) the Convener shall direct the attention of members to the provisions of this paragraph at the commencement of the proceedings.

Casting Vote

- †35. *Subject to the provisions of any enactment and of any Statutory Order or Instrument the person presiding at a meeting of the Council shall, in the case of an equality of votes, have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a member of the Council to any particular office or Committee, in which case the decision shall be by lot.*

Points of Order

- †36. (1) Any member of the Council may, at any meeting of the Council, speak upon a point of order if he or she does so as soon as it arises, and if he or she states that they rise to a point of order and forthwith states the point of order to which they rise.
- (2) The member who is then addressing the Council shall resume his or her seat, and the member who rises to the point of order shall, when he/she has concluded, also resume his or her seat. No other member shall be entitled to speak to the point of order raised except by permission of the Convener.
- (3) The Convener shall thereupon decide the question, and, thereafter, the member who was addressing the Council at the time the point of order was raised shall be entitled (if the ruling permits him or her so to do) to continue to speak, giving effect to the ruling of the Convener.

Questions

- †37. (1) If any member has a detailed question for officers relating to any item to be considered by Committee they should approach the appropriate Executive Director in advance and seek an answer before the Committee.
- (2) At any meeting of the Council any member may put a question to the Convener of the meeting relative to any matter under consideration.

- (3) Questions will be allowed only so far as they are deemed relevant and competent by the Convener.
- (4) One supplementary question, if necessary for the elucidation of the answer given, may be asked by (a) the original questioner, and (b) one other member.
- (5) Questions and answers thereto shall not be recorded in the minutes of meetings of the Council.

Inclusion of Business on Council Agenda at the Request of Members

- †38. (1) Subject to the provisions of the 1973 Act, any member of the Council who wishes brought before the Council any matter which can be competently considered thereby, shall submit to the Chief Executive, a detailed written statement and notice of the matter not later than five clear working days before the issue of the agenda and papers to members in order that the Proper Officer in terms of Sections 50B, 50C and 50F of the 1973 Act may determine whether exempt information as included in Schedule 7A to the said Act is likely to be disclosed. A member whose item is included on an agenda in terms of this Standing Order shall, when that item is rendered, be called upon to speak first.
- (2) In the case of the Scrutiny Committee, the Committee shall consider any item submitted by any member, such item having first been submitted to and agreed by the Chief Executive in consultation with the Convener.

Alteration or Revocation of Previous Resolution

- †39. (1) Subject to the provisions of paragraph (2) of this Standing Order, no resolution of the Council shall be altered or revoked except by a subsequent resolution made by the Council and arising from a recommendation, involving alteration or revocation, approved by a majority of the members present at a meeting of the Committee concerned, to which recommendation attention is specially directed at the meeting of the Council to which the minute of the Committee is submitted. Provided that no resolution shall be altered or revoked within six months of its adoption.
- (2) Notwithstanding the provisions of the remainder of this Standing Order, it shall be competent for the Policy and Resources Committee to review the Capital and Revenue Budgets and alter or revoke decisions of previous meetings irrespective of whether six months has elapsed since such decisions were made.
- (3) The alteration or revocation of any resolution of the Council shall not affect or prejudice any proceedings, action, or liability competently done or undertaken under any such resolution prior to its alteration or revocation.

Members Declaring Interests at Meetings

- †40. *In terms of the Councillors' Code, it is the responsibility of members to make decisions about whether to declare an interest in any item on an agenda and whether to take part in any discussion or voting. This includes all interests whether or not entered in the Register of Interests which might be perceived as influencing an elected member's opinion/vote on any matter.*

Admission of Press and Public to Meetings

- †41. (1) *Subject to paragraphs (2) and (3) of this Standing Order, every meeting of the Council shall be open to the public and press.*
- (2) *The public and press shall be excluded from any meeting of the Council during consideration of an item of business whenever it is likely, in view of the nature of the business, that, if they were present, information would be disclosed which was confidential in terms of Part IIIA of the 1973 Act that is to say:-*

- (a) *information furnished to the authority by a government department upon terms which forbid the disclosure of the information to the public; or*
 - (b) *information, the disclosure of which to the public is prohibited by or under any enactment or by the order of a Court.*
- (3) The Council may, by resolution, exclude the public and press from any meeting of the Council during consideration of an item of business whenever it is likely, in view of the nature of the business, that, if they were present, information would be disclosed which falls within one or more of the categories of exempt information in terms of Part IIIA of the 1973 Act.
- (4) A resolution under paragraph 3 of this Standing Order shall:-
- (a) identify the proceedings or the part of the proceedings to which it applies; and
 - (b) state, in terms of the Act, the category or categories of exempt information concerned.

Suspension of Standing Orders

- †42. It shall be competent for a member of the Council at any time to move the suspension of any Standing Order as far as applicable (except those Standing Orders or portions thereof which are printed in italics) which motion shall, without any discussion, be moved and seconded and be put to the meeting, and the motion shall be held to be carried if supported by a simple majority of those present and voting.

PART III

CONSTITUTION, MEETINGS, AND PROCEEDINGS OF COMMITTEES AND SUB-COMMITTEES

Appointment of Committees and Sub-Committees

43. The Council may, as they shall deem necessary from time to time, and shall, if and when required by any Act of Parliament, appoint Committees and Sub-Committees for the fulfilment of any of the functions of the Council and shall in May of each election year, appoint the Standing Committees hereinafter mentioned for the performance of the functions referred or delegated to such Committees and Sub-Committees in pursuance of these Standing Orders or of any Act of Parliament or Statutory Order, Instrument or Scheme.

Standing Committees and Sub-Committees Constitution

44. The Constitution of Standing Committees shall, so far as is practicable, reflect the political balance of the Council's membership. With the exception of the Licensing and Scrutiny Committees, Committees will comprise all members of the Council. Membership of the Licensing Committee and Scrutiny Committee will be as indicated below:-

Policy and Resources Committee
 Children and Families Services Committee
 Neighbourhood Services Committee
 City Development Committee
 Development Management Committee
 Licensing Committee - 8 members plus 8 trained substitutes
 Community Safety and Public Protection Committee
 Scrutiny Committee - 8 members

Membership of Committees and Sub-Committees

45. (1) With regard to the allocation of places on Committees and Standing Sub-Committees between the recognised political groupings on the Council, they shall be fixed at the statutory meeting following the elections and may be amended at any meeting of the Council so long as approved by a simple majority of those present and voting.
- (2) With regard to the allocation of places on Committees and Sub-Committees between the recognised political groupings on the Council, should it be necessary or expedient for any of these groups to change their nominated representatives at any time other than at the statutory meeting of the Council immediately following the election, it shall be competent for such changes to be intimated to the Committee or Sub-Committee concerned and if approved, the change shall have effect from the next meeting of that Committee or Sub-Committee.
- (3) Notwithstanding the provisions of the above, it shall be competent for substitutions to be intimated and effected for individual meetings of any Sub-Committees and the Scrutiny Committee.

Conveners and Depute Conveners of Committees and Sub-Committees

46. (1) The Conveners and Depute Conveners of all Committees, except as hereinafter provided, shall be appointed by the Council in May of each election year at the meeting to be held in terms of Standing Order 8(2) and at such other times as may be necessary.
- (2) The Leader of the Administration shall be *ex officio* Convener of the Policy and Resources Committee and the Personnel Appointments Sub-Committee.
- (3) Conveners of Sub-Committees shall be the Conveners of the relevant parent Committees except as otherwise determined.

Reference to Committees and Sub-Committees

47. (1) Subject to the terms of Standing Order 48 and to the provisions of any enactment and of any Statutory Order, Instrument or Scheme, the functions of the Council shall stand referred to the various Standing Committees and Standing Sub-Committees in accordance with the Order of Reference annexed to these Standing Orders.
- (2) Subject to the terms of any enactment and of any Scheme made thereunder, each Committee shall have power to appoint Sub-Committees for such purpose as they are required to by law or are deemed necessary, and any reference to a Committee shall be deemed to include a reference to a Sub-Committee of that Committee.
- (3) Notwithstanding these Standing Orders, the Council may at any time, if they so determine, deal with any matter included in a reference to a Committee, although no report from such Committee is before them.
- (4) Notwithstanding these Standing Orders, the Council may at any time vary, add to, restrict, or recall any reference to any Committee, or by specific remit refer any function to any Committee and the terms of a specific remit shall supersede any general remit contained in the Order of Reference.
- (5) If a Committee report has implications for more than one Committee, the item will be submitted to the Policy and Resources Committee unless the Chief Executive decides otherwise.

Delegation to Committees and Sub-Committees

48. Subject to the provisions of any enactment and of any Statutory Order, Instrument, or Scheme, the Council may at any time delegate any function to a Committee, or a Sub-Committee, or a Principal Officer of the Council and any matters not so delegated (other than to Principal Officers) shall be indicated by an asterisk in the Order of Reference to these Standing Orders and in the relevant minutes.

Agenda and Business of Meetings

49. (1) Every member of the Council shall receive the agenda and papers for all Committees and Sub-Committees subject to the provisions of the 1973 Act.
- (2) The appropriate Principal Officers shall deliver to the Chief Executive, not later than five clear working days before the issue of the agenda and papers to members for a Committee or Sub-Committee, a detailed statement of the business to be brought before such Committee or Sub-Committee in order that the Proper Officer in terms of Sections 50B, 50C and 50F of the 1973 Act may determine whether exempt information as defined in Schedule 7A to the said Act is likely to be disclosed.
- (3) Subject to the provisions of the 1973 Act, any member of the Council who wishes brought before any Committee, whether or not he or she is a member of such Committee, any matter which can be competently considered thereby, shall submit to the Chief Executive a detailed written statement and notice of the matter not later than five clear working days before the issue of the agenda and papers to members in order that the Proper Officer in terms of Sections 50B, 50C and 50F of the 1973 Act may judge whether exempt information as included in Schedule 7A to the said Act is likely to be disclosed. A member whose item is included on an agenda in terms of this Standing Order shall, when that item is rendered, be called upon to speak first.

Attendance of Members of Council at Meetings of Committees and Sub-Committees of which they are not Members

50. (1) Every member of the Council shall be entitled to attend all meetings of all Committees and Sub-Committees thereof although not called to such meetings, and they shall be entitled to intimate to the Convener of such meetings the terms of any questions on matters under consideration which they wish to ask and shall thereafter, with the consent of the majority of the members of the Committee present, be permitted to put such questions and to receive answers subject to the provisions of the paragraph immediately below.
- (2) In view of the nature of the business and role of the Scrutiny Committee, it will only be permissible for members of the Committee to ask questions.
- (3) Where a member who is not a member of a particular Committee or Sub-Committee has an item of business included on an agenda at his or her request, the member concerned shall be entitled to appear before the Committee or Sub-Committee solely to explain or support the matter, but shall not otherwise participate in the proceedings.
- (4) Non-members of a Committee or Sub-Committee may be required to leave any meeting during consideration of matters which, in terms of the 1973 Act are confidential or exempt.

Quorum of Committees and Sub-Committees

51. (1) The quorum of all Standing Committees other than those referred to in paragraph 2 and (3) hereof shall be eight members.
- (2) The quorum of the Licensing Committee shall be four members.

- (3) The quorum of the Scrutiny Committee shall be three members. The quorum must include a representative from the Administration and the Major Opposition Group.
- (4) Unless otherwise stipulated by an appointing Committee, the quorum of all Sub-Committees shall be three.

Convener of Meetings of Committees and Sub-Committees

- 52. (1) The Convener of a Committee or Sub-Committee, or, in his/her absence, the Depute Convener, whom failing, the Leader of the Administration, shall preside at meetings of Committees or Sub-Committees.
- (2) In the absence of any of the office bearers referred to above, the members of the Committee or Sub-Committee present shall elect a Convener of the meeting who shall preside over the meeting for such time as the Convener is absent.
- (3) The foregoing paragraph shall not apply to meetings of the Personnel Appeals Sub-Committee from which the Convener or Depute Convener are absent, in which event, the members of the Sub-Committee present shall elect a Convener of the meeting.
- (4) The foregoing paragraph shall not apply to meetings of the Scrutiny Committee from which the Convener and Depute Convener are absent, in which event members shall elect a Convener of the meeting from the opposition.

Minutes of Meetings of Committees and Sub-Committees

- 53. (1) Minutes of meetings of Committees and Sub-Committees shall, except as provided in paragraphs (2) and (3) hereof, be submitted as soon as practicable after such meetings to the Council or to the Parent Committee, as the case may be, and the Council or the Parent Committee shall determine with respect thereto as they think fit except insofar as such minutes relate to matters delegated to such Committees or Sub-Committees, in which case they shall be submitted to the Council or to the Parent Committee for information only.
- (2) Minutes of meetings of Sub-Committees shall normally be submitted to the Council along with the minute of meeting of the Committee by which the Sub-Committee was appointed, provided that in any case of urgency, the said Committee may instruct that the minute of the Sub-Committee shall be submitted direct to the Council.
- (3) Minutes of meetings of Special Committees or of Sub-Committees relative to a particular remit shall be submitted in accordance with the terms of paragraph (1) hereof after the discharge of such remit by the Special Committee or Sub-Committee, but in any case within a period of three months from the date of such remit, provided that such Committees or Sub-Committees may submit an interim report to the Council on any question or ask for directions at any stage of their deliberations.

Annual Accounts of the Council

- 54. *The Executive Director of Corporate Services shall submit to the Council not later than the 30 June of each year, an Abstract of Accounts for the previous financial year. The audited copy of the Abstract, together with the Audit Report, shall be laid before a meeting of the Council held not later than two months after receipt of the certification.*

Authority to Attend Meetings, Conferences, Events etc

- 55. (1) Notwithstanding the provisions of the Order of Reference to Committees or Scheme of Delegation of Powers to Officers and subject to the provisions of any enactment and of any Statutory Order or Instrument any Committee may authorise attendance at meetings, conferences or events on matters affecting the interests of the Committee.

- (2) The Leader of the Administration and the Conveners of Committees may attend meetings convened by or with other local authorities, government departments or bodies at which matters affecting the interests of the Council or relevant Committees are to be considered and the Leader or any such Conveners may be accompanied at such meetings by the Chief Executive or appropriate Executive Director, or he or she may authorise the Chief Executive or appropriate Executive Director to attend such meetings in his or her absence.

In the event of any Convener being unable to attend any such meetings, he or she may, with the approval of the Lord Provost or the Leader of the Administration, nominate another member of the relevant Committee to attend such meetings in his or her stead.

- (3) The Lord Provost, Depute Lord Provost or any member deputising on their behalf, may attend meetings, functions and events associated with the performance of their civic duties.
- (4) Subject to the provisions of the Constitution of the Convention of Scottish Local Authorities, meetings of the Convention or Committees thereof may be attended by such members nominated or approved by the Council and those officers approved by the Convention, and also by any Conveners of Committees or officers whose attendance may be considered necessary on any particular occasion.
- (5) The Chief Executive or any appropriate Executive Director may attend, at the expense of the Council, meetings arranged by any appropriate body for the discussion of matters relating to any of the functions of the Council. An officer other than the Chief Executive or an Executive Director may incur such expenditure only with the approval of the Chief Executive or appropriate Executive Director.
- (6) The expenses and allowances payable to members of the Council in attending meetings, conferences or events on the business of the Council shall be as specified in any enactment or Statutory Instrument relative thereto.
- (7) The Chief Executive shall, where he or she considers it relevant and expedient in the interests of the Council, be authorised to approve the attendance of members and officers of the Council at meetings, conferences or events held both within and outwith the United Kingdom.

Schemes of Administration for Tender Procedures, Financial Regulations and Delegated Powers

56. (1) The Head of Democratic and Legal Services shall prepare and submit to the Policy and Resources Committee a Scheme of Administration on Tender Procedures and such procedures, once approved and adopted by the Committee, shall be observed by all members and officers of the Council. Any revisions or alterations to the said Tender Procedures shall require to be approved by the Policy and Resources Committee.
- (2) The Executive Director of Corporate Services shall prepare and submit to the Policy and Resources Committee a Scheme of Administration on Financial Regulations and such Regulations, once approved and adopted by the Committee, shall be observed by all members and officers of the Council. Any revisions or alterations to the said Financial Regulations shall require to be approved by the Policy and Resources Committee.
- (3) The Head of Democratic and Legal Services shall prepare and maintain a Scheme of Administration on Delegated Powers recording all powers delegated to officers as required by Section 50G(2) of the Local Government (Scotland) Act 1973. As and when any powers are so delegated by the Council or any of its Committees, or when any such delegated powers are altered or withdrawn by the Council or any Committee, the Head of Democratic and Legal Services will make an appropriate amendment to the Scheme of Administration on Delegated Powers.

PART IV

MISCELLANEOUS

Admission of Honorary Freemen

57. (1) *The Council may, by resolution passed by not less than two thirds of the members voting thereon at a meeting of the Council, the notice of which specifies the proposed admission as an item of business, admit to be honorary freemen of the City persons of distinction and any persons who have rendered eminent service to the City.*
- (2) *The Chief Executive shall keep a roll containing the names of persons admitted to be freemen under this section.*

Access of Members to Council Books, Information etc

58. (1) Subject to the provisions of the 1973 Act, any member of the Council shall be entitled to examine but shall not remove any books, minutes, writings, accounts and other documents relating to the business of the Council, in any office of the Council and to make such copies as he or she may think proper, provided, that where it appears to the Head of Democratic and Legal Services that a document discloses exempt information falling within any of the paragraphs of Schedule 7A of the 1973 Act that officer may require that the prior consent of the appropriate Committee be obtained.
- (2) Where a member requires information on any subject affecting or arising from the actions of the Council, such requests should be made direct to the Executive Director of the service concerned. Where the matter relates to more than one service, the request should be made direct to the Chief Executive or in his or her absence, the Head of Democratic and Legal Services. Such requests will be responded to in writing within five working days of the request being received. In the case of requests arising from matters included on agenda, wherever practicable, responses shall be provided prior to Council or Committee meetings taking place.

Reports by Officers

59. (1) Not later than five clear working days before the issue of the agenda to which an officer intends to submit any report requested by the Council or a Committee or Sub-Committee, the officer shall forward copies to the Chief Executive, Head of Democratic and Legal Services and Executive Director of Corporate Services, and any observations by these officers on policy, legal or financial implications shall accompany the officer's report.
- (2) Every member of the Council shall receive a copy of reports by officers issued to members of Standing Committees etc, subject to the provisions of the 1973 Act.

Reports etc to Press

60. Press representatives shall receive copies of:-
- (a) agenda of meetings of the Council and its Committees and Sub-Committees;
 - (b) reports issued with such agenda;
 - (c) minutes of meetings of Sub-Committees to be submitted to Committees; and
 - (d) minutes of meetings of Committees to be submitted to the Council.

But subject to the provisions of the Local Government (Scotland) Act 1973 relative to the withholding of minutes and reports and sections of minutes and reports containing exempt information as specified in Schedule 7A of the 1973 Act.

Appointments of Officers and Staff

61. (1) Subject to the terms of any enactment, all appointments to the post of Chief Executive and Executive Directors shall be made by the Council. The filling of such vacancies shall stand delegated to a Personnel Appointments Sub-Committee.
- (2) On the occurrence of any vacancies within the Council for a permanent post other than that of an official specified in paragraph 1 of this Standing Order, the Chief Executive or appropriate Director, shall (a) determine whether the vacancy is to be filled, (b) ensure that finance is available, and (c) request the Head of Human Resources and Business Support to take appropriate steps for the filling of the vacancy in accordance with the policies of the Council. All appointments shall be made by the Executive Director concerned in consultation with the Head of Human Resources and Business Support. In the case of second tier management posts, an invitation shall also be extended to the Chief Executive and relevant Convener to participate in the selection process if they so wish.
- (3) Subject to Standing Order 61(1), authority for the establishment and filling of posts, extension of posts and deletion of posts shall fall to the Chief Executive irrespective of the nature of the post eg temporary or permanent.

Salaries, Wages and Conditions of Service of Employees

62. (1) Where the Council is represented, either directly or by virtue of its membership of an Association of Local Authorities or Joint Councils for the regulation of salaries and wages and conditions of service, the Council shall give effect to the awards of such Joint Councils, reserving always to the Council any right of appeal competent to them against such awards; provided that where there are conflicting decisions by different Joint Councils on any question, the Council may accept such of the decisions as they may deem most appropriate or they may themselves decide the question.
- (2) In the case of employees whose salaries or wages and conditions of service are not regulated in terms of the preceding paragraph of this Standing Order, the Council shall pay salaries and wages and observe conditions of service not less favourable than those commonly recognised by employers' associations and trade unions or associations in the trade or employment in the district where the work is carried out.
- (3) Subject to the provisions of any enactment, Statutory Order or Instrument and to the terms of this Standing Order, the grade of any post shall not be varied without the approval of the Chief Executive.

Restriction on Employees engaging in other Remunerative Employment

63. Any salaried staff or manual or craft workers in the employment of the Council who wish to engage in employment or other professional or business activities outwith normal working hours shall require to apply to the Executive Director of the service concerned for permission to do so. Such application will be considered in accordance with guidelines to be approved by the Head of Human Resources and Business Support. In the event of such permission being refused, the employee shall have the right to appeal to the Chief Executive.

Officers not to retain Fees or Commissions

64. An officer or other employee in receipt of a regular salary shall not be entitled to retain any fees or commissions collected or received in connection with the duties of his/her office unless with the sanction of the Policy and Resources Committee.

Employees accepting Gratuity etc

65. Any officer or other employee of the Council who corruptly accepts any gratuity, bonus, discount, bribe or consideration of any sort in connection with the duties of his/her office or employment shall be liable to summary dismissal.

Public Notices, Invitations etc

66. Subject to the provisions of any enactment, all public notices, intimations and invitations whether by press advertisement or otherwise required to be given by or on behalf of the Council or any Committee or service thereof, shall be made by and in the name of the Chief Executive for the time being or by such other officer or in such other manner as he/she may authorise.

Use of Photographic and Sound Recording Equipment

67. Subject to the provisions of Standing Order 41, the use of photographic and sound recording equipment by the media and members of the public at meetings of the Council and its Committees and Sub-Committees shall not be permitted without the prior approval of the members present at the meeting concerned. All requests must be made in writing and delivered to the Head of Democratic and Legal Services. Furthermore, all mobile phones must be switched off.

The Ethical Standards in Public Life etc (Scotland) Act 2000

68. All members of the Council shall be guided by the provisions of the Code of Conduct for Councillors, as appended hereto.

Corporate Governance

69. The Council shall operate in accordance with the principles of the CIPFA/SOLACE Framework on Corporate Governance in Local Government.

PART V

REVISION OF STANDING ORDERS

70. (1) Subject to the terms of any enactment and of any Standing Order, Instrument or Scheme, the foregoing Standing Orders and Order of Reference to Committees may be altered or revoked at any ordinary meeting of the Policy and Resources Committee, if the motion for alteration or revocation is supported by a majority of the Committee present and voting.
- (2) The preceding paragraph of this Standing Order shall not apply to these Standing Orders or portions thereof which incorporate the provisions of statutes or of Statutory Orders or Instruments which cannot be altered or revoked by the Council. (The Standing Orders (or portions thereof) to which this paragraph applies are printed in *italics*).

I N D E X**ORDER OF REFERENCE TO THE CITY COUNCIL AND ITS COMMITTEES**

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ORDER OF REFERENCE TO COMMITTEES AND TO SUB-COMMITTEES

Any reference in this Order to an Act of Parliament or Act of the Scottish Parliament shall be deemed to include a reference to Acts amending or extending the same.

GENERAL

All Committees have powers to deal with the undernoted as far as their interest is concerned and so far as it is not delegated to officers:-

- Supervision and control of the services reporting to the Committee concerned.
- Consideration of Policy, Performance and Strategic issues.
- Consideration of applications and proposals for grants and subscriptions and monitoring of financial and performance information in accordance with the Council's Guidance on Following the Public Pound.
- Any items of business not detailed in the Order of Reference and which fall outwith the extent of powers detailed in the Scheme of Delegation to officers shall stand delegated to the Committee which deals with matters of a similar nature.
- The consideration of tender reports for plant vehicles, tools, equipment, furnishings, materials or commodities insofar as it is not delegated to officers in terms of the Tender Procedures.

City Development Committee

- Development plans and policies on land use, urban design and regeneration, conservation, tree protection, environmental improvements, public art projects, public rights of way, names of streets and safety at sports grounds.
- Transportation issues including walking, cycling, public transport infrastructure, schemes and contracts for concessionary bus and taxi fares, school transport, parking, traffic management and traffic calming.
- Policies and programmes for the maintenance of roads, bridges, footpaths and street lighting including construction of new and extensions of existing public roads.
- Proposals for the making of Traffic Regulation Orders, Stopping-Up Orders, Side Road Orders and Stopping-Up of Private Accesses Orders under the Road Traffic Regulation Act 1984, the Roads (Scotland) Act 1984 and the Town and Country Planning (Scotland) Act 1997, and to undertake all necessary consultations and consider objections and, where appropriate, to arrange hearings in accordance with the Local Roads Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1987.
- Consider all matters relating to speed reduction measures and pedestrian safety issues adjacent to carriageways.
- Land reclamation and control of the foreshore.
- Stimulation of economic activity through inward investment, business development, trade promotion, tourism, training and employment assistance, development of industrial and commercial land and property, and marketing and promotional activity.
- Estates management for non-housing Council properties, including consideration of maintenance programmes and improvements, valuations, sales, leases and wayleaves.
- Co-ordination of funding from Europe, the National Lottery and other external funding sources.

- City Centre and District Centre Management.
- Acquisition or disposal of land and buildings (excluding Council house sales under the Right to Buy legislation) required for or surplus to requirements held on any account.
- Consideration of tender reports involving all property insofar as it is not delegated to officers in terms of the Tender Procedures (excluding Housing Revenue Account properties).
- Corporate fleet management policies and strategies.

Development Management Committee

- All functions, powers and duties of the Council as Planning Authority under any enactments so far as they relate to development control which term is deemed to include processing of all notifications and applications for permission or consent as provided under the Town and Country Planning (Scotland) Acts and subsidiary legislation including:-
- Pre-determination hearings in terms of Section 38A(1) of the Town and Country Planning (Scotland) Act 1997 and Regulation 27 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, subject to the application being determined by the City Council.
- Making a decision under Section 43A(6) of the Town and Country Planning (Scotland) Act 1997 to determine an application which would otherwise fall to be determined under the mandatory Scheme of Delegation under Section 43A of that Act but excluding reviews in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 which will be considered by the Planning Local Review body.
- The consideration of proposals to vary conditions or agreements attached to or relating to consents under the Town and Country Planning (Scotland) Acts and subsidiary legislation.
- All functions of the Council under the Building (Scotland) Act 2003 and all regulations made thereunder, and in relation to ruinous or dangerous properties.

Children and Families Services Committee

Education

- All functions of the Council as Education Authority under the Education (Scotland) Acts or under other legislation shall stand referred to this Committee and except where such delegation is excluded by the provisions of these Standing Orders and Schemes of Administration shall be delegated to it.

Social Work

Policies and Strategies for Children and Families including:

- services for children in need and their families
- child protection services
- services to the Children's Hearing System
- adoption and fostering services
- family support
- residential and secure care
- throughcare and aftercare
- youth justice
- children with disabilities

Community Safety and Public Protection Committee

- Consideration of the Local Policing Plan and scrutiny of Police performance reports.
- Consideration of the Local Fire and Rescue Plan and Scrutiny of Fire and Rescue Service performance reports.

- Policy and strategies for Criminal Justice, Community Justice and Community Safety.
- To monitor the development and delivery of the Dundee Community Safety Partnership Strategy and Action Plan.
- Policies and strategies relating to the public health of the City, including control of epidemic, endemic and infectious diseases; delivery of official controls for food safety and food standards; health and safety in relation to local authority regulated premises; protection of the community by abatement of pollution, in all its forms, including atmospheric pollution, contaminated land; poor sanitation and waste storage; inadequate ventilation; noise control; smoking prohibition; alcoholic licensing; animal and pest control; port health; aspects of anti-social behaviour; local air quality management and any other aspects of environmental health as it relates to the Council.
- Policies and strategies in relation to trading standards and consumer protection including weights and measures; product safety; consumer credit; age-restricted sales; tobacco control; agriculture and animal health; storage of petrol; storage of pyrotechnics and any other aspects of trading standards as it related to the Council.
- Grants from the Community Safety Fund to promote community safety, support community safety initiatives and diversionary youth work, as above.

Licensing Committee

- To exercise the Council's functions in respect of all licensing and permissions required under Public General Statutes and Local Acts having effect within the area of the City or any part thereof unless the licensing issue/permission has been specifically delegated to another Committee.
- Approve licence fees and charges required by statute as far as the Committee's interest is concerned.

Neighbourhood Services Committee

- Local Housing Strategy and Strategic Housing Investment Plan.
- Policies and Strategies on Housing Services.
- Rent setting.
- Consideration of tender reports insofar as it is not delegated to officers in terms of the Tender Procedures.
- Working with other organisations in the public and private sectors to ensure quality and choice of housing throughout the City.
- Policies and strategies on refuse collection and waste disposal and waste regulation; street cleaning; removal of abandoned vehicles; recycling; public conveniences.
- Strategies on waste and sustainability.
- Policies and strategies for the management and maintenance of parks, children's play areas, playing fields, landscaped areas, cemeteries and all other areas of open space, including the development of asset management strategies for these areas.
- Environmental Strategies including Open Space and Allotment strategies.
- Functions under Part I of the Land Reform (Scotland) Act 2003 and Nature Conservation.
- The Foreshore, Broughty Ferry Beach and Harbour.
- Policies and strategies for Bereavement Services.

- Policies and strategies for community facilities in parks and outdoor events.
- Policy and strategies for community learning and development opportunities for adults and young people.
- Policy and strategies for Community Regeneration, Community Safety, Adult Literacy, Outdoor Learning.
- Policy and strategies for Voluntary and Community Organisations.
- Local Community Plans and strategies for community engagement.
- Schemes for the Establishment of Community Councils/Community Representative Structures.
- Policy and Strategies for Sport, Physical Activity, Health and Wellbeing.

Policy and Resources Committee

- Development, implementation and monitoring of corporate policies and plans, including the Council's role in Community Planning and Business Continuity Planning.
- Strategies on deprivation and social inclusion.
- Systems to monitor performance and ensure best value.
- Organisation, administration and management procedures of the Council.
- Setting the Council Tax.
- Council Tax, Community Charge and Non-Domestic Rates.
- Housing and Council Tax Benefits.
- Consideration of the annual and three year Revenue and Capital Budgets, common good budget, monitoring of revenue and capital expenditure and reviews of revenue and capital expenditure during the financial year.
- Consideration of unaudited and audited accounts.
- Consideration of any item referred to it in terms of the Financial Regulations.
- Financial services including Payroll, Purchase Ledger and Sales Ledger, Procurement, Internal Audit, Insurance and Risk Management.
- Treasury Management including compliance with the CIPFA Code of Practice on Treasury Management in the Public Services.
- Superannuation funds and any other fund of a similar nature set up by the Council in pursuance of statutory powers including the review of investments, and the investment of new funds at the disposal of the Council.
- Insurance fund.
- Scheme of Salaries, Pensions and Expenses for members.
- Development and provision of information technology services.
- Policy and strategies for press and public relations, design services, printing and stationery.

- Personnel functions for all employees (excluding teachers) including recruitment, training and development; conditions of service, maintenance of effective industrial relations; organisational development including the design of jobs and processes; equal opportunities in employment and provision of health and safety guidance.
- Consideration of proposals for the amendment or revocation of any of the Standing Orders or Schemes of Administration.
- Any matters not specifically referred to or delegated to any other Committee or not routinely dealt with at meetings of the full Council.
- Leisure, Culture, Libraries and Communities Policies Strategies and Development.
- Policies and Strategies on Welfare Rights.
- Scrutiny of Integrated Health and Social Care.
- Delivering services commissioned by the Integrated Health and Social Care Joint Board.

Scrutiny Committee

- To scrutinise, review and examine reports and action plans relating to service delivery and Council policy referred to the Committee from the City Council, its Committees and Sub-Committees (excluding reports referred to a Best Value Working Group) and report back where necessary.
- To examine and review external inspection reports from HMIE on individual schools or from the Care Inspectorate on individual establishments which would benefit from scrutiny and report back to the relevant service committee as appropriate. Where external inspection reports are good or better and would not benefit from in-depth scrutiny scores will be reported together with any best practice to improve performance at other schools and establishments.
- To examine the Scottish Public Services Ombudsman (SPSO) annual report and report back to the relevant Committee as appropriate and the SPSO annual report and report back to the relevant Committee as appropriate.
- To review and monitor the Council's complaints system and report back to the relevant Committee as appropriate.
- To review annually the Council's corporate governance arrangements and report back to the Policy and Resources Committee as appropriate.
- To consider any reports by the Standards Commission for Scotland relevant to members of the Council submitted by the Monitoring Officer and thereafter report back to the City Council or relevant Committee as appropriate.
- To consider matters concerning the maintenance and public availability of a Register of Interests for Members and Executive Directors, including any information which might require to be redacted.
- To remit to Scrutiny Panels to review no more than two specific areas at a time identified by the Scrutiny Committee and to report back.
- To monitor the annual programme of Best Value Reviews approved by the Policy and Resources Committee.
- To monitor the Public Performance Report considered by the Policy and Resources Committee.
- To consider and monitor the strategy, plan and performance of the Council's risk management arrangements and seek assurances that action is being taken on risk related issues.

- To consider and monitor the strategy, plan and performance of the Council's Internal Audit Service.
- To consider the strategy and plans of the Council's External Auditor.
- To consider internal and external audit reports and seek assurance that appropriate action has been taken.
- To monitor the implementation of internal and external audit recommendations agreed with management.
- To receive the annual report of the Senior Manager Internal Auditor.
- To consider and monitor the effectiveness of the Council's anti-fraud and anti-corruption arrangements and receive reports on an exception basis.
- To review the Council's Annual Efficiency Statement.
- To review performance reports.
- To review progress in implementing the Council Plan, Service Plans and the Single Outcome Agreement.
- To consider any item submitted by any member such item having first being submitted to and agreed by the Chief Executive in consultation with the Convener.

ORDER OF REFERENCE
FOR ROUTINE MEETINGS OF THE CITY COUNCIL

- Consideration and disposal of the minutes of meetings of the Council's Committees or Sub-Committees so far as necessary in terms of the Council's Standing Orders.
- All the functions of the Council under any enactments governing the election of the Council including consideration of any proposals for changes to electoral boundaries.
- The consideration of any requests for permission to use the Council's Coat of Arms.
- Proposals for the admission of any persons as honorary freemen of the City.
- To fix public holidays for the City.
- To be responsible for the maintenance and development of the Council's twinning links.
- The consideration of any requests for hospitality which fall outwith the extent of the powers delegated to the Head of Democratic and Legal Services as detailed in the Scheme of Administration - Delegation of Powers.
- Appointment of representatives to external bodies.
- The making of Compulsory Purchase Orders.
- The promotion of or initiating of opposition to private legislation.
- The determination of applications in terms of Section 38A(1) of the Town and Country Planning (Scotland) Act 1997 and Regulation 27 of the Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008 subject to the pre-determination hearing being heard by the Development Management Committee.
- Consideration of any reports by the Standards Commission for Scotland.

LOCAL GOVERNMENT (SCOTLAND) ACT 1973

SECTION 43

SCHEDULE 7

(As amended by Section 38 of the Local Government (Scotland) Act 1975 and Paragraph 26 of Schedule 3 to the Local Government and Planning (Scotland) Act 1982).

Meetings and Proceedings of Local Authorities

1.
 - (1) A Council shall hold in every year such meetings as they think necessary and in an election year shall hold a meeting within 21 days from the date of the election.
 - (2) Meetings shall be held at such hours and on such days as the Council at their first meeting decide or by standing order determine.
 - (3) Meetings shall be held at such place, either within or without their area, as the Council may direct.
 - (4) A special meeting may be called at any time by the chairman of the Council or on the requisition of at least one-fourth of the whole number of members of the Council, which meeting shall be held within 14 days of receipt of the requisition by the proper officer of the Council.
2.
 - (1) Three clear days at least before a meeting of a Council:-
 - (a) notice of the time and place of the intended meeting shall be published at the Council's offices and, where the meeting is called by members of the Council, the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; and
 - (b) a summons to attend the meeting, specifying the business to be transacted thereat and signed by the proper officer of the Council, shall, subject to sub-paragraph (2) below, be left at or sent by post to the usual place of residence of every member of the Council.
 - (2) If a member of a Council gives notice in writing to the proper officer of the Council that he/she desires summonses to attend meetings of the Council to be sent to him/her at some address specified in the notice other than his/her place of residence, any summons addressed to him/her and left at or sent by post to that address shall be deemed sufficient service of the summons.
 - (3) Want of service of a summons on any member of a Council shall not affect the validity of a meeting of the Council.
 - (4) Except in the case of business required by or under this or any other Act to be transacted at a meeting of a Council and any other business brought before that meeting as a matter of urgency in accordance with the Council's standing orders, no business shall be transacted at a meeting of the Council other than that specified in the summons relating thereto.
3.
 - (1) At a meeting of a Council the chairman, if present, shall preside.
 - (2) If the chairman is absent from a meeting of the Council, the vice-chairman shall preside.
 - (3) If the chairman and vice-chairman are absent from a meeting of the Council, another member of the Council chosen by the members present shall preside.

4. (1) Subject to sub-paragraph (2) below, no business shall be transacted at a meeting of a Council unless at least one-fourth of the whole number of members of the Council are present.
- (2) Where there are at the same time vacancies in the case of more than one-third of the members of the Council, then until the number of members in office is increased to not less than two-thirds of the whole number of members of the Council, the quorum of the Council shall be determined by reference to the number of members of the Council remaining instead of by reference to the whole number of members of the Council, so however that the quorum shall never be less than one-eighth of the whole number of members of the Council or three members, whichever is the greater number.
5. (1) Subject to this or any other Act and to any provisions of standing orders relating to the suspension of such orders, all questions coming or arising before a Council shall be decided by a majority of the members of the Council present and voting thereon at a meeting of the Council.
- (2) In the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a member of the Council to any particular office or committee, in which case the decision shall be by lot.
6. The names of the members present at a meeting of a Council shall be recorded.
7. (1) Minutes of the proceedings of a meeting of a Council shall be drawn up and shall be signed at the same or next following meeting of the Council by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.
- (2) Until the contrary is proved, a meeting of a Council a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified.
8. Subject to the provisions of this Act, a Council may make standing orders for the regulation of their proceedings and business and may vary or revoke any such orders.
9. The proceedings of a Council shall not be invalidated by any vacancy among their number or by any defect in the election or qualifications of any member thereof.
10. (1) Paragraphs 5 to 9 above (except paragraph 7(2)) shall apply in relation to:-
 - (a) a committee (including a joint committee) of a Council and that committee's members; or
 - (b) a sub-committee of any such committee of a Council and that sub-committee's members, as those paragraphs apply in relation to a Council and that Council's members.
- (2) Until the contrary is proved, where a minute of any meeting of any such committee or sub-committee has been made and signed in accordance with paragraph 7 above as applied by this paragraph, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute, the meeting shall be deemed to have been duly convened and held and the members recorded under paragraph 6 above as having been present at the meeting shall be deemed to have been duly qualified.

APPENDIX

THE ETHICAL STANDARDS IN PUBLIC LIFE ETC (SCOTLAND) ACT 2000

CODE OF CONDUCT FOR COUNCILLORS AND GUIDANCE



INTEGRITY IN PUBLIC LIFE

GUIDANCE ON THE COUNCILLORS' CODE OF CONDUCT

FOREWORD

The maintenance of high ethical standards in public life is crucial if public confidence in our democratic institutions is to be maintained. As Minister for Local Government and Community Empowerment I welcome this opportunity to endorse the work of the Standards Commission for Scotland and the contents of this guidance note, which will help to ensure that both elected members and the general public have a clear understanding of those standards and of how to meet them.

Marco Biagi MSP
Minister for Local Government and Community

INTRODUCTION

The public rightly expects exemplary standards of behaviour from you as a councillor when undertaking your duties. It is your personal responsibility to comply with the requirements of the Councillors' Code of Conduct ("the Code") and your actions should be part and parcel of winning the public's respect and trust in the work you do. In other words, simply ticking boxes is not enough; you have to understand the reasons behind good ethical behaviour and apply these thoughtfully on a case by case basis.

In complying with the Code, you are demonstrating that you understand its requirements and intend to meet the high standards of behaviour the public expects from its elected representatives. Poor conduct that breaches the Code undermines the critical relationship of trust between the public and the people they elect. This relationship is essential if public trust in local government and the democratic process itself is to be maintained.

As a councillor, you must read and abide by the Code and endeavour to demonstrate the Key Principles outlined in Section 2. In complying with the provisions of the Code, you may need to exercise your judgement and consider how a member of the public, with knowledge of the relevant facts, would reasonably regard your actions or decision making in your role as a councillor. This is not the same as members of the public not liking a decision you made or an opinion you have expressed legitimately in the course of your work; it is about whether you have acted properly.

There is a statutory framework governing

behaviour in public life, comprising:

- A Code of Conduct which you must comply with when carrying out your duties as a councillor;
- A set of arrangements for dealing with complaints that a councillor has acted inappropriately and has contravened the Code.

In addition, your council will have its own internal policies which apply the Code in the context of its work.

The Standards Commission aims to improve ethical standards in public life through guidance and promotion wherever possible, as well as through the enforcement powers given to us.

We have now taken the opportunity to review and revise the guidance issued to assist councillors in their interpretation of the revised Code, which came into effect in December 2010, in order to ensure it is as helpful and accessible as possible and that it remains as fit for purpose. In doing so, we obtained feedback from stakeholders, including obtaining the views of the Commissioner for Ethical Standards in Public Life in Scotland, Monitoring Officers and the Society of Local Authority Lawyers & Administrators in Scotland. We are grateful to everyone who has helped us in this process.

As with our previous version of the Guidance to the Councillors' Code we retained the guidance in the same document to enable readers to find the information they require easily and quickly. Where possible, reference in the guidance is made to the specific paragraph of the Code to which it relates. A standalone version of

INTRODUCTION

the Guidance is also available on the Standards Commission's website at www.standardscommission.org.uk.

We have also included illustrations and examples of factors that you should consider when interpreting the Code. We hope this will help you to relate the provisions of the Code to the scenarios you face and the situations you find yourself in. However, please note the lists of factors to consider are not exhaustive. In addition, the illustrations provided are simply examples and whether or not there has been a breach of the Code will depend on the specific circumstances of any case. You still have a personal responsibility to ensure your actions accord with the provisions of the Code.

The illustrations where no breach was found to have occurred concern cases that were determined by the Commissioner for Ethical Standards in Public Life in Scotland and were not referred to, or considered by, the Standards Commission. Further information on the illustrations where no breach was found can be obtained from the web summaries on the Commissioner for Ethical Standards in Public Life in Scotland's website at www.ethicalstandards.org.uk.

While the Standards Commission's guidance is clearly marked as such and must be distinguished from the Code itself, paragraph 1.5 of the Code provides that councillors must observe any guidance from the Standards Commission. The guidance is intended to help you understand what the Code means for you as a councillor. It is not, however, a substitute for the Code itself, which contains more detail.

As ever, we recognise that as circumstances change and the challenges councillors face evolve, additional guidance may be required. It is simply not possible for the guidance to cover every conceivable circumstance. We intend, therefore, to review the guidance on a regular basis and we welcome any feedback, comments or suggestions as to how it can be further improved.



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SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

1.1 The Scottish public has a high expectation of councillors and the way in which they should conduct themselves in undertaking their duties in the Council. You must meet those expectations by ensuring that your conduct is above reproach.

1.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000 provides for the introduction of new codes of conduct for local authority councillors and members of relevant public bodies; imposes on Councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland to oversee the new framework and deal with alleged breaches of the codes. The Act requires the issue of a Code of Conduct for councillors - this Code - which was originally prepared by COSLA at the invitation of Scottish Ministers and approved by the Scottish Parliament. The Code has since been reviewed and re-issued in 2010 by the Scottish Government, following consultation and the approval of the Scottish Parliament.

1.3 This Code applies to every member of a local authority in Scotland. As a councillor, it is your responsibility to make sure that you are familiar with, and that your actions comply with, its provisions.

1.4 This Code reflects the legal framework of Scottish Councils at the date of the Code's publication. Councillors and employees should interpret it in the context of their individual Council's decision making structure.

Guidance on the Code of Conduct

1.5 Councillors hold public office under the law and must observe the rules of conduct stemming from the law, this Code and any guidance from the Standards Commission and the rules, standing orders and regulations of the Council. It is your personal responsibility to comply with these and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances change. You must not, at any time, advocate or encourage any action contrary to the Code of Conduct.

1.6 The sections of the Code which follow have been developed in line with the key principles listed in Section 2 and provide additional information on how the principles should be interpreted and applied in practice. No written information can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from senior Council employees. You may also choose to consult your own legal advisors, and on detailed financial and commercial matters, to seek advice from other relevant professionals.

Enforcement

1.7 Part 2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 sets out the provisions for dealing with alleged breaches of the Code and for the sanctions that will be applied if the Standards Commission for Scotland finds that there has been a breach of the Code. In respect of councillors, those sanctions are set out in Annex A.

SECTION 1:

INTRODUCTION TO THE CODE OF CONDUCT

Standards Commission for Scotland's Guidance for Councillors and Local Authorities in Scotland

Using this Guidance:

- The Councillors' Code of Conduct is stated in purple text.
 - The Standards Commission's Guidance to the Councillors' Code of Conduct is shown as white text contained within a purple background.
 - Illustrations are shown as dark blue text within a light blue background.
1. The revised Councillors' Code of Conduct was approved by the Scottish Parliament and came into effect on 21 December 2010.
 2. This Guidance Note comes into effect on 1 March 2016 and replaces the Guidance and Dispensations Note for Councillors and Local Authorities in Scotland, which came into effect on 14 November 2011 and any subsequent dispensations that were granted by the Standards Commission.
 3. This guidance is for Councils and councillors. It is also directed to co-opted members of committees and sub-committees who are not elected councillors. All references to 'you' in the Guidance are directed specifically at councillors and co-opted members of committees and sub-committees.
 4. Councils should make arrangements to hold or attend training and induction sessions on ethical standards and they should strongly encourage attendance by all their councillors and senior officers at each session. The Standards Commission is willing to support any such programs wherever practical.
 5. You should attend training and induction sessions on ethical standards and should ensure you are familiar with, and understand, the provisions and principles of the Code and this Guidance Note. You should seek assistance before you act if you are unsure as to how the Code should be interpreted and applied.
 6. You are encouraged to promote and support the Code at all times and to encourage others to follow your example in doing so. Experienced councillors should consider whether they can act as a mentor to others to help them to understand the Code.
 7. The Code should be read as a whole. It may be necessary to cross reference different provisions.

SECTION 2:

KEY PRINCIPLES OF THE CODE OF CONDUCT

2.1 The general principles upon which this Code of Conduct is based should be used for guidance and interpretation only. These general principles are:

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.

Selflessness

You have a duty to take decisions solely in terms of the public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity

You must make decisions solely on merit when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

Accountability and Stewardship

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking

account of the views of others, and you must ensure that the Council uses its resources prudently and in accordance with the law.

Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the Council and its councillors in conducting public business.

Respect

You must respect all other councillors and all Council employees and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a Councillor.

2.2 You should apply the principles of this Code to your informal dealings with the Council's employees, party political groups and others no less scrupulously than at formal meetings of the Council and its committees and sub-committees.

SECTION 2:

KEY PRINCIPLES OF THE CODE OF CONDUCT

8. The key principles themselves are for guidance and you should ensure that you have regard to and follow these principles. However, a breach of one or more of the key principles does not in itself constitute evidence of a breach of the Code.
9. The key principles are there to help you interpret and apply the Code. However, it is your responsibility to make sure you are complying with the provisions of the Code. In doing so, you may need to exercise your judgement and consider how a member of the public, with knowledge of the relevant facts, would reasonably regard your actions or decision making in your role as a councillor. This is not the same as members of the public not liking a decision you have made or an opinion you have expressed legitimately in the course of your work; it is about whether you have acted properly.

SECTION 3: GENERAL CONDUCT

3.1 The rules of good conduct in this section must be observed in all situations where you act as a councillor, including representing the Council on official business.

10. It is very important to note that the rules of good conduct set out in Section 3 must be observed in all situations where councillors are acting as councillors, including representing the Council on official business. You should be mindful that your perception of when you are carrying out official business and when you are acting privately may be different to how it is viewed by a member of the public. You may wish to treat the Code as being applicable in all situations in which you might be perceived to be acting as a councillor. Factors to consider include:

- whether you are clear about the capacity in which you are acting;
- whether you describe yourself as a councillor or are otherwise readily identifiable as a councillor in the situation / circumstances;
- whether you are on council premises or at a council event;
- whether you are using social media where you are identifiable as a councillor;
- whether your conduct could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute;
- whether you are engaged in political activity, or comment on political matters and whether these fall within or outwith the scope of the council's functions;

- whether you are representing the council or speaking on behalf of the council.

Complaint alleged that a councillor had shouted during a telephone call and was disrespectful towards the complainant. The rules of good conduct in Section 3 of the Code must be observed in all situations where an elected member acts as a councillor, including representing the Council on official business. The decision was that the telephone conversation related to matters involving the Council and in turn the councillor in her capacity as an elected member. The only question to be determined was whether, in the course of the telephone conversation, the councillor was disrespectful towards the complainant. In the particular circumstances, the Commissioner for Ethical Standards in Public Life in Scotland decided there was insufficient evidence to conclude there had been a breach of the Code of Conduct.

Complaint alleged that a councillor had become involved in an altercation about the Scottish independence referendum outside a church. The decision was that the Code does not seek to curb political activity or to comment on political matters outwith the scope of a council's functions. The wording of paragraph 3.1 is specific and would not apply in this situation, which related solely to the referendum and not to a council function or activity. The Commissioner for Ethical Standards in Public Life in Scotland decided that the councillor was acting in a private capacity and, as such, the Code did not apply.

SECTION 3:

GENERAL CONDUCT

11. You should always think ahead. If you have any concerns about a potential problem, speak to the Monitoring Officer or Chief Executive so that advice can be sought and/or action can be taken before a situation becomes a serious problem. This could avoid or reduce the likelihood of a complaint being made about you.

12. The rules of good conduct may apply when you are engaging in media activity including using social media. Social media is a term used to describe on-line technologies, applications and practices that are used to share information, knowledge and opinions. These can include, but are not limited to, social networking sites, blogs, wikis, content sharing sites, photo sharing sites, video sharing sites and customer feedback sites. The conduct expected of you in a digital medium is no different to the conduct you should employ in other methods of communication, such as face to face meetings and letters. Factors to consider when using social media include:

- whether you are identifiable as a councillor by directly referring to yourself as such or indirectly by referring to the council or through information or images posted;
- whether you are using Council equipment and / or your Council's information technology network or your own;
- whether you have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions;
- whether you have complied with any policy your Council has produced on

the use of social media;

- whether information you are posting is confidential and you only have access to it because you are a councillor;
- whether you are demonstrating bias or pre-determination – do not express an opinion on an application you will be determining;
- whether you have considered the immediate and permanent nature of the contribution you are about to make.

13. As a councillor, your right to freedom of expression under Article 10 of the European Convention on Human Rights attracts enhanced protection when your comments are political in nature. However, you may also wish to think about:

- whether you are treating others with respect and consideration;
- whether 'liking' re-posting and re-tweeting comments or posts, or publishing links to other sites could be reasonably perceived in the circumstances as endorsing the original opinion, comment or information, including information on other sites;
- whether to allow disagreement on your social media pages;
- tone can be harder to convey online so consider whether humour, irony and sarcasm can be perceived as such;
- whether you have to respond;
- the stricter rules that apply to election publicity;
- whether anything you post could be considered obscene.

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Complaint alleged that a councillor engaged in public criticism of the Chief Executive of his Council by posting information and comments on the Oppositions Councillors' Facebook pages. The Councillor did not give the Chief Executive an opportunity to respond before publishing the comments on the Facebook page. The Hearing Panel was satisfied that the criticism by the Councillor was directed at the Chief Executive, that it showed a lack of both respect and courtesy to a Council employee and was made in public. The Panel concluded that the Councillor had criticised the conduct of the Chief Executive in public and had breached the Code.

Conduct at Meetings

3.2 You must respect the chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, and represent the Council. You must comply with rulings from the chair in the conduct of the business of these meetings.

14. You must treat everyone you come into contact with in the course of your work as a councillor with courtesy and respect, even if you disagree with their views.
15. It should be noted that paragraph 3.1 provides that the rules of good conduct set out in Section 3 must be observed in all situations where councillors are acting as councillors, including representing the Council in official business. The list of meetings

to which paragraph 3.1 applies should, therefore, be viewed as illustrative rather than exhaustive. The effect of the provision is that you must respect the Chair, colleagues, Council employees and any members of the public in all situations where you act as a councillor including – but not restricted to – meetings of the Council, its committees and sub-committees or of any public bodies where you have been appointed by, and represent the Council. Similarly, the word 'chair' in paragraph 3.2 is not restrictive to that specific term. The provision also applies to anyone holding a similar chairing or convening role.

16. The role of the Chair in any Council meeting, which includes a Committee meeting or a meeting of a working group or similar forum, is to ensure that the agenda of business is properly dealt with and clear decisions are reached. To do this, the Chair has a responsibility to ensure that the views and opinions of other participants (including the advice of officers) are allowed to be expressed and, at the same time, they have a responsibility for proper and timely conduct of the meeting and for helping to ensure the meeting is conducted in compliance with the Council's Standing Orders. This includes determining the point at which conclusions should be reached. It requires a balanced approach to ensure fairness to participants while at the same time dealing firmly with any attempt to disrupt or unnecessarily delay the meeting. If you are present, you share the responsibility for the proper and expeditious discharge of business. The role of the Chair in

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reaching such judgements should be supported and respected.

- 17.** You are accountable for your own individual conduct at all times in terms of the Code when you are in the Chamber or Committee and at meetings where you are representing the council, irrespective of the conduct of others. Abusive or offensive language and/or unnecessarily disruptive behaviour should not be tolerated. It is a matter for the Chair to rule on the acceptability of language used during the course of a meeting and to take appropriate action as necessary, including requiring the withdrawal of a remark, requiring an apology, or any other action required to allow the meeting to properly proceed. Factors to consider include:

- whether your behaviour, including your body language, is courteous and respectful even when you hold a different view;
- whether your choice of language in meetings is appropriate and meets the high standards expected by the general public;
- whether it is appropriate to refer to other councillors by nicknames or by referring to them in the second person by using terms such as 'you';
- whether newspapers, mobile phones and other tablet devices are being used appropriately or whether their usage could be perceived as you not being engaged in the meeting or listening to what others are saying;

- whether your conduct could diminish the public's opinion of, and trust and confidence in, its elected representatives.

At a meeting of a Planning Committee, a councillor made inappropriate comments about a planning application in that she made a reference to 'lining developers' pockets'. While she had apologised unreservedly both publicly and privately, she was found to have breached the Code.

At a meeting of a Licensing Board, a councillor was disrespectful of members of the public who were present as objectors, when he questioned them in a confrontational and adversarial manner and was dismissive of their views. He was found to have breached the Code.

At a public meeting of the Council, a councillor gave the Provost a straight arm salute and said "Sieg Heil" He was found to have breached the Code.

Relationship with Council Employees (including those employed by contractors providing services to the Council)

3.3 You must respect all Council employees and the role they play, and treat them with courtesy at all times. It is expected that employees will show the same consideration in return.

3.4 Whilst both you and Council employees are servants of the public, you have separate responsibilities: you are responsible to the electorate but the

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employee is responsible to the Council as his or her employer. You must also respect the different roles that you and an employee play. Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and senior employees to help ensure that the policies of the Council are implemented.

3.5 You must follow the Protocol for Relations between Councillors and Employees attached at Annex C. A breach of the Protocol will be considered as a breach of this Code.

18. It is understood that in the political environment of local government there may be tensions between individual councillors and between party groups. Factors such as minority Administrations, coalitions and multi-member wards may have a bearing on such tensions but it is essential to ensure that the interests of the electorate are represented as effectively as possible. Respect by councillors for one another and for the Council's employees plays a key role in this.
19. The requirement to respect all Council employees includes employees of contractors providing services to the Council.
20. You are entitled in your role as councillor to challenge fellow councillors

and officers/employees. However, you should not do so in a personal or offensive manner. Issues relating to behaviour, conduct or performance of officers should be raised privately with the appropriate senior manager. Factors to consider include:

- whether you are asking an officer to do anything which compromises or is likely to compromise them and prevent them from undertaking their duties properly and appropriately. You must be aware of the lines of accountability within departments. You must not apply pressure to an officer to act against the instructions of management. You should not bring undue influence to bear on an officer to take any action which is contrary to law or against the Council's approved procedures;
- When you are representing a constituent, whether you are also recognising that you are still representing the council and as such you need to exercise extra care.

A councillor made comments in the press, which were publically critical of the capability of a newly appointed Council employee. It was found that the councillor had been disrespectful to the new employee and had breached the Code.

At a meeting of the Council, a councillor had accused a senior officer of collusion with the Council's Administration and had challenged the officer's integrity. He was found to have breached the Code.

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Remuneration, Allowances and Expenses

3.6 You must comply with the rules for the payment to councillors of remuneration, allowances and expenses.

Gifts and Hospitality

3.7 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour or disadvantage to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term “gift” includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

3.8. You must never ask for gifts or hospitality.

3.9 You are personally responsible for all decisions connected with the acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in your Council and in local government. As a general guide, it is usually appropriate to refuse offers except:-

- (i) isolated gifts of a trivial character, the value of which must not exceed £50;

- (ii) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or

- (iii) civic gifts received on behalf of the Council.

3.10 You must not accept any offer of a gift or hospitality from any individual or organisation who is an applicant awaiting a decision from the Council or who is seeking to do business or to continue to do business with the Council. If you are making a visit to inspect equipment, vehicles, land or property, then as a general rule you should ensure that the Council pays for the cost of these visits.

3.11 You must only accept offers to attend social or sporting events where these are clearly part of the life of the community or where the Council would be expected to be represented.

3.12 You must not accept repeated hospitality or repeated gifts from the same source.

3.13 If it is the practice of the Council to seek sponsorship for some of its activities or events, you must ensure that your involvement with the sponsors is limited to the event in question and does not damage public confidence in the relationship between the Council and the sponsors.

- 21.** When considering whether an offer of hospitality is normal hospitality associated with duties as a councillor in terms of paragraph 3.9 (ii) and which would reasonably be regarded as appropriate, you should consider all the

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surrounding circumstances, including the value of the hospitality offered. It is also appropriate for you to consider the nature of your role within the Council e.g. the normal hospitality associated with a councillor's duties may be different to the normal hospitality associated with the duties of a Lord Provost, Provost, Council Leader or Convener.

- 22.** Whilst the Code seeks to provide clear guidance about the type of gifts and hospitality councillors should normally avoid, the question of whether to accept a particular offer of a gift or hospitality is your personal responsibility. When considering whether or not it would be appropriate to accept an offer of a gift or hospitality, you should carefully consider factors such as:
- all the circumstances in which the gift or hospitality is being offered;
 - the value or cost of the gift or hospitality;
 - how a member of the public would view the nature of the gift or hospitality;
 - whether the offer is from any individual or organisation who is an applicant awaiting a decision from the council or who is seeking to do business or to continue to do business with the council;
 - whether the invitation is to attend something you would not normally attend;
 - whether you would potentially be influenced to show favour to whoever has offered the gift or hospitality;
 - whether acceptance of the gift or

hospitality would place you under an obligation or which a member of the public, with knowledge of all the relevant facts, would reasonably regard as having placed you under an obligation;

- whether you should register gifts and hospitality you have declined in order to demonstrate transparency and provide perspective to what has been accepted;
- your Council's guidelines or policy on the acceptance of gifts and hospitality.

23. Further, you must not accept repeated gifts or hospitality from the same source. With the exception of gifts and hospitality as defined in paragraph 3.9 (ii) and (iii), you should consider very carefully whether it is appropriate to accept a second (and, if accepted, any subsequent) offer of gifts or hospitality from the same source. Factors to consider include:

- the value or cost of the gift or hospitality offered;
- the time period between the acceptance of the first offer and the second or subsequent offer.

24. If you do accept any gifts or hospitality, you must make an entry in the Register of Interests (with the exception of gifts and hospitality as defined in paragraph 3.9 (i) - (ii)) within one month of receipt.

25. In terms of the Bribery Act 2010 the following cases are offences:-

Case 1 is where -

- (a) P offers, promises or gives a financial or other advantage to another person, and

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- (b) intends the advantage -
 - (i) to induce a person to perform improperly a relevant function or activity, or
 - (ii) to reward a person for the improper performance of such a function or activity

Case 2 is where

- (a) P offers, promises or gives financial or other advantage to another person, and
- (b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

An example of this might be where a windfarm operator promises to pay community benefit to an organisation in your ward, if you grant planning permission in circumstances where it would not otherwise be granted (i.e. not applying the proper statutory test of considering the provisions of the development plan and all material planning considerations or wrongly taking community benefit into account in determining a planning application).

In other words, while you are only required to declare gifts under this Code of Conduct, a gift to someone else which induces you to improperly undertake a statutory duty, such as granting a planning permission, is still likely to fall foul of the provisions of the Bribery Act 2010. This could result in your criminal prosecution.

Complaint alleged a councillor had failed to declare a gift or hospitality received from a recipient of planning permission

who was to make further applications for the same development, during a site visit. However, there was no evidence to suggest that any Council representative, including the councillor in question, received any gift or hospitality other than being provided with light refreshments mid-morning. Evidence suggested that these had been provided by the developers, in responding to a Council request. This was not regarded as inappropriate for the purposes of the Code and no breach was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint alleged that councillors who had been appointed by the council as members of a racecourse committee had failed to declare benefits in the form of entrance badges. It was determined that while these entries had not been declared, the 'benefits' fell within the exception in paragraph 3.9(ii) as they could reasonably be regarded as appropriate to the councillors role given the Council's promotion and support of the venue as a key partner. No breach was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Confidentiality Requirements

3.14 Council proceedings and printed material are generally open to the public. This should be the basis on which you normally work, but there may be times when you will be required to treat discussions, documents or other information relating to the Council in a confidential manner, in which case you must observe such requirements for confidentiality.

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3.15 You will often receive information of a private nature which is not yet public or which perhaps would not be intended to be public. There are provisions in legislation on the categories of confidential and exempt information and you must always respect and comply with the requirement to keep such information private.

Legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties. Such information is, however, for your individual use as a councillor and must not be disclosed or in anyway used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

26. You have a statutory right, subject to certain statutory exemptions, to council information under Access to Information rules and the Freedom of Information (Scotland) Act 2002. You also have a right under the common law to request information but only where you can show a need to know that information in order to perform your duties as a councillor. You may be provided with some documents and information, in your capacity as a councillor, for which it is legitimate for a Council to require this to be treated in a confidential way. Given the potential damage that the unauthorised disclosure of confidential material can do to the standing and integrity of a council, it is essential

that you respect the provisions in paragraphs 3.14 and 3.15. You are also a data user and must not breach the data protection principles in handling information. Council information provided to you must only be used by you for the purpose for which it was provided. Information so held must therefore not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This also applies to instances where you hold the personal view that such information should be publicly available.

Councillors should be aware that a breach of confidentiality could result in them being personally liable under the Data Protection Act. This may result in a potential criminal prosecution, civil liability for damages and the power of the Information Commissioner to impose fines as well as the more obvious reputational damage to both the councillor or Council which may follow.

27. You must not provide the media with off the record briefings on the general contents or 'line' of confidential material or information. Disclosures of this kind can also seriously undermine and devalue the work of the Council and its committees.

28. Sometimes the confidential nature of the material will be explicit, such as if the document is marked 'confidential'. In other cases, it will be clear from the nature of the information or from the circumstances in which it was

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provided to you that it is confidential. This may include the following types of information:

- commercial information such as information relating to a contract or a contractor's business;
- personal information such as information relating to an individual's employment;
- information which is confidential as a result of a statutory provision;
- information discussed in closed or private sections of meetings
- legal advice obtained by the Council (either provided by officers or external legal advisers). This will be covered by legal privilege and should not be disclosed without the Council's permission;
- information which is received as a result of a relationship where there is an obligation of confidence, such as between a councillor and a constituent.

- 29.** You should be aware of the provisions in relation to disclosure of information contained within Council papers exempt from publication under paragraph 1 schedule 7A of the Local Government (Scotland) Act 1973.
- 30.** Sometimes it is a matter of timing in that information may eventually be released. However, you must respect the requirement for confidentiality even if you do not agree with it.
- 31.** In the case of other documents and information, you should seek advice if you are in any doubt as to whether they are confidential. You should exercise

your judgement on what should or should not be made available to outside bodies or individuals.

- 32.** As a councillor, you are in a position of trust and members of the public may provide you with information that could reasonably be regarded as confidential. If the status of any discussion is unclear, you should establish at the earliest possible opportunity, whether some or all of the matters being discussed are to be treated as being confidential.
- 33** You should be aware of the provisions of the Data Protection Act 1998. If you hold personal information (such as details of constituent enquiries), you will require to be registered under the Data Protection Act. When holding such personal information you must abide by the following rules:-
- You must only use the information for the purposes for which it was given.
 - You must not share this information with anyone without the consent of the person giving the information. If a constituent or other member of the public asks you to resolve an issue you are allowed to contact officers to attempt to resolve the issue on behalf of your constituent.
 - You should not keep the information any longer than you need to.

Complaint alleged that a councillor referred to an investigation by the CESPLS involving another councillor at a meeting of a Licensing Board. This information was restricted under schedule 7A to the Local

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Government (Scotland) Act 1973 and it was found that there had been a breach of paragraph 3.15 of the Code of Conduct.

Complaint alleged that a councillor circulated an email to a number of recipients which included information about an individual's commercial business, which the councillor had obtained through her position as a councillor. In doing so, she was found to have breached the Code of Conduct.

Use of Council Facilities

3.16 The Council will normally provide facilities to assist councillors in carrying out their duties as councillors or as holders of a particular office within the Council. This may involve access to secretarial assistance, stationery and equipment such as telephones, fax machines and computers. Such facilities must only be used in carrying out Council duties in accordance with your relevant Council's information technology, communications and member support policies or for incidental personal use as authorised by your Council and not related in any way to party political or campaigning activities. Where the Council recognises party political groups, assistance to such groups is appropriate in relation to Council matters but must not extend to political parties more generally and you should be aware of and ensure the Council complies with the statutory rules governing local authority publicity.

34. As a general rule, facilities paid for by the public purse, and provided for use in Council business, should only be used for Council business. However, it

is recognised that some Councils may allow councillors occasional personal use of Council provided facilities such as laptops etc.

35. Incidental personal use of Council facilities is permissible provided that this is authorised by the Council and permitted under the Council's policies. You should make yourself aware of your own Council's policy.

36. Facilities must never be used for party political or campaigning purposes and Councils. You are reminded of the relevant provisions of section 2 of the Local Government Act 1986, as amended by the Local Government Act 1988, which are as follows:

"2. Prohibition of Political Publicity

(1) A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters –

(a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;

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(b) where material is part of a campaign, the effect which the campaign appears to be designed to achieve.

(3) A local authority shall not give financial or other assistance to a person for the publication of material which the authority is prohibited by this section from publishing themselves.”

- 37.** Councils and councillors should take into account and adhere to the terms of the Code of Recommended Practice on Local Authority Publicity issued in terms of section 4 of the 1986 Act.
- 38.** The provisions under paragraph 3.16 apply at all times and not just when you are acting as a councillor. Other factors to consider include:
- whether you are either explicitly or impliedly consenting or allowing others to use council facilities improperly;
 - how the resources you are using is funded – e.g. transport or administrative support;
 - whether the resource is being used for carrying out official Council business or for activity which has expressly been authorised by the Council or whether you are using it for something else as well;
 - whether you are asking officers to act in any way which would conflict with or call into question their political impartiality, or which could give rise to criticisms that people paid from public funds are being used for party political purposes.

Complaint alleged a councillor, as Chairman of an Area Committee of the Council, had sent an email from his Council email address to the other members of that committee in which he invited them to look at a link which led to a series of posts about a company that was a prospective purchaser in current matters being considered by the Area Committee. In this case, it was determined that the use of the Council's e-mail system was proper and legitimate, as it was being used for the conduct of Council business. In his capacity as Chairman of the Area Committee, it was entirely appropriate for the councillor to bring any relevant information to the attention of his fellow members. No breach was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint alleged councillor had misused council facilities by issuing invitations to two meetings using the Council logo and giving her Council office telephone number. The first meeting was attended by officers and at least another two elected members in the ward had been invited. The second meeting was part of a consultation process on the development of the Council's school estate management plan. It was determined that the use of Council facilities was appropriate as they had related to acceptable constituency work. There was no evidence of party political or campaigning activities. No breach was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint alleged that a councillor asked a Council officer to email a press release and a newspaper article which contained campaigning material to a newspaper and a local radio station. It was determined that the councillor had breached the Council's in-house protocol and the Code by using

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Council staff and facilities for the purpose of his re-election campaign. He was found to have breached the Code of Conduct.

Appointments to Partner Organisations

3.17 You may be appointed or nominated by the Council as a member of another body or organisation. If so, you will be bound by the rules of conduct of these organisations and your responsibility for any actions taken by you as a member of such an organisation will be to the organisation in question. You must also continue to observe the rules of this Code in carrying out the duties of that body.

3.18 If you become a director of a company as a nominee of the Council you will assume personal responsibilities under the Companies Acts. It is possible that a conflict of interest may arise for you between the company and the Council. In such cases it is your responsibility to take advice on your responsibilities to the Council and to the company. This will include questions of declarations of interest.

39. Authorities will frequently appoint councillors onto outside bodies. If you are appointed to an outside body, you are still bound by the Code but you will also have responsibilities as a member of the outside body. These responsibilities will potentially include personal liabilities and may also raise questions of conflict of interest. Conflicts of interest may arise through competing personal

interests, or the competing interests of the respective organisations of which you are a member. Councils will therefore need to consider this issue carefully when appointing councillors to outside bodies. You need to consider carefully whether you can accept such appointments in each case.

- 40.** You are reminded of the specific exclusions detailed within paragraph 5.18. As a member or director of an outside body you need to consider whether the outside body falls within one of these. You are reminded to be aware of how membership of other bodies impacts on their need to declare interests. However, membership of statutory joint boards or joint committees composed exclusively of councillors does not raise any issue of declaration of interests.
- 41.** You should ensure you are clear about the different roles and responsibilities on the different bodies – including Companies Act and the Office of the Scottish Charity Regulator (OSCR) requirements and being bound by provisions in Codes that may cover the other bodies as well.
- 42.** If you have any doubts about your responsibilities or the impact of an appointment on other areas of the Code, you should seek early advice in advance of accepting appointment or meetings. Advice can be sought from Council officers or, if appropriate, from officers of the outside body.

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A complaint alleged a councillor had breached the Code when dealing with matters which related to the councillor's position as a Council's appointed representative on a partner organisation. The councillor sought advice on her responsibilities and dealt with a matter, where she had been contacted by employees of a trust, in accordance with the rules of conduct of the partner organisation. The conclusion of the Commissioner for Ethical Standards in Public Life in Scotland was that no breach of the Councillors' Code of Conduct was established.

Dealings with the Council

3.19 You will inevitably have dealings on a personal level with the Council of which you are a member - for example as a Council taxpayer, ratepayer, tenant, recipient of a Council service or applicant for a licence or consent granted by the Council. You must not seek preferential treatment for yourself, your family, friends, colleagues or employees because of your position as a councillor or as a member of a body to which you are appointed by the Council and you must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

43. As a councillor, you must not only avoid conduct which seeks to further your own particular interests, or the personal interests of others, but you must also avoid conduct that may give the impression you are seeking preferential treatment. The test is not only whether it is your intention to seek preferential treatment but also whether a member

of the public, who knew all the relevant facts, would reasonably consider that preferential treatment was being sought.

Responsibilities to the Council as a Member of the Public

3.20 The law makes specific provision that if a councillor is in two months' arrears with payment of Council tax that councillor may not participate in certain decisions concerning Council tax issues, in order to preserve public confidence that councillors are taking decisions in the general public interest. Similar considerations should apply in other forms of dealings between you and the Council where indebtedness may arise. Whilst you are a member of the community, you are also a representative of that community and of the Council to which you are elected. As there is potential for public perception of abuse of position and poor leadership, you must seek to avoid being in debt to the Council.

3.21 If you owe a debt to the Council, for example, in relation to rent due for a council house or commercial premises where the Council is the landlord, you must put in place at the earliest opportunity arrangements for repayment. You must avoid being in a situation which might lead the public to believe that preferential treatment is being sought. You must not participate in any decision which may create suspicion of a conflict of interest. For example, where you are in arrears of rent for a council house, you must not participate in decisions affecting the levels of rent to be paid by council house tenants.

SECTION 4:

REGISTRATION OF INTERESTS

4.1 The following paragraphs set out the categories of interests, financial and otherwise, which you have to register. These are “Registrable Interests”, and you must ensure that they are registered, when you are elected and whenever your circumstances change. The register should cover the period commencing from 12 months prior to and including your current term of office.

4.2 Regulations made by Scottish Ministers describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances. Annex B contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse, or cohabitee.

Category One: Remuneration

4.3 You have a registrable interest where you receive remuneration by virtue of being:-

- (i) employed;
- (ii) self-employed;
- (iii) the holder of an office;
- (iv) a director of an undertaking;
- (v) a partner in a firm; or
- (vi) undertaking a trade, profession or vocation, or any other work.

4.4 You do not have a registrable interest simply because you are a councillor or a member of a joint board, a joint committee or of COSLA.

4.5 If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two “Related Undertakings”.

4.6 If you receive any allowances in relation to membership of any organisation the fact that you receive such an allowance must be registered.

4.7 When registering employment, you must give the name of the employer, the nature of its business and the nature of the post held in the organisation.

4.8 When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.

4.9 Where you otherwise undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication and the frequency of articles for which you are paid.

4.10 When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and detail the nature of its business.

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4.11 Registration of a pension is not required as this falls outside the scope of the category.

Category Two: Related Undertakings

4.12 You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.

4.13 You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.

4.14 The situations to which the above paragraphs apply are as follows:-

- (i) you are a director of a board of an undertaking and receive remuneration - declared under Category one; and
- (ii) you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts

4.15 You have a registrable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 4.20) have made a

contract with the Council of which you are a member:

- (i) under which goods or services are to be provided, or works are to be executed; and
- (ii) which has not been fully discharged.

4.16 You must register a description of the contract, including its duration, but excluding the consideration.

Category Four: Election Expenses

4.17 You must register a statement of any assistance towards elections expenses received where the value of any single donation exceeds £50.

Category Five: Houses, Land and Buildings

4.18 You have a registrable interest where you own or have any other right or interest in houses, land and buildings, such as being an owner or a tenant, including council tenant.

4.19 You are required to give the address of the property, or otherwise give a description sufficient to identify it.

Category Six: Interest in Shares and Securities

4.20 You have a registrable interest where you have an interest in shares comprised in the share capital of a company or other body and the nominal value of the shares is:-

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(i) greater than 1% of the issued share capital of the company or other body; or

(ii) greater than £25,000.

Category Seven: Gifts and Hospitality

4.21 You must register the details of any gifts or hospitality received, however it is not necessary to record any gifts or hospitality as described in paragraph 3.9 (i) to (iii) of this Code. This record will be available for public inspection.

Category Eight: Non-Financial Interests

4.22 Councillors may also have significant non-financial interests and it is equally important that relevant interests such as membership or holding office in public bodies, companies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described. In this context, non-financial interests are those which members of the public might reasonably think could influence your actions, speeches or votes in the Council which could include appointments to Committees or memberships of other organisations.

44. The requirements of this part of the Code are intended to give members of the public confidence that decisions are being taken in the best interests of the public and not those of councillors or their family, friends or personal associates.

Registration of Interests

45. The Register should cover the period 12 months prior to you being elected and continues throughout your term of office. For example, if you were newly elected or re-elected to office in May 2015, your Register should cover the period commencing May 2014 and include the subsequent term of office. Should an interest no longer apply (for example if you cease to receive remuneration through employed work during your term of office), the entry should still be listed in the Register and retained for the whole term of office.

46. You should be aware that the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 indicates that officers of the Council must retain the record for a period of five years after the date a councillor ceases to be in office.

47. In terms of the 2003 Regulations you are required to update your entries in the Register of Interests within one month of your circumstances changing. This includes registering the receipt of gifts and hospitality. While the Guidance to Local Authorities for Councils states that Councils should issue a reminder to you every six months, it is nevertheless your personal responsibility to ensure your entry is updated within one month of a new interest arising or your circumstances changing.

48. Under Category One: Remuneration, the level of remuneration does not matter in terms of registration, the

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question is only whether you have received remuneration. This means paid work, no matter how casual or trivial in nature, requires to be registered.

- 49.** For categories where the Code does not specifically mention the level of detail to be registered, it is for you to decide. In making such a decision, you should observe the key principles and, in particular, those of selflessness, integrity, openness and honesty. In terms of paragraph 4.19, you are required to provide the full address of the houses, land and buildings or sufficient information to allow them to be identified. This is for the purpose of the official register. What is published on the Council's website does not necessarily require to be as detailed (for example it might just say you own a residential property in Glasgow).
- 50.** In relation to paragraph 4.19 of the Code, there is no requirement to register residences outwith Scotland. In exceptional circumstances where such an interest may affect a matter before the Council, it will be for you to declare that interest in terms of the requirements of the Code. However, you must register houses, land and buildings in Scotland even if they are outwith your Council area.
- 51.** When considering whether you have a registerable non-financial interest, you should bear in mind that the test is whether the interest is one which members of the public might reasonably think could influence your actions, speeches or votes in the

Council. An example of this might be membership of a society. You should consider whether such membership might lead members of the public to reasonably think it could influence your actions, speeches or votes in terms of paragraph 4.22. If so, you should register the interest.

- 52.** You should consider erring on the side of caution. This may mean you register a large number of non-financial interests. If so, you are reminded that where a non-financial interest has been registered under Category eight of the Code, you must then declare this interest under section 5.7 of the Code (unless the interest is so remote or insignificant that it would not reasonably be taken to fall within the objective test). There is no suggestion in the Code that failing to register a non-financial interest under Section 4 can be remedied by declaring it.
- 53.** You should bear in mind that the examples of possible non-financial interests given under paragraph 4.22 of the Code are illustrative only and do not represent an exhaustive list of potential non-financial interests.
- 54.** In relation to paragraph 4.20 of the Code you will have a registerable interest as a trustee, whether or not jointly with other trustees, where you have an interest as a beneficiary of the trust and where the benefit is greater than 1% of the trust's value or the value of that benefit is greater than £25,000. An interest under shares and securities will also include investments made under self-invested pension plans.

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- 55.** It is open to you to also declare what gifts and hospitality you decline, if you consider it may help put the gifts and hospitality you have accepted into perspective.
- 56.** Annex B of the Code contains definitions of various terms used in Section 4, including 'remuneration', 'undertaking' and 'related undertaking'.
- 57.** Where you have been appointed as a member of outside bodies (including where you have been nominated or appointed by the Council), you should ensure that such membership is registered in your Register of Interests either under Category one: Remuneration (if the position is remunerated) or Category eight: Non-Financial Interests (where the position is not remunerated).
- 58.** There is no need to register being a councillor or member of a joint board, a joint committee or of COSLA.

Complaint alleged that two councillors failed to register their ownership or interest in a number of properties. Although the councillors stated they had made an honest mistake, it was determined that seeking advice did not exonerate them of responsibility to comply with the Code and due diligence would have shown that the Code, read with the Standards Commission's Guidance to the Councillors' Code of Conduct, required registration of properties in Scotland. The councillors were found to have breached the Code.

Complaint alleged a councillor had failed to register a non-financial interest in a local community group for a number of years, and did not declare his association with them when supporting grant funding for that group. He was found to have breached the Code.

Complaint alleged that a councillor had failed to properly register and regularly review his remunerated interests and had also failed to register his non-financial interests. The councillor had completed his Registers of Interests but had done so retrospectively on an annual basis. It was found that by failing to correctly apply the requirements of the Code and timeously record his remunerated employment and provide details of directorships he had not complied with the key principles of openness and integrity which underpin the actions of councillors when they make decisions on council business. The information provided in the Register of Interests was inadequate and denied any member of the public the opportunity to consider whether his interests could influence the decision making process. The councillor was found to have breached the Code.

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5.1 The key principles of the Code, especially those which specify integrity, honesty and openness are given further practical effect by the requirement for you to declare interests at meetings which you attend. The rules on declaration of interest, along with the rules which require registration of interests, are intended to produce transparency in regard to interests which might influence, or be thought to influence, your actions as a councillor.

5.2 It is your responsibility to make decisions about whether you have to declare an interest or make a judgement as to whether a declared interest prevents you from taking part in any discussions or voting. You are in the best position to assess your personal circumstances and to judge how these circumstances affect your role as a councillor in regard to a particular matter. You can, of course, seek advice from appropriate Council officers or from other sources which may be available to you. In making decisions for which you are personally responsible you are advised to err on the side of caution.

5.3 You may feel able to state truthfully that an interest would not influence your role as a councillor in discussion or decision-making. You must, however, always comply with the objective test ("the objective test") which is *whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.*

5.4 Much of the content of the rules set out in this section of the Code refers

to Council or Committee meetings. The principles relating to declaration of interests are not confined to such meetings. You must apply these principles no less scrupulously in your dealings with Council officers, at meetings with other councillors, including party group meetings, meetings of Joint Boards and Joint Committees and any other meeting, formal or informal, where you are representing your Council.

Declaration of Interests

- 59.** Where your only interest is in relation to an item included in a committee minute which is being laid before the Council for formal approval, no declaration is required unless the item proceeds to be discussed or debated as a substantive issue.
- 60.** The **objective test** outlined in paragraph 5.3 assumes that a member of the public has knowledge of the relevant facts. The question you need to consider is whether a member of the public, with this knowledge, would reasonably regard the interest as so significant that it would be likely to prejudice your discussion or decision-making in your role as a councillor. Whenever you are considering potential declarations of interest, you should also apply the objective test.
- 61.** Paragraph 5.4 makes it clear that you must disclose or declare your personal interests both in formal and informal dealings with Council officers and other councillors, not just in formal Council or committee meetings. This is an important consideration especially when you are seeking advice from Council officers or other sources.

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Interests which Require Declaration

5.5 Interests which require to be declared (if known to you) may be financial or non-financial. They may or may not cover interests which are registrable in terms of this Code. Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration. The paragraphs which follow deal with; your financial interests; your non-financial interests and the interests, financial and non-financial, of other persons.

Your Financial Interests

5.6 You must declare, if it is known to you, **ANY FINANCIAL INTEREST** (including any financial interest which is registrable under any of the categories prescribed in Section 4 of this Code and any interest as defined in a specific exclusion defined in paragraph 5.18).

There is no need to declare :-

- (i) an interest where a general exclusion, as defined in paragraph 5.18, applies but an interest where a specific exclusion applies must be declared; or
- (ii) an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded other than in the following circumstances.

There is no need to withdraw in the case of:-

- (i) an interest covered by a general exclusion or a specific exclusion; or
- (ii) an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

Declaration of Interests

- 62.** In cases where no general or specific exclusion applies, if you consider the objective test is met, you should declare your interest and leave the meeting for the duration of the item under discussion / decision. You must NOT remain in the room once you have made your declaration.
- 63.** If you consider the objective test is not met, you do not need to make a declaration and can take part in the discussion / decision.
- 64.** Occasionally, in the interests of transparency you may wish to explain to the meeting that you have considered the matter in question and reached the conclusion the objective test is not met, for example because there is no conflict of interest, so you will take part in the item under discussion / decision.

Complaint alleged that councillors had participated in a meeting in which they proposed and seconded a motion to ratify proposals to amend school catchment

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areas. They had failed to declare financial interests which could arise due to the potential impact the proposed changes would have on the catchment areas and this would affect the value of their homes. The Commissioner for Ethical Standards in Public Life in Scotland determined that in one case the complaint was flawed as the amendment would result in one councillor's home being outwith the catchment area for the school. In the other case, there was no evidence to support that a change in a school catchment area would have on the value of home in the area and that any suggestion of increase in house values did not represent a financial interest which fell to be declared in terms of the Code. The Commissioner for Ethical Standards found that, as such, no breach of the Code had occurred.

Your Non-Financial Interests

5.7 You must declare, if it is known to you, any NON-FINANCIAL INTEREST if:-

- (i) that interest has been registered under category eight (Non-Financial Interests) of Section 4 of the Code; or
- (ii) that interest would fall within the terms of the objective test.

There is no need to declare:-

- (i) an interest where a general exclusion applies, but an interest where a specific exclusion applies must be declared; or
- (ii) an interest which is so remote or

insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded other than in the following circumstances.

There is no need to withdraw in the case of:-

- (i) an interest covered by a general exclusion or a specific exclusion; or
- (ii) an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

5.8 As a councillor you will serve on other bodies as a result of express nomination or appointment by your Council or otherwise by virtue of being a councillor. Your membership of statutory Joint Boards or Joint Committees which are composed exclusively of councillors does not raise any issue of declaration of interest in regard to Council business. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare a non-financial interest. Only if you believe that, in the particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of

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interest between the Council and another body. Keep particularly in mind the advice in paragraph 3.18 of this Code about your legal responsibilities to any limited liability company of which you are a director.

5.9 You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private and personal interests and not because of your role as a councillor. In the context of any particular matter you will have to decide whether to declare a non-financial interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance. In reaching a view on whether the objective test applies to the interest, you should consider whether your interest (whether taking the form of association or the holding of office) would be seen by a member of the public acting reasonably in a different light because it is the interest of a person who is a councillor as opposed to the interest of an ordinary member of the public.

65. You should be aware that you may have a non-financial interest if the organisation you are associated with has a financial interest, even if you do not have a personal one.

66. When deciding whether or not to make a declaration about a direct non-financial interest you should determine:

- Does a general exclusion apply? If so, there is no need to declare.
- Does a specific exclusion apply? If

so, you must declare and consider whether the matter being discussed is regulatory or quasi-judicial in nature before deciding whether or not you need to withdraw.

- Is the interest too remote or insignificant to fall within the objective test? If so, there is no need to declare.
- Have you checked the status of the other body you are serving on? Have you registered the interest? If so, you must declare it. You must also withdraw unless the interest is too remote or insignificant to fall within the objective test.

67. If you are unclear as to whether another body you are appointed to and/or serve on falls within the specific exclusions outlined in paragraph 5.18(2) of the Code (and, for example, is a devolved public body, is a public body established by enactment or is a company established wholly or mainly to provide services to the Council), you should seek advice from the Council's Monitoring Officer. An up to date list of devolved public bodies as defined in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 can be found at www.legislation.gov.uk/asp/2000/7/contents.

68. You should declare your interest even if the body you are appointed to and/or serve on falls within the specific exclusions unless you believe, in the particular circumstances, the nature of the interest is so remote or insignificant it should not be declared. However, you only need to withdraw from the

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meeting if the matter being discussed is quasi-judicial or regulatory in nature (see paragraph 5.18(2)).

69. In terms of paragraph 5.9, you should be aware of the impact of any membership of other bodies, societies and organisations. You should consider whether your membership could lead members of the public to reasonably think it might influence your actions, speeches or votes in terms of paragraph 4.22. Unless you consider the interest to be so remote or insignificant, you should declare the membership.

70. In issues involving funding from the Council to another body, society or organisation (including regulatory or quasi-judicial decisions concerning an ALEO or any other organisation covered by a specific exclusion), there can be no dubiety. You must declare an interest if you are a member of the body receiving the funding.

71. You should not rely on Council officers to remind you of the need to declare interests. It is not always apparent to officers when councillors are appointed to or serve on other groups and/or they may not remember each individual councillors' appointments. It is your own personal responsibility to ensure you declare any interests as required by the Code. If you are in any doubt, you should ask for help.

72. Factors to consider:

- Do you know the current status of the other organisation you are appointed to and/or serve on (for

example, is it a charity or a Schedule 3 public body)? Has this changed?

- Do you know the composition of the organisation and how it is funded?
- Do you know whether the organisation was established wholly or mainly for the purpose of providing services to the council?
- If you are appointed to an ALEO, are you still able to undertake the scrutiny role?
- Have you considered the different responsibilities of being a member of both organisations and whether there are any conflicts?
- Could a decision coming before a meeting of the Council reasonably be considered by a member of the public to benefit or disadvantage you to a greater extent than other constituents?

Complaint alleged that a councillor had accepted hospitality (a dinner) from a parent company of an applicant firm who were awaiting the outcome of a planning application and had participated in consideration of the application in respect of a wind farm. It was found that no application was awaiting decision in the period between receipt of the invitation and attending the dinner. In addition, there was evidence the councillor had checked that there were no applications before accepting and had registered the hospitality within one month. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland.

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Complaint alleged that a councillor had participated in discussion and voting on an application, when he should not have, due to a registered financial interest and a registered non-financial interest. It was considered that the objective test would have applied and, indeed, the councillor confirmed that his voting on the decision was directly related to his interests. It was determined that the councillor had breached the Code.

Complaint alleged that a councillor who was employed on a remunerated basis by an organisation, took part in an item at a meeting and seconded the motion to approve a proposal in which he had a financial interest. There had not been any reference in the agenda for the meeting to the involvement of the organisation in the proposal and the paper itself made only a single mention of it. The councillor was found to have breached the Code, even though he had acknowledged his error immediately after the meeting.

Complaint alleged that a councillor, in his role as Chair of a Planning Committee had considered a planning application to which the Kirk Session and the Minister of the Church had objected, despite the councillor also being a member of the Kirk Session. It was accepted that discretion may exist in Section 5.7 to allow a councillor to consider whether their interest to be too remote, in registering the non-financial interest it was clear the councillor regarded his interest in the Church as significant. It was considered that it was unreasonable for the councillor to conclude that his membership of the Kirk Session was, therefore, insignificant

to the role that he had to undertake as Chair of the Planning Committee. The determination was that the interest should have been declared. The councillor was found to have breached the Code.

The Financial Interests of Other Persons

5.10 The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.

You must declare if it is known to you ANY FINANCIAL INTEREST of:-

- (i) a spouse, a civil partner or a co-habitee;**
- (ii) a close relative, close friend or close associate;**
- (iii) an employer or a partner in a firm;**
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;**
- (v) a person from whom you have received a registrable gift or registrable hospitality;**
- (vi) a person from whom you have received registrable election expenses.**

There is no need to declare an interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

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You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded other than in the following circumstances.

There is no need to withdraw in the case of:-

- (i) an interest covered by a specific exclusion; or
- (ii) an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

5.11 This Code does not attempt the task of defining “relative” or “friend” or “associate”. Not only is such a task fraught with difficulty but is also unlikely that such definitions would reflect the intention of this part of the Code. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a councillor and, as such, would be covered by the objective test.

The Non-Financial Interests of other persons

5.12 You must declare if it is known to you **ANY NON-FINANCIAL INTEREST** of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;

(iii) an employer or a partner in a firm;

(iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;

(v) a person from whom you have received a registrable gift or registrable hospitality; or

(vi) a person from whom you have received registrable election expenses.

There is no need to declare the interest unless it is clear and substantial.

There is only a need to withdraw from the meeting if the interest is clear and substantial.

73. You should consider whether a decision coming before a meeting of the council might reasonably be considered by a member of the public to benefit or disadvantage a person or body who falls within one of the categories under paragraph 5.12 to a greater extent than other constituents.

74. You should be mindful of the need to protect the confidentiality of another person's business or financial interests when making a declaration. You are only required to provide enough information to make it clear why you consider you have a clear and substantial interest.

Complaints alleged a councillor had failed to declare his non-financial interests and the non-financial interests of close relatives

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in relation to involvement with a school lobbying group after a planning application to build a new school had been submitted and the formal planning process was underway. The councillor had incorrectly assumed that officers were fully aware of his, and also the interests of his family, in the lobbying group. It was noted councillors should ensure that all relevant information is provided to officers when advice is sought so councillors can be assured the advice given is fully informed and comprehensive. The councillor was found to have breached the Code.

Making a Declaration

5.13 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

5.14 The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words “I declare an interest”. The statement must be sufficiently informative to enable those at the meeting to understand the nature of your interest but need not give a detailed description of the interest.

75. When making a declaration and/or deciding whether or not to do so you should consider the following factors:

- Is the information you are giving sufficient for those at the meeting to understand why you are making a declaration. For example, it may be sufficient to say I declare an interest as my spouse is a member of the organisation making the application. You might not necessarily need to provide details about how long your spouse has been a member and in what capacity.
- Transparency. For example, you may wish to think about whether you should indicate why you have considered making a declaration but have chosen not to on the grounds it is not clear and substantial. If you only realise a declaration is necessary when the discussion in respect of a matter is underway, you may wish to consider whether you should provide a brief explanation why you had not realised you had an interest at the outset of the meeting.

Frequent Declarations of Interest

5.15 Public confidence in a local authority is damaged by perception that a Council’s decisions are substantially influenced by factors other than the public interest. If you would have to declare interests frequently at meetings of a particular committee or in respect of any role which you are asked to discharge as a councillor, you should not accept a role or appointment with that attendant consequence. Similarly, if any Council appointment or nomination to another body would give rise to objective

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concern because of your existing personal involvements or affiliations, you should not accept the appointment or nomination.

76. Where the only interest is in relation to an item included in a committee minute which is being laid before the Council for formal approval, no declaration is required unless the item proceeds to be discussed or debated as a substantive issue.
77. You are reminded that, when considering whether a declaration of interest is appropriate or the effect of a declaration, you should refer to the full provisions of the Code.

Complaint alleged that, in view of the frequency of declarations of interest made by a councillor, he should have declined to sit on the Planning Applications Committee. In the 12 months since the councillor had been nominated to sit on the Planning Applications Committee he had attended 16 meetings, considered 93 planning applications and declared an interest in eight of these. It was determined that the number of declarations made by the councillor was not such as to prevent him voting on a regular basis or otherwise to preclude him from sitting on the Planning Applications Committee. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Dispensations

5.16 In some very limited circumstances dispensations may be granted by the Standards Commission in relation to the existence of financial and non-financial

interests which in terms of this Code would otherwise prohibit participation in discussion and voting.

5.17 Applications for dispensations will be considered by the Standards Commission which will be able to consider requests for dispensations which will apply generally to a class or description of councillors who are all affected by a particular category of interest. In situations where general or category dispensations are not granted by the Standards Commission, applications for particular dispensations should be made as soon as possible in advance of any meetings where dispensation is sought. You should take no part in consideration of the matter in question unless, and until, the application for dispensation is granted.

Individual Dispensations

78. In such circumstances, applications should be submitted to The Executive Director, The Standards Commission for Scotland, Room T2.21, The Scottish Parliament, Edinburgh, EH99 1SP, setting out in detail all the relevant information, including the reasons why a dispensation is sought. Factors to consider before making the application include:

- whether it would be in accordance with both the spirit and intent of the Code of Conduct to grant the dispensation
- whether you have provided sufficient reasons for the request, including what the effect or consequence would be if it was not granted.

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79. The Standards Commission will respond as soon as it reasonably can after receipt of all information and will normally be able to provide a response within 20 working days. Where an application for dispensation relates to a specific item of business, the Commission will endeavour to respond before the meeting in question. However, Standards Commission Members only work on a part time basis so this may not always be possible and, therefore, applications should be submitted to the Commission as soon as the relevant information / circumstances are known.

In relation to (i), a councillor does not have an interest which has to be declared as a Council tax payer or ratepayer or, in respect of any issue relating to the terms of services which are offered to the public generally, as a recipient or non-recipient of those services.

In relation to (ii), a councillor does not have a financial interest which has to be declared in connection with:-

- (a) the setting of council tax (including the approval of the total estimated expenses of the authority to be incurred during the year in question); and
- (b) the setting of any substitute Council tax (including the approval of any revised total estimated expenses).

Definition of Exclusions

5.18 The following paragraphs refer to General Exclusions and Specific Exclusions

(1) The General Exclusions

The general exclusions referred to in this Section of the Code are in relation to interests which a councillor may have:-

- (i) as a Council tax payer or rate payer or in relation to the Council's public services;
- (ii) in relation to setting the Council tax;
- (iii) in relation to matters affecting councillors' remuneration, allowances, expenses, support services and pension; or
- (iv) as a Council house tenant.

notwithstanding that the councillor may have an interest in any item of expenditure.

In relation to (iii), a councillor does not have an interest which has to be declared in connection with any matter relating to councillors' remuneration, allowances, expenses or support services or in relation to councillors' pension arrangements, including the investment of superannuation funds.

In relation to (iv), a councillor does not have an interest which has to be declared in connection with any matter relating to council house matters, notwithstanding that the councillor has an interest in the tenancy of council housing accommodation (including any garage), always provided:-

- (a) this exclusion does not apply in respect of any matter which is concerned solely or mainly with the particular tenancy

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from which an individual councillor's interest derives; and

- (b) this exclusion does not apply to any councillor who is in arrears of rent in respect of his or her council house (or garage as appropriate).

(2) The Specific Exclusions

The specific exclusions referred to in this Section of the Code are in relation to interests which a councillor may have:-

- (i) as a member, or director of, an outside body; or
- (ii) as a member of the Cairngorms National Park Authority ("CNPA").

In relation to (i), the exclusion applies to any councillor who has been nominated or appointed or whose appointment has been approved by the councillor's local authority and who has registered an interest under Section 4 of the Code as a member or director of:-

- (a) devolved public body as defined in Schedule 3 to the Act;
- (b) a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme;
- (c) a body with whom there is in force an agreement which has been made in pursuance of Section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that body of any of

the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise;

- (d) a body being a company:-
- i. established wholly or mainly for the purpose of providing services to the councillor's local authority; and
 - ii. which has entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority.

So as to enable the councillor to take part in the consideration and discussion of, and to vote upon, any matter relating to the body in question the councillor is required to declare his or her interest at all meetings where matters relating to the body in question are to be discussed. This is always provided the exclusion does not apply in respect of any matter of a quasi-judicial or regulatory nature where the body in question is applying to the local authority for a licence, a consent or an approval, is making an objection or representation or has a material interest concerning such a licence, consent or approval or is the subject of a statutory order of a regulatory nature, made, or proposed to be made, by the local authority.

In relation to (ii), the exclusion applies to (a) Decisions on Planning Applications where the CNPA have submitted comments to the Council and (b) Decisions on Planning Applications where the CNPA have decided not to call-in the Applications, as follows:-

- (a) the exclusion applies to any councillor who is also a member of the CNPA where the CNPA have submitted

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comments, representations or objections to the Council in relation to a planning application so as to enable the councillor to take part in the consideration and discussion of, and to vote upon, the determination of the planning application by the Council, subject to the following:-

- i this exclusion only applies where the councillor has not participated in the decision to make comments, representations or objections and has not attended during the item of the relevant CNPA meeting to decide on the comments, representations or objections to be submitted.
 - ii this exclusion applies to meetings of the Council and of any committee or sub-committee of the Council and to other meetings as referred to in paragraph 5.4 of the Code to deal with the planning application.
- (b) the exclusion applies to any councillor who is also a member of the CNPA where the CNPA have decided not to call-in a planning application so as to enable the councillor to take part in the consideration and discussion of, and to vote upon, the determination of the planning application by the Council, subject to the following:-
- i. this exclusion only applies provided the CNPA have, in reaching their decision not to call-in, confined themselves to the question whether the application should be called-in and not discussed the merits of the application in so deciding.
 - ii. this exclusion applies to meetings of the Council and of any committee or

sub-committee of the Council and to other meetings as referred to in paragraph 5.4 of the Code to deal with the planning application.

The general and specific exclusions and dispensations to councillors in respect of financial and non-financial interests

80. The list of bodies to which a councillor may have been nominated or appointed and to which the specific exclusions apply is exhaustive (set out in paragraph 5.18(2)(a)-(d)). This means that a declarable interest would require a withdrawal from the meeting if not covered by an exclusion. For example, if you have been appointed by your council as a member of a charity, you cannot claim the benefit of a specific exclusion (as the specific exclusions do not include appointments to charities) unless the charity in question also falls within one of the exclusions (for example if it is also a company established wholly or mainly for the purpose of providing services to the local authority).
81. If you have any doubts about whether a body you have been appointed to is covered by a specific exclusion (for example whether it is a public body established by enactment or in pursuance of statutory powers or whether it is a company which has entered into a contractual arrangement with your local authority for the supply of services to your local authority), you should always check before accepting an appointment.

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- 82.** You should be mindful of the specific responsibilities you have to different bodies and be aware of the potential for conflicts of interests between your different roles, even if another body you sit on is covered by a specific exclusion.
- 83.** You should always declare the interest in all meetings where matters relating to or concerning the body in question are to be discussed. However, you can take part in the consideration and discussion of, and to vote upon, any matter relating to the body in question provided you are satisfied that you have complied with the objective test and also provided the matter is not quasi-judicial or regulatory in nature.

SECTION 6:

LOBBYING AND ACCESS TO COUNCILLORS

6.1 In order for the Council to fulfil its commitment to being open, accessible, and responsive to the needs of the public, it needs to encourage appropriate participation by organisations and individuals in the decision-making process. Clearly however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the Council conducts its business.

6.2 You will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual councillors or Council committees. The rules and standards in this Code set out how you should conduct yourself in your contacts with those who seek to influence you.

6.3 You may be lobbied by a wide range of people including individuals, organisations, companies and developers. As a general rule, it is an essential element of the democratic system that any individual should be able to lobby the Council or a councillor. However, particular considerations apply when you are dealing with applications under regulatory powers such as planning and with matters of a quasi-judicial nature such as the determination of certain licence applications. If you are lobbied on such matters you should make it clear that you are not in a position to lend support for or against any such application that you will have a responsibility for making a decision on in due course. Representations

to councillors on such applications should be directed, by the councillor, to the appropriate department of the Council. This does not prevent you from seeking factual information about the progress of the case.

6.4 Political group meetings should not be used to decide how councillors should vote on such applications, or on individual staffing matters such as the appointment or discipline of employees. It is a breach of this Code to comply with political group decisions on such matters where these differ from your own views.

84 As a councillor you will probably be approached by those wishing to make their views known. This is perfectly legitimate, and should be encouraged, in that it is an essential part of the democratic process that any individual should be allowed to lobby a council or councillor.

- If you choose to be an advocate for or against a particular cause, you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions regarding that cause. If you are approached, you can listen to views expressed but you must make it clear that you cannot lend support or make a decision until the appropriate meeting, when you have heard all the evidence. You can:
 - o Make it known to officers what representations you have received;
 - o Assist constituents in making their views known to the relevant officer;
 - o Seek factual information about the progress of a case;

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- o Advise those that are lobbying who they can contact (i.e. the relevant officer or a councillor who is not on the decision-making committee).

- 85.** However, you must not accept any paid work in which you give advice on how to influence the Council. In other situations, care is needed and you should be guided by the Code and, in particular, consider:
- Could anything you do or say be construed as being improperly influenced to take a particular stance on an issue?
 - Are you giving or could you be perceived as giving preferential access to any one side of an argument?
 - When seeking information on the progress on a case or particular matter are you doing so in a factual way or could you instead be perceived as making representations or lending support?
 - Are you reaching your own view on an application or staffing matter having heard all the relevant arguments and evidence (including the guidance of Council officials) and not simply agreeing or complying with any view expressed by your political group?

Complaint alleged that a councillor failed to engage with, and denied access to, a constituent who had sent an email to the Council seeking information on a motion which had been promulgated by the

councillor and approved by the full Council. The Council had referred the individual's email to the councillor for response. The individual considered the councillor's response and subsequent comments in the press which indicated he did not wish to engage with her. However, the Code does not impose specific obligations on individual councillors requiring that a response is made to all who would lobby them. In this case the councillor had responded, albeit that his response was made in terms which the complainant found unacceptable. The Commissioner for Ethical Standards in Public Life in Scotland found that there had not been a breach of the Code.

Complaint alleged that a councillor had been involved in a "secret" meeting with some local residents. The outcome of the "secret" meeting resulted in a Traffic Regulation Order which ultimately led to the introduction of parking restrictions. In attending this "secret" meeting the complainant alleged that the councillor had failed to be accessible to the public and showed bias towards some residents. The Commissioner for Ethical Standards established the councillor had been accompanied at the meeting by an officer from the Council's Roads Services and it was the officer's suggestion of implementing a TRO which resulted in the road traffic controls being introduced. No evidence was found that the councillor had indicated support for or against the making of the TRO. The councillor's only role was to attend the meeting with some local residents with a Council Officer. The Commissioner for Ethical Standards found that no breach of the Code had occurred.

SECTION 7:

TAKING DECISIONS ON QUASI-JUDICIAL OR REGULATORY APPLICATIONS

Introduction

7.1 The Code's provisions relate to the need to ensure a proper and fair hearing and to avoid any impression of bias in relation to statutory decision making processes. These provisions apply not only to those made under planning legislation but to a number of others of a quasi-judicial or regulatory nature which the local authority may also have to consider. These will include applications for taxi, betting and gaming, liquor, theatres, cinemas and street trader licences and a range of other similar applications where the issuing of a statutory approval or consent is involved. This also includes where the local authority is acting in an enforcement, disciplinary or adjudicatory role.

86. The list under paragraph 7.1 is illustrative and not exhaustive. If you are in any doubt about whether an application or matter you are being asked to decide on is quasi-judicial or regulatory in nature, you should seek advice before taking part in any discussion or vote. While the focus of the following paragraphs is primarily on planning matters, the provisions contained within them also apply to other regulatory applications where statutory approval or consent applies.

Fairness and Impartiality

7.2 On questions relating to such matters on which councillors have to make individual decisions, you may have to take account of different points of view

or make decisions based on specified statutory criteria.

7.3 In such cases, it is your duty to ensure that decisions are properly taken and that parties involved in the process are dealt with fairly. Where you have a responsibility for making a formal decision, you must not only act fairly but also be seen as acting fairly. Furthermore, you must not prejudge, or demonstrate bias in respect of, or be seen to be prejudging or demonstrating bias in respect of, any such decision before the appropriate Council meeting. In making any decision, you should only take into account relevant and material considerations and you should discount any irrelevant or immaterial considerations.

7.4 To reduce the risk of your, or your Council's, decisions being legally challenged, you must not only avoid impropriety, but must at all times avoid any occasion for suspicion and any appearance of improper conduct.

7.5 Councillors who have been appointed to outside bodies may - in certain circumstances - be entitled to participate in discussion and voting on matters relating to these bodies through the benefit of the specific exclusion relating to certain outside bodies as provided for in paragraph 5.18(2) of Section 5 of this Code. It should be emphasised, however, that the exclusion does not apply in respect of any matter of a quasi-judicial or regulatory nature where the outside body is applying to the local authority for a licence, a consent or an approval, is making an objection or representation or has a material interest concerning such a licence, consent or

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approval or is subject of a statutory order of regulatory nature, made, or proposed to be made, by the local authority.

87. When making quasi-judicial or regulatory decisions, you must do so objectively and with an open mind. Factors to consider include:

- Am I acting fairly?
- Have I taken proper account of the public interest?
- Have I taken account of all the material and relevant facts, evidence, opinions and policies?
- Have I taken account of advice from council officers who are exercising their statutory duties and functions?
- Am I able to give clear and adequate reasons for my decision if required?
- Have I indicated, outwith the committee forum, my support for, or opposition to, the matter which I am due to make a decision on?

88. If you have been appointed to an outside body you may - in certain circumstances - be entitled to participate in discussion and voting on matters relating to that body through the application of a specific exclusion defined in paragraph 5.18 of the Code. It should be emphasised, however, that the specific exclusion does not apply in respect of any matter of a quasi-judicial or regulatory nature. For example, if you have been appointed by your council to an outside body and that

body has submitted an application to the Council for a theatre licence, you cannot take advantage of the specific exclusion. You must declare your interest and withdraw from the room.

Complaint alleged that a number of councillors, as members of an Area Planning Committee, took a decision on an application after having considered an officer's report, which the complainant stated contained false information. It was found that there was nothing in the minute of the meeting, which would indicate not conducting a fair hearing, showing bias or taking account of a different point of view. The allegation that the officer's report contained false information was not a matter which the Code regulates. Councillors can only act upon information provided to them. There was nothing to indicate that the information was false. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint alleged that a councillor, in his role as a member of a Licensing Board, stated that he was minded to support the application before the Board had heard all submissions, which indicated he had prejudged the matter. He was also disrespectful of members of the public who were present as objectors when he questioned them in a confrontational and adversarial manner and was dismissive of their views. Following the Licensing Board decision, a petition for Judicial Review was made seeking reduction of that decision. The petition, which included an account of the conduct of the councillor, was based on

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grounds that objectors were not afforded a fair hearing. The petition was granted by the Court and legal costs awarded against the Licensing Board. It was found the councillor had breached paragraphs 7.1 - 7.4 of the Code.

of any such request and only as part of the planning authority considering and forming such a provisional view, you are entitled to express an opinion in advance of the statutory application for planning permission being submitted to the planning authority formally for determination.

Decisions on Planning Matters

Policy and Strategic Issues

7.6 The requirements of this part of the Code should not limit you from discussing or debating matters of policy or strategy, even though these may provide the framework within which individual applications will in due course be decided.

7.7 Therefore in your key role in establishing planning policies for the area, you are fully entitled to express your views or advocate proposals for the making, approval or amendment of the development plan, including supplementary planning guidance published by the planning authority both relating to general policies for the authority's area and to briefs and masterplans prepared for specific sites in anticipation of planning applications.

7.8 You may also be asked to comment on requests to the planning authority for a provisional view as to whether - in respect of a proposal for a major development the authority might be minded, in principle, to consider granting planning permission. This may occur in cases where developers are seeking the planning authority's view in advance of committing to expensive and lengthy technical appraisals. As a part

- 89.** Where a Council has been asked to provide a provisional view on whether, in respect of a proposal for a major development, it might be minded in principle to consider granting planning permission, you are entitled to express an opinion in advance of the statutory application being submitted. However, you may only do so as part of the Council's procedures for forming such a provisional view. You must not express a view or an opinion once a planning application has been received as this could be determined to have compromised your impartiality.
- 90.** You should ensure that you are familiar with your council's policy on forming provisional views and that you adhere to this.
- 91.** You can adopt an advocacy role by, for example, saying you would welcome planning applications or the redevelopment of an area, or would like to preserve greenbelt land or promote industry. However, you cannot then comment on a specific application once lodged, before the meeting to determine it.

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General

7.9 As a councillor you may have to deal with planning decisions in a number of ways. You may:-

- (i) become involved in local cases as a ward representative; or
- (ii) you may be more actively involved in decision making:-
 - (a) as a member of a committee dealing generally with decisions on planning applications;
 - (b) in certain cases, you may be a member of the committee where applications are subject to a pre-determination hearing;
 - (c) as a member dealing with applications referred to the full council for determination; and
 - (d) as a member of the Council's Local Review Body dealing with reviews where officers acting under delegated authority have refused planning permission or granted it subject to conditions which the applicant does not agree with or of non-determination of the application by the officer; or have not dealt with the application within the prescribed timescale.

7.10 You must never seek to pressure planning officers to provide a particular recommendation on any planning decision and you should not seek privately to lobby other councillors who have a responsibility for dealing with the application in question.

7.11 If you propose to take part in the decision making process you must not give grounds to doubt your impartiality.

You must not make public statements about a pending decision, to ensure that you are not seen to be prejudging a decision which will be made at the meeting where it can be anticipated that the information required to take a decision will be available. You must not indicate or imply your support or opposition to a proposal, or declare your voting intention, before the meeting. Anyone who may be seeking to influence you must be advised that you will not formulate an opinion on a particular matter until all available information is to hand and has been duly considered at the relevant meeting.

7.12 If you have an interest, whether financial or non financial, in the outcome of a decision on a planning application, or a planning agreement, or on taking enforcement action, or in a Local Review Body, you must declare that interest and refrain from taking part in making the decision.

92. If you have an interest as outlined in paragraph 7.12, you must declare that interest, take no part in the decision and withdraw fully from the room. If you remain in the room, you could be perceived as trying to influence others. However, having declared your interest in the matter, you are entitled under paragraph 7.15 below to make representations on behalf of constituents or other parties before you fully retire from the meeting room.

93. Although you are entitled to hold a preliminary view on a matter in advance of a meeting at which a decision will be taken, you must keep an open mind and

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be prepared to consider the merits of all views and representations made about the matter under consideration before making your decision. You must not make your mind up about a particular matter before you have had the opportunity to consider all the evidence.

94. Prejudging or making a pre-determination may invalidate the Council's decision and leave it open to challenge as well as being a breach of the Code. For example, if you state that 'wind farms are blots on the landscape and I will oppose each and every one that comes before the committee' you cannot claim to have retained an open mind on the issue or that you are prepared to determine each application on its merit. If, however, you say 'some people find wind farms ugly and noisy so I will need to be persuaded we should allow more in this area', you should not be accused of having prejudged the application as you have demonstrated you are willing to listen to the merits of an application.
95. The prohibition on pressuring planning officers or lobbying other councillors in private under Paragraph 7.10 applies to all correspondence, not just discussions. For example, it would be a breach of the Code to send an email to other councillors indicating that you are against plans for a stadium development once a planning application had been lodged.

Complaint alleged that a councillor had sought preferential treatment in regard to

the requirement to apply for consent before erecting a radio mast. It was found that on being advised that consent was required the councillor submitted the necessary application, and at the hearing of the application at the Regulatory Committee he declared an interest and took no part in its consideration. The fact that he was the applicant was evident to the remaining members but there was nothing to indicate that the councillor sought to influence them in any way. The Commissioner for Ethical Standards in Public Life found that the councillor had not breached paragraph 7.11 or 7.12 of the Code.

Complaint alleged that while serving on the Council's Planning Committee, a councillor became involved in a proposed agreement between a planning applicant and two local community councils. The councillor reached the view that his interest going forward was to represent his constituents and that this would be contrary to maintaining his position as a decision maker on the application. Subsequently, when a report was submitted to the Planning Committee, the councillor declared an interest and left the room. It was found that the councillor was fully entitled to take the steps he had and that he was being properly mindful of appropriate conduct and his Code obligations in doing so. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Representations

7.13 Where you will be participating in making the appropriate decision, you should not organise support for, or opposition to, or lobby other councillors or

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act as an advocate to promote a particular recommendation on a planning application, on a planning agreement, on taking enforcement action, or on a review by the Local Review Body.

7.14 You are not precluded from raising issues or concerns on any of the matters associated with the application with the planning officers concerned. Indeed, a councillor may well have an important contribution to make in respect of an individual planning application or on what the Council should include in a planning agreement. It is entirely appropriate for councillors, including those who will have a decision making responsibility, to make known to planning officers what representations from constituents and prospective developers they have received on a planning application, to attend public meetings/events (including those relating to statutory pre-application consultation) and to assist constituents in making their views known to the relevant planning officer. This applies to those councillors with a decision making responsibility, provided that at no time does the councillor express a “for” or “against” view by advocating a position in advance of the decision making meeting (other than in respect of the circumstances set out in paragraphs 7.8 and 7.18).

7.15 If as part of the decision making process you wish to make representations on behalf of constituents or other parties you may do so providing:-

- (i) you do so in terms of procedures agreed by the Council which afford equal opportunity to any parties wishing to make representations to do so,

- (ii) you declare your interest in the matter; and
- (iii) after making those representations you then retire from the meeting room.

96. Paragraph 7.15 applies to all councillors, irrespective of whether or not they are part of the decision making process. Where you wish to make representations on behalf of constituents or other parties, you may do so providing that all the conditions outlined above are met, including that you declare your interest in the matter and, having made any representations, you retire fully from the meeting room (it is not sufficient to retire to a public gallery situated within the meeting room).

97. If you are making representations and, for example, you wish to support your constituents' views regarding a planning application, you should make this position clear as soon as possible to the chair of the committee and officers. Your declaration of interest should be recorded in the minutes of the meeting.

Complaint was at a meeting of a Planning Committee, a councillor attempted to influence other members of the committee in their consideration of the application by suggesting a site visit. It was found that the councillor had simply suggested a site visit but there as no evidence he had attempted to influence other members of the planning committee in their consideration of the application. Suggesting a sight visit in itself did not constitute

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inappropriate lobbying or influence. No breach of the Code was found by the Commissioner for Ethical Standards in Public Life in Scotland.

Full Council Decisions

7.16 There are certain planning applications where the final decision has to be made by the full Council. These applications will be those where there has been the opportunity for a pre-determination hearing. These procedures apply to major developments which are significantly contrary to the development plan and for national developments. It will be apparent before the application is formally submitted to the Council which developments are national or major. Where the application is for a national development you will be involved in the decision making process as a member of the full Council.

7.17 Where the application is for a major development, it may not be clear at the outset whether the development is significantly contrary to the development plan and therefore one where the full council will be making the final decision. It will be for the planning authority to come to such a view as part of considering the application.

7.18 You are entitled to take part in the decisions to be made by the full Council even though you may have expressed an opinion on the application at a pre-determination hearing or at the planning committee.

98. Where the decision in respect of a planning application or other regulatory decision has to be made by the full Council and you have expressed opinions on the application at a pre-determination hearing or at a previous planning committee, you are entitled to take part in the decision making by the full Council provided you do so with an open mind. However, this applies only to opinions expressed at a pre-determination hearing or at a previous planning committee.

Local or Area Planning Committees

7.19 All local authorities will have their own procedures for dealing with planning applications. Councils may adopt a system in which most applications are dealt with by local or area planning committees with the remaining being dealt with by a central planning committee. Some also have procedures where decisions can be referred from a planning committee to the full Council for final determination.

7.20 Individual members may make their provisional views known as part of the discussions at earlier meetings. Councillors who have responsibility for the decision should only make a final judgement when all the relevant material considerations are before the meeting that will, in fact, determine the application. These considerations can quite appropriately include the views of a local or area committee for a central planning committee, or the views of a planning committee or a pre-determination hearing in advance of the full Council.

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99. Where Council procedures allow for decisions to be referred for final decision by a planning committee, including a local or area planning committee, to the full Council or other committee, you may make your provisional views known but only as part of the discussions during the earlier meetings.

100. As a member of a planning committee you should make a decision in the public good and not represent any private interest.

101. You should familiarise yourself with the Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures which can be found at <http://www.gov.scot/Resource/0044/00444959.pdf>.

A complaint alleged that a councillor had pre-determined his decision about a planning application prior to his involvement with a Planning Hearing. The complaint was the councillor had referred to a press article, published before the Hearing, which extolled the beauty of the Scottish landscape, together with stating his own personal opinion about the impact of noise generated by wind turbines, based on his own experience. It was alleged the councillor had therefore shown bias and predisposition in relation to a planning application, which was suggestive of the councillor having made up his mind about his decision prior to the Planning Hearing.

The Commissioner for Ethical Standards considered that whilst it may have been

suggestive that the councillor may have formed a view a few days before the Hearing is is not conclusive evidence that the impact on the landscape of a wind farm development was his only consideration in preparing for the Planning Hearing. While the councillor expressed an opinion about the noise nuisance he had not pursued this aspect following an assurance from a council officer that the turbines met the required noise emission standards. The conclusion of the Commissioner for Ethical Standards was that no breach of the Code was established..

Other Interests

7.21 If you have substantial property or other interests which would prevent you from voting on a regular basis you should not sit on a decision-making committee that deals with planning applications.

7.22 You must not act on behalf of, or as an agent for, an applicant for planning permission with the Council other than in the course of your professional role which you have registered.

Site visits

7.23 As a councillor, you may be asked to attend site visits in connection with a pending planning application or review. If you do so, you should follow the procedures for such visits set out by your authority - for local reviews there are details about site visits in the relevant regulations. These procedures should be consistent with the provisions of this Code.

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102. The Code recognises that individual councils will have their own procedures for site visits and does not attempt to be prescriptive about what these procedures should include. However, when attending site visits, you must follow your council's own procedures for such visits.

Unauthorised developments

7.24 As a councillor you may also be the person who is first made aware of unauthorised development and you might - quite properly - wish to refer the matter to the Council for possible enforcement action. Once the initial referral has been made to the appropriate department for investigation and any formal action, you should advise all subsequent inquirers to deal directly with the relevant officer, as you should not lobby for a particular outcome. This does not prevent you from seeking factual information about the progress of the case.

103. You must not organise support or opposition, lobby other councillors or put pressure on planning officers to either take or not take investigative or enforcement action. This applies to all councillors, whether members of the planning committee or not.

ANNEX A:

SANCTIONS APPLIED BY STANDARDS COMMISSION FOR BREACH OF THE CODE

- (i) Censuring the councillor;
- (ii) suspending, for a period not exceeding one year, the councillor's entitlement to attend one or more but not all of the following:
 - (a) all meetings of the Council;
 - (b) all meetings of one or more committees or sub-committees of the council;
 - (c) all meetings of any other body on which that councillor is a representative or nominee of the council;
- (iii) suspension, for a period not exceeding one year, of the councillor's entitlement to attend all meetings of the Council, and of any committee or sub-committee of the Council; and of any other body on which the councillor is a representative or nominee of the Council;
- (iv) disqualifying the councillor, for a period not exceeding five years, from being or being nominated for election as, or from being elected as, a councillor.

of any committee or sub-committee of the Council, any joint committee, joint board or other body on which the councillor is a representative or nominee of the Council.

Where a councillor is also a member of a devolved public body (as defined in the Ethical Standards in Public Life etc. (Scotland) Act 2000), other than as a representative or nominee of the Council, the Commission may also remove or disqualify that person in respect of that membership. Full details of the sanctions are set out in Section 19 of the Act.

A period of suspension under (ii) or (iii) above which would continue until or beyond an ordinary election will come to an end at the beginning of the day on which that election is held.

Disqualification of a councillor has the effect of vacating that councillor's office and extends to the councillor's membership

ANNEX B: DEFINITIONS

1. **“Remuneration”** includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.
2. **“Undertaking”** means: (i) a body corporate or partnership; or (ii) an unincorporated association carrying on a trade or business, with or without a view to a profit.
3. **“Related Undertaking”** is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.
4. **“Parent Undertaking”** is an undertaking in relation to another undertaking, a subsidiary undertaking, if (i) it holds a majority of the voting rights in the undertaking; or (ii) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or (iii) it has the right to exercise a dominant influence over the undertaking (a) by virtue of provisions contained in the undertaking’s memorandum or articles or (b) by virtue of a control contract; or (iv) it is a councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or councillors, a majority of the voting rights in the undertaking.
5. **“Election expenses”** means expenses incurred, whether before, during or after the election, on account of, or in respect of, the conduct or management of the election.
6. **“A person”** means a single individual or legal person and includes a group of companies.
7. **“Group of companies”** has the same meaning as “group” in section 262(1) of the Companies Act 1985. A “group”, within s262(1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.
8. **“Any person”** includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.
9. **“Spouse”** does not include a former spouse or a spouse who is living separately and apart from you.
10. **“Cohabitee”** includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.
11. **“Chair”** includes Committee Convener or any person discharging similar functions under alternative decision making structures.

ANNEX C:

PROTOCOL FOR RELATIONS BETWEEN COUNCILLORS AND EMPLOYEES IN SCOTTISH COUNCILS

Principles

1. This protocol sets out the way in which Councils and employees of Councils should behave towards one another. It does not cover all the variety of circumstances which can arise, but the approach which it adopts will serve as a guide to dealing with other issues as they come up.
2. Councillors and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

Scope

3. The most common contacts are between councillors and senior employees at Chief Executive, Director or Head of Service level, and this protocol is largely about those contacts. There are also many contacts between councillors and other employees in their daily business, and the principles of this protocol also apply to them. The particular position of employees who provide direct support services for councillors is dealt with separately at paragraph 21.

Members' and employees' roles

4. Within a Council, councillors have a number of different roles, all of which call for separate consideration. Some councillors are chairs of committees, most belong to political groups, and all have a local ward to represent.
5. Legally, employees are employed by the Council and are accountable to it.

Ultimately they serve the Council as a whole and not any particular political group, combination of groups or any individual member. Nonetheless, political groups exist in most Councils and employees may properly be called upon to assist the deliberations of political groups and also to help individual members in their different roles. Chief Executives and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

Office bearers

6. It is clearly important that there should be a close professional working relationship between the Chair of a committee and the director and other senior employees of any service which reports to that committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question employees' ability to deal impartially with other councillors, and the ability of Chairs to deal impartially with other employees.
7. The Chair of a committee will often be consulted on the preparation of agendas and reports. Employees will always be fully responsible for the contents of any report submitted in their name and have the right to submit reports to members on their areas of professional competence. While employees will wish to listen to the views of conveners, they must retain final responsibility for the content of reports.

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8. Committee Chairs are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to employees they will often wish to consult Chairs of committees about the action which they propose to take but the responsibility for the final decision remains with the employee who is accountable for it. Chairs should bear this in mind when discussing proposed action with employees.
9. Committee Chairs will have many dealings with employees. Those employees should always seek to assist a committee Chair but it must be remembered that they are ultimately responsible to the Head of the Service.

Political groups

10. Most Councils operate through a system of groups of councillors, many of them based on political affiliation. All employees must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. Employees must at all times, maintain political neutrality.
11. The support provided by employees can take many forms, ranging from the meeting with the Chair and vice-Chair before a committee meeting to a presentation to a full party group meeting. Whilst in practice such support is likely to be in most demand from whichever party group is for the time being in control of the Council, it should be available to all party groups.

The advice given by employees to different party groups should be consistent.

12. Certain matters must, however, be clearly understood by all those participating in this type of process, councillors and employees alike. In particular:-
 - (i) Council rules about groups' access to employees, e.g. all requests being approved by the Chief Executive, must be followed;
 - (ii) employee support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. The observance of this distinction will be assisted if employees are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
 - (iii) party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
 - (iv) where employees provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information

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and advice to the relevant committee or sub-committee when the matter in question is considered;

(v) political groups need to recognise that information and advice given by employees should be used to enhance discussion and debate at Council and committee meetings. If such information is used for political advantage, for example media briefings beforehand, then the process could become devalued and place employees in a difficult position in giving information and advice; and

(vi) the chair of a political group meeting attended by employees has a responsibility for ensuring that those attending are clear on the status of the meeting and the basis on which employees are attending.

13. Special care needs to be exercised whenever employees are involved in providing information and advice to a meeting of a political group which includes persons who are not members of the Council. Such persons will not be bound by the Codes of Conduct for councillors and employees (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons employees may not be able to provide the same level of information and advice as they would to a members only meeting.

14. Any discussion with a political group or councillor must be treated with strict confidentiality by the employees concerned and should not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.

15. Should any difficulty or uncertainty arise in the area of employee advice to party groups, this shall be raised with the Chief Executive who should discuss the matter with the group leader.

Local representative

16. All councillors represent part of the area of the Council. Within each Council's rules about consultation and councillor involvement, employees must treat all councillors fairly and openly in their role as local representatives. When performing their local representative role, councillors will be seen by the public as representing the Council and should act in accordance with the principles of the Code of Conduct for Councillors and this protocol.

Communications

17. Communications between an individual councillor and an employee should normally not be copied by the officer to any other councillor. Where it is necessary to copy the communications to another member, this should be made clear to the original councillor at the time.

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Appointments

- 18.** Where councillors are involved in the appointments of employees they must act fairly and openly and judge candidates solely on merit.

Social relationships

- 19.** The relationship between councillors and employees depends upon trust and this will be enhanced by the development of positive, friendly relationships. Councillors and employees will often be thrown together in social situations within the community and they have a responsibility to project a positive image of the Council. Nonetheless, close personal familiarity between individual employees and councillors can damage the relationship of mutual respect and the belief that employees give objective and professional advice and commitment to the Council. Councillors and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.

Public comment

- 20.** Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to councillors the respect and courtesy due to them in their various roles. There are provisions in the Code of Conduct for Employees about speaking in public and employees should observe them.

Employees supporting councillors

- 21.** Where Councils arrange for employees to support members directly in carrying out their duties, particular considerations apply. Such employees are normally involved in administrative and practical support of councillors. While such staff may operate to the requirements of individual councillors in their daily business, it must be remembered that the employees are accountable to their line managers and any issues about conflicting priorities, conduct or performance must be referred to those managers.

- 104.** Councillors should not become involved in issues relating to individual employees' pay or terms and conditions of employment, except while serving on a committee delegated to deal with such matters.

STANDARDS COMMISSION FOR SCOTLAND'S GUIDANCE FOR COUNCILLORS AND LOCAL AUTHORITIES IN SCOTLAND

THE ETHICAL FRAMEWORK: THE RELATIONSHIP BETWEEN THE COMMISSION AND COUNCILS

1. The promotion of high standards in public life is essential to ensure and reinforce public confidence in the activities and responsibilities of Councils.
2. The Standards Commission wishes to support the work of Councils in striving to achieve the highest standards of conduct and, with this in mind, wishes to make itself readily available to facilitate this.
3. The Standards Commission wishes to stress the importance which it attaches to Councils embracing the ethical framework and ensuring that they have effective support systems in place to assist councillors in applying high standards of conduct.
4. Councils are reminded of the importance of high standards of conduct as a key part of arrangements for corporate governance. In this connection, the Standards Commission commends the advice given by Audit Scotland in relation to the role of ethical standards within corporate governance in its Code of Audit Practice (March 2007).
5. Councils also have a part to play in ensuring that the public are made aware of the ethical framework in Scotland and how it is to be regulated and the Standards Commission advises Councils to facilitate the process by ensuring that information about the Act, the Councillors' Code of Conduct, and the roles of the Standards Commission and the Commissioner for Ethical Standards in Public Life in Scotland is widely available at their main offices. Councils should make this information available at all public libraries and provide the Code of Conduct directly, or through links, on their own web sites.

THE DUTIES OF COUNCILS TO PROMOTE HIGH STANDARDS OF CONDUCT

6. All Councils have duties in terms of section 5 of the Act of:-
 - a) promoting the observance by their councillors of high standards of conduct; and
 - b) assisting them to observe the Councillors' Code of Conduct.

Code of Conduct and Guidance

7. In the first instance, Councils should ensure that all councillors have their own copies of the Councillors' Code of Conduct and this Guidance Note. Attention should be drawn to the additional material which the Standards Commission will issue from time to time, including that published on its web-site.

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Application of the Code

8. The Act and the Code apply only to elected councillors and not to co-opted members of local authority committees. Co-opted members are, however, expected to apply the same high standards of conduct as elected councillors.
9. Local authorities should, therefore, expect co-opted members to comply with the Code and this should be a condition of appointment. In cases where the authority has no discretion over the appointment (such as the Church of Scotland and Roman Catholic Church representatives on education committees) the authority should seek confirmation from the appointing authorities that they will require their appointees to comply with the Code.

European Convention on Human Rights

9. The Code itself – including its key principles – is compliant with and subject to the provisions of the European Convention on Human Rights (ECHR) as applied by the Human Rights Act 1998.

Training

10. Councils should make arrangements to hold or attend training and induction sessions on ethical standards and they should strongly encourage all of their councillors and senior officers to attend such sessions. The Standards Commission is willing to participate in any such programmes wherever practical, particularly where organised by established training providers, such as representative, professional or training associations.
11. The training sessions should cover the ethical framework, including the Act, the Code of Conduct and the enforcement regime, and emphasise the personal responsibilities of councillors. Training sessions should be offered to councillors as soon as possible after any revisions are made to the Councillors' Code of Conduct.
12. When Councils are re-constituted after local government elections arrangements should be made to hold training sessions for all councillors.
13. Since ethical standards is a developing and evolving area, Councils should also make suitable arrangements for periodic refresher courses for councillors.

Advice from Senior Officers

14. As part of the support provided to them, it is important that councillors should have ready access to advice from nominated senior officers (such as the chief executive or the monitoring officer) on the ethical framework in general, and on the Code of Conduct in

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particular. When seeking advice, councillors should do so in good time and ensure they apprise the officers of all relevant facts and circumstances.

15. Officers should always clearly point out that it is the councillor's personal responsibility to ensure that they comply at all times with the provisions of the Code of Conduct. This will be particularly important when giving advice in relation to matters such as registration of interests and declaration of interests.

Respect for other councillors and employees

16. The Standards Commission recommends Councils draw up best practice guidelines or protocols to cover working arrangements among members and, where appropriate, among party groups and between members and officers to facilitate achieving this important objective.

Conduct at Meetings

17. The Chair's powers and duties should be articulated to the whole Council in standing orders which should set out the obligation on the Chair to permit fair and responsible debate and the obligation on the other members to adhere to appropriate rulings by the Chair. Behaviour disruptive to the meeting should not be tolerated. Appropriate sanctions should be available to deal with members guilty of such behaviour, including exclusion from the meeting if necessary to allow Council business to be completed.
18. The Standards Commission recommends that every local authority has a set of standing orders in place which should include provisions to regulate procedure at meetings.
19. Where disruptive behaviour – individual or otherwise – reaches the stage of preventing Council business from properly and timeously taking place, it is recommended that such issues, wherever possible, be referred in the first instance to an informal meeting of senior elected members (such as political group leaders), together with appropriate senior officers in order to seek a resolution to such issues. Reference of a breach of the Code should be made to the Commissioner for Ethical Standards in Public Life in Scotland where it is believed that such a reference to a group of senior elected members would serve no useful purpose or would otherwise be inappropriate. It should be recognised that disruptive behaviour will reflect on the reputation of the Council as well as that of individual elected members.
20. The conduct of the Chair in the process of conducting a meeting can play a major role in ensuring a successful meeting. For that reason, councillors who are regularly expected to chair meetings should ensure that they are familiar with the Council's standing orders relating to the conduct of debate.

STANDARDS COMMISSION FOR SCOTLAND'S GUIDANCE FOR COUNCILLORS AND LOCAL AUTHORITIES IN SCOTLAND

Confidentiality Requirements

21. Council or committee reports issued to elected members will clearly indicate if they are deemed to contain confidential or exempt information. Councillors will also receive other information from Council officers which may be confidential or private; in such cases it is important that in imparting such information to councillors it is made entirely clear that the information is made available to them in confidence and the extent – if at all – that they may pass on such information to third parties (such as constituents, colleague councillors or the press) should also be made explicitly clear.

Use of Council Facilities

22. Councils should ensure that arrangements made to assist councillors communicating with their constituents or the wider public do not include campaigning activities. Where councillors wish to circulate communications to their constituents or the public, there should be suitable safeguards in place to ensure that any expenditure incurred by the local authority is appropriate. The Standards Commission recommends that Councils have a policy in place dealing with councillors' use of IT Equipment.

Registration of Interests

23. All Councils have a duty to set up, maintain and make available for public inspection a register of the interests of their councillors which the Code requires to be registered. They must also appoint a proper officer to maintain the register.
24. Councils should ensure that councillors are aware of the importance of registering all their relevant interests. They should make arrangements for councillors who wish to do so to consult the nominated senior officers(s) to help them to complete their own notices for the Register of Interests in accordance with the requirements of the Code and the Regulations.
25. The principal Register should be kept at the head offices of Councils and an electronic version should be available on the Council's website. The information should also be available at other main Council offices and public libraries. Any member of the public inspecting such information at any of these locations should be entitled to receive a printed copy of the information on request. The Standards Commission will provide a facility on its own web-site so that members of the public, on accessing that site, can link to the relevant pages on the Councils' web sites. The electronic version of the Register need not include personal address information that would compromise councillors' personal security, the full details being available for public inspection as above. Advice in relation to personal security and the Register can be obtained from the monitoring officers and from the Standards Commission.

STANDARDS COMMISSION FOR SCOTLAND'S GUIDANCE FOR COUNCILLORS AND LOCAL AUTHORITIES IN SCOTLAND

26. The Standards Commission appreciates that there may be a time gap between the registering of interests in the principal Register and copying that information to web-sites. This means it is important to make it clear the date at which the information given is accurate. Councils should aim to have their web-sites updated within one month of the receipt of the information.
27. Appropriate arrangements should be made to ensure that councillors are advised to keep their entries in the Register under review. These arrangements should include the issue of a reminder at least every six months.
28. It is each councillor's personal responsibility to ensure that his/her Register of Interests is updated timeously i.e. within one month of a change of circumstances.
29. The proper officer must maintain a record of the interests registered by the councillors in their first notice and any subsequent notices. The proper officer must ensure that all the appropriate information – that is the date of the notice, the name of the councillor and the statement of information in the notice – is fully recorded.
30. The proper officer must maintain the record for five years after the member ceases to be a councillor.

THE ACTIVITIES OF SUSPENDED COUNCILLORS

Suspension

31. In all cases of suspension, whether partial or full, the councillor's entitlement to attend meetings will be limited or removed altogether. Attendance at, and participation in, meetings is one of the most important responsibilities of public office. The Standards Commission recognises that constituents may perceive that a limitation in entitlement to attend meetings will adversely affect the councillor's ability to represent their interests fully. Accordingly, Councils should make appropriate arrangements to provide representative cover for the suspended member for the benefit of his or her constituents.
32. Councils should also consider carefully whether it would be appropriate for the councillor to continue to be consulted on various issues as the local member. Particular thought should be given to regulatory or quasi-judicial matters where the councillor has been suspended from the committee appointed to deal with such matters.

STANDARDS COMMISSION FOR SCOTLAND'S GUIDANCE FOR COUNCILLORS AND LOCAL AUTHORITIES IN SCOTLAND

Partial Suspension

33. Where the councillor has special responsibilities (such as being a Spokesperson in respect of particular matters or Chair or Vice-Chair of a particular Committee or Sub-Committee or Joint Board), and the councillor has been suspended from Council meetings or meetings of the Committee or Sub-Committee or Joint Board dealing with that function, the councillor must not undertake these special responsibilities during the period of suspension. Moreover, the Council should, during the period of suspension, cease payment of remuneration at the grade of Senior Councillor (or equivalent enhanced payment for a joint board) and remunerate the councillor at the rate of remuneration payable to ordinary councillors.
34. Where a councillor has been suspended from attending meetings of another body on which the councillor is a representative or nominee of the Council, the Council should consider nominating another councillor as the Council's representative or nominee on that body.

Full Suspension

35. In a case of full suspension or where the councillor is suspended from all meetings of the Council and all meetings of its committees and sub-committees, the councillor should not undertake any special responsibilities previously assigned to him/her by the Council and the Council should, during the period of suspension, cease payment of remuneration at the grades of Leader of the Council, Civic Head or Senior Councillor (or equivalent enhanced payment for a joint board) as applicable and remunerate the councillor at the rate of remuneration payable to ordinary councillors.
36. Depending on the length of the period of suspension, the Council should also consider appointing other councillors to the vacancies on committees or sub-committees and to any other body where the councillor has been the Council's representative or nominee consequent on the suspension of the councillor.

FINANCIAL REGULATIONS

OF

DUNDEE CITY COUNCIL

FINANCIAL REGULATIONS

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FINANCIAL REGULATIONS

1. Introduction

- 1.1 The Executive Director of Corporate Services being the Proper Officer for the purpose of Section 95 of the Local Government (Scotland) Act 1973, shall be responsible to the Policy and Resources Committee for the proper administration of the Council's financial affairs. The Local Authority Accounts (Scotland) Regulations 1985 require that officer to determine the system of accounting control and form of accounts and supporting records and to ensure that the accounts and records are kept up-to-date by the relevant Executive Director.
- 1.2 The Executive Director of Corporate Services shall report to the Policy and Resources Committee with respect to the level of financial resources proposed to be utilised in each financial year by the Council, shall keep the Policy and Resources Committee informed as to the detailed administration and application of such resources, and shall keep other Committees informed with respect to the financial implications of their activities.
- 1.3 The Executive Director of Corporate Services shall be entitled to report upon the financial implications of any matter coming before the Council, spending Committees or other Committees, and shall further report to the Policy and Resources Committee, if necessary, in the interests of the financial affairs of the Council.
- 1.4 Any Executive Director who intends to submit a report, which has financial implications to the Council, Committee or Sub-Committee must forward a copy of the report to the Executive Director of Corporate Services no later than fourteen days before the meeting. Any observations on the report made by the Executive Director of Corporate Services shall be incorporated in the Executive Director's report.
- 1.5 Under the Local Government in Scotland Act 2003, it is the duty of each local authority to make arrangements which secure best value. The Council shall at all times endeavour to secure the best value for the money it spends, make full use of all common supplies and services provided by the Council and encourage the use throughout Council services of the best management techniques.
- 1.6 The Council and all Council officials shall observe the Council's Financial Regulations in relation to expenditure, income etc falling within its sphere of responsibility. The Chief Executive as the Head of the Paid Service will receive regular reports from the Executive Director of Corporate Services on the Revenue and Capital spending of the Council. The Executive Director of Corporate Services will report any significant under or overspending to the Policy and Resources Committee.
- 1.7 The Executive Director of Corporate Services is responsible for ensuring that financial systems exist to ensure proper financial control is exercised throughout the Council. The Executive Director of Corporate Services is also responsible for ensuring that financial management systems exist to enable Executive Directors to make financial decisions, and take corrective action to deal with under or overspending, in order to achieve value for money and best value.

2. Annual Revenue Budgets

- 2.1 The detailed form of the annual Revenue Budgets shall be determined by the Executive Director of Corporate Services in accordance with the general directions of the Policy and Resources Committee.
- 2.2 Executive Directors shall prepare an annual Revenue Budget of income and expenditure and, for this purpose, Executive Directors shall furnish the Executive Director of Corporate Services timeously with all necessary information regarding requirements of their services.
- 2.3 The annual budgetary procedure will include a review of charges for all users of Council services for which charges apply and for which the Council has discretion over, with proposals where appropriate to increase these charges and the anticipated additional revenue which would accrue if implemented.

- 2.4 Decisions relating to the Revenue Budget and Council Tax shall be taken by the Policy and Resources Committee. The Executive Director of Corporate Services shall submit the draft Revenue Budget direct to the Policy and Resources Committee for detailed consideration in the light of any relevant decisions of the Council and the corporate objectives of the Council.
- 2.5 The Policy and Resources Committee shall consider all proposals, together with a report from the Executive Director of Corporate Services containing all other relevant information, for the purposes of determining the Council Tax to be levied in respect of the forthcoming financial year, including the position on reserves and balances (see paragraph 26). The Policy and Resources Committee shall also take any decisions, as required, relating to the Revenue Budget and Council Tax for other future financial years.
- 2.6 Where in accordance with any statutory provision the First Minister indicates that he/she is considering reducing the Council Tax of the City Council, the Executive Director of Corporate Services shall submit to the Policy and Resources Committee a report reviewing the financial position of the Council. Thereafter any appropriate adjustments to the Revenue Budget shall be considered by a special meeting of the Policy and Resources Committee on a redetermination and lowering of the Council Tax already fixed by the Council for that financial year.
- 2.7 Following the Policy and Resources Committee's consideration and adoption of the Housing Revenue Budget, the Executive Director of Neighbourhood Services shall submit a report to the Neighbourhood Services Committee concerning details of the budget as approved, together with all other available information for the purposes of determining the housing rents to be levied in respect of the financial year to which Revenue Budget concerned relates.

3. Revenue Monitoring

- 3.1 The primary responsibility for detailed monitoring and control of service revenue expenditure lies with each relevant Executive Director in accordance with the Revenue Budgetary Control Manual issued to all Executive Directors by the Executive Director of Corporate Services.
- 3.2 Revenue expenditure shall be restricted to that included in the Revenue Budget, unless proposals for revision of expenditure have been approved by the Policy and Resources Committee.
- 3.3 Notwithstanding paragraph 3.2, the Executive Director of Corporate Services may approve any revenue expenditure which, after consultation with the Depute Convener of the Policy and Resources Committee and the appropriate Finance spokesperson from other groups and the Chief Executive, he/she considers essential in the interest of the Council and being of an emergency nature cannot await consideration by the Policy and Resources Committee.
- 3.4 The Executive Director of Corporate Services shall furnish each Executive Director with periodical statements of income, expenditure and commitments under each approved budget head and such other relevant information as he/she requires. It will, however, be the responsibility of each Executive Director to ensure that he/she has all the relevant financial information to control the actual expenditure and income against the budget.
- 3.5 The Executive Director of Corporate Services has a responsibility to ensure that revenue monitoring by Executive Directors is carried out and that relevant financial information is provided in a format and within a timetable suitable to allow such monitoring.

4. Virement

- 4.1 Virement may be employed as a means of funding desirable or essential expenditure through identified budget underspendings. Virement may only be applied in respect of material values and subject to agreement with the Executive Director of Corporate Services. It should be noted, however, that no virement proposal should be used to finance a new service or change an existing Council policy decision without the agreement of the Service Committee and Policy and Resources Committee. Virement proposals should not add to the permanent establishment of the authority without the approval of the Chief Executive. Virement proposals cannot affect the amount to be paid to another service of the authority without the agreement of the Executive Director of that other service. No Revenue Budget virement proposals may be made for Capital Funded from Current Revenue (CFCR), capital programmes or central service recharge to service area (subject to paragraph 3.2).

- 4.2 Capital financing costs can only be vired upon the decision of the Executive Director of Corporate Services. The Executive Director of Corporate Services will have authority to vire expenditure from any contingency provision or cash-backed fund or reserve.
- 4.3 All virement proposals should be notified to the Executive Director of Corporate Services, who will monitor the overall use of virement and its effect on Revenue Budget performance.
- 4.4 Executive Directors shall consider the implications on future years' budgets when viring funds to finance purchases which have ongoing revenue implications.
- 4.5 All virement proposals shall be recorded on the appropriate pro-forma documentation, a copy of which shall be submitted to Corporate Services for approval.
- 4.6 Any virement proposals to fund expenditure on IT equipment or software must be submitted in the first instance to the Head of Customer Services and IT and Executive Director of Corporate Services for approval.

5. Annual and Three Year Capital Budgets

- 5.1 Executive Directors, in conjunction with the Executive Director of Corporate Services and Head of Design and Property, shall prepare long-term capital plans, to be financed from either:-
 - borrowing;
 - combination of borrowing and capital receipts;
 - borrowing, but where the additional revenue costs (capital financing costs, mainly), are funded from revenue savings.
- 5.2 The Executive Director of Corporate Services will prepare a report to the Policy and Resources Committee, which will detail the Council's proposed capital programme and how it is to be financed.
- 5.3 The level of prudential borrowing utilised by the Council will be based on a set of prudential indicators prepared by the Executive Director of Corporate Services and approved by the Policy and Resources Committee.
- 5.4 The Executive Director of Corporate Services will submit a report annually to the Policy and Resources Committee comparing the actual prudential indicators against those pre-determined earlier and referred to in paragraph 5.3 above.
- 5.5 An Executive Director shall not incur capital expenditure, which has not been included in the Capital Plan/Capital Budget, without prior approval from the Chief Executive/Executive Director of Corporate Services. The Executive Director must identify the source of funding for the project and, where necessary, ensure virements are approved and passed to Corporate Services to adjust the Capital Budget.
- 5.6 Capital expenditure shall be restricted to that included in the Capital Budget, unless proposals for revision of expenditure have been approved by the Policy and Resources Committee.
- 5.7 No tender will be invited for an individual project estimated to cost over £1,000,000 unless and until the project has been subject to a report to the appropriate Committee by the Executive Director. The report will include a financial appraisal of all additional revenue and capital costs and any resultant savings.
- 5.8 At the same time as tenders are reported to Committee, the appropriate Executive Director will submit a report to the relevant Committee showing the annual income and expenditure (including capital financing costs) that will arise from the project. The report will include a financial appraisal of all additional revenue and capital costs and any resultant savings.

6. Capital Monitoring

- 6.1 The Executive Director of Corporate Services, in conjunction with the Head of Design and Property, shall monitor and manage income and expenditure on capital projects during the year in accordance with the Capital Budgetary Control Manual issued to all Executive Directors by the Executive Director of Corporate Services.
- 6.2 A Committee report shall be prepared by the Executive Director of Corporate Services for the Policy and Resources Committee, reporting on actual income and expenditure to date, vis-à-vis projected outturns.
- 6.3 This report will highlight any individual projects with an overspend of 10% of the approved cost of the project or £100,000, whichever is the higher, and approval will be sought for the overspend.

7. Capital Financing

- 7.1 The Executive Director of Corporate Services will borrow sufficient funds to meet the approved capital expenditure and will ensure that the amounts borrowed are written off over the useful life of the asset. The Executive Director of Corporate Services will maintain, for audit purposes, appropriate records showing the amount borrowed and the amount repaid each year.
- 7.2 The Code of Practice on Local Authority Accounting in Great Britain requires the Council to adopt a system of accounting for capital assets. The arrangements will be based upon generally accepted accounting practice, practicality and the need to avoid impact upon the levels of locally raised taxes and Council house rents.

8. Accounting

- 8.1 Under Section 14(1) of the Local Government in Scotland Act 2003, the Council has a statutory duty to observe proper accounting practice. All accounting procedures and records of the Council and its officers shall be determined by the Executive Director of Corporate Services and all accounts and accounting records of the Council shall be compiled by the Executive Director of Corporate Services or under his/her direction.
- 8.2 The following principles shall be observed in the allocation of accounting duties:-
 - (a) Duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
 - (b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- 8.3 The Executive Director of Corporate Services shall submit to the Council and to the Controller of Audit not later than 30 June of each year, copies of an Abstract of Accounts for the previous financial year. The audited copy of the abstract, together with the audit report, shall be laid before a meeting of the Council held not later than two months after receipt of certification.

9. Internal Audit

- 9.1 The Internal Audit Service is an assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisation's objectives. The control environment comprises the systems of governance, risk management and internal control. The remit of the service is to objectively examine, evaluate and report on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources throughout the Council's activities.
- 9.2 The existence of Internal Audit does not diminish the responsibility of management to establish the extent of internal control in the organisation's systems and management should not depend on Internal Audit as a substitute for effective controls.

- 9.3 Internal Audit should be independent of the activities it reviews to enable auditors to perform their duties in a way that allows them to make impartial and effective professional judgements and recommendations. Internal Auditors should therefore not have any operational responsibilities.
- 9.4 Given the scope of internal audit work covers the organisation's entire control environment, Internal Audit is required to have unrestricted access to all records, assets, personnel and premises and the authority to obtain such information and explanations it considers necessary to discharge its responsibilities.
- 9.5 The primary purpose of internal audit reporting is to communicate to management and elected members information that provides an independent and objective opinion on the control environment and risk exposure and to prompt management to implement the agreed actions. They key stages within the reporting cycle are summarised below:-
- All draft Internal Audit Reports shall be issued to the relevant officer of the area that has been subject to review for provision of a formal management response to points arising. A copy of the draft report will also be circulated for information to the Executive Director of Corporate Services and any other party as deemed appropriate.
 - All finalised Internal Audit Reports which incorporate the management response to the points arising, will be issued to the relevant officer who has responsibility for ensuring the action plan is implemented within the agreed time frame. A copy of the finalised report will also be issued for information to the Executive Director of the Service where the review has been undertaken, Chief Executive, Executive Director of Corporate Services, External Auditor and any other relevant party.
 - The Executive Summary from all Internal Audit Reports will be submitted to the Scrutiny Committee for consideration.
- 9.6 The Council's Fraud Guidelines detail the approach and procedures in relation to the investigation of fraudulent activities. A summary of the key points within the Fraud Guidelines are provided below:-
- Managing the risk of fraud and corruption is the responsibility of management. It is therefore a management responsibility to maintain the internal control system and to ensure that the Council's resources are properly applied in a manner and on the activities intended.
 - There is a requirement for each service to report all cases of suspected fraud to Internal Audit, who have a duty to record, monitor and formally report on such matters to the Council's External Auditor.
 - As the nature and complexity of fraudulent activities varies considerably, the approach to an investigation will be decided on a case by case basis. The Chief Executive, the Executive Director concerned, Head of Human Resources and Business Support and Executive Director of Corporate Services may be consulted, as deemed appropriate, as to the approach to be adopted.
 - It is the responsibility of the Executive Director of the service to ensure that the Chief Executive and the Head of Human Resources and Business Support are advised of any suspected irregularities.
 - It is the responsibility of the Senior Manager Internal Auditor to advise the Executive Director of Corporate Services of any suspected irregularities and provide updates during the investigation as deemed appropriate.

10. Banking Arrangements and Control of Cheques

- 10.1 All arrangements with the Council's bankers shall be made by the Executive Director of Corporate Services who shall operate such banking accounts including national giro accounts as the Executive Director of Corporate Services may consider necessary.

- 10.2 All cheques including national giro payment forms shall be ordered only on the authority of the Executive Director of Corporate Services who shall make proper arrangements for their safe custody.
- 10.3 Cheques on the Council's banking accounts, including national giro accounts, shall be of the facsimile signature of the Executive Director of Corporate Services or other authorised signatories approved by the Executive Director of Corporate Services.
- 10.4 The Executive Director of Corporate Services shall be responsible for arranging any payments through the Bankers Automated Clearing System (BACS) and shall ensure that proper security control procedures are affected and reviewed.
- 10.5 Where a service, for operational reasons, has to operate a subsidiary bank account, then the Executive Director of Corporate Services will issue guidance on how that service's staff are to operate these subsidiary bank accounts.

11. Treasury Management

- 11.1 The Executive Director of Corporate Services and his/her staff shall ensure that all the Council's borrowing and lending transactions and practices comply with the CIPFA Code of Practice on Treasury Management in the Public Services.
- 11.2 The Executive Director of Corporate Services shall prepare a Treasury Policy Statement which will be approved by the Policy and Resources Committee and reviewed at least every three years.
- 11.3 The Executive Director of Corporate Services shall prior to the commencement of each financial year submit a report to the Policy and Resources Committee on the Treasury Management Strategy for that year.
- 11.4 The Executive Director of Corporate Services shall submit a report to the Policy and Resources Committee twice yearly reviewing the Council's Treasury Management activities. One of these reports will be an annual report on the Treasury Management activities of the previous financial year.

12. Orders for Works, Goods and Services

- 12.1 Each Executive Director shall be responsible for all orders issued by his/her service and for ensuring that the cost is allocated to an appropriate budget head and covered within the approved estimates.
- 12.2 Official orders shall be in a form approved by the Executive Director of Corporate Services. Printed or electronic orders shall be approved only by officers authorised by the appropriate Executive Director; electronically submitted orders shall be issued only by officers authorised by the appropriate Executive Director. Each Executive Director shall be responsible for any official orders issued from his/her service. The number of officers so authorised shall be determined, in agreement, with the Executive Director of Corporate Services.
- 12.3 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent and rates, for petty cash purposes or such other exceptions as the Executive Director of Corporate Services may approve.
- 12.4 The procedures for obtaining competitive tenders and Committee approvals for all supplies and works as detailed in the Council's tendering procedures should be followed at all times.
- 12.5 Guidance issued by the Executive Director of Corporate Services under Efficient Government on how Council Officers order and procure goods and services including e-procurement must be adhered to.
- 12.6 Orders and payments by credit card shall be processed in accordance with procedures issued by the Executive Director of Corporate Services.

13. Payment of Accounts

- 13.1 The Executive Director issuing an order is responsible for the examination, verification and certification of the related invoices and similarly for any other payment vouchers, documents or accounts arising from sources in his/her service.
- 13.2 Where possible, arrangements should be made by each Executive Director for the separation of the authorisation of orders as distinct from goods received notes or any other process which involves the certification of invoices. Variations to these arrangements are subject to the approval of the Executive Director of Corporate Services. Each goods received note or electronic version should be approved by the appropriate receiving officer and should be authorised by the appropriate authorised signatory. The authorised signatory shall always be different from the receiving officer.
- 13.3 Before certifying invoices, payment vouchers, goods received notes, documents or accounts the certifying officer shall, except to the extent that the Executive Director of Corporate Services may otherwise determine, have satisfied himself/herself with regard to:-
- (a) the receipt of goods being in accordance with the order;
 - (b) correctness of prices, discounts and arithmetic;
 - (c) non-duplication of payments;
 - (d) expenditure being within the Estimates;
 - (e) allocation to the appropriate head of expenditure;
 - (f) appropriate entries having been made in inventories, stores records etc as required;
 - (g) work having been carried out to a satisfactory level.
- 13.4 The payment of all certified invoices etc, shall be made by the Executive Director of Corporate Services under arrangements approved and controlled by him/her.
- 13.5 Payment will not be made on duplicate invoices, statements, or photocopy invoices unless the Executive Director, in consultation with the Executive Director of Corporate Services, certifies in writing that the amount in question has not previously been paid.
- 13.6 Each Executive Director shall, as soon as possible after 31 March and not later than a date to be intimated by the Executive Director of Corporate Services, in each year, notify the Executive Director of Corporate Services of all outstanding expenditure relating to the previous financial year.

14. Payroll Administration

- 14.1 The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Executive Director of Corporate Services or under arrangements approved and controlled by him/her.
- 14.2 Each Executive Director, as determined by the Executive Director of Corporate Services, shall keep records of all matters affecting the payment of such emoluments and, in particular:-
- (a) appointments, promotions, resignations, dismissals, suspensions, secondments and transfers;
 - (b) absences from duty for sickness, holidays or other reason;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 14.3 The Executive Director of Corporate Services will, through the payroll system, provide such management information as he or she, the Chief Executive, or any Executive Directors decide is necessary for the achievement of best value.

15. Income

- 15.1 Except as otherwise determined by the Council, the rate of charge for goods or services supplied by the Council to the public and external organisations shall be approved by the Policy and Resources Committee and Service Committees and shall not be altered without the approval of these Committees.
- 15.2 It shall be the duty of the Executive Director of Corporate Services to make adequate financial and accounting arrangements to ensure the proper recording of all monies due to the Council and for the proper collection, custody, control and banking of all cash in all services of the Council.
- 15.3 Particulars of all charges to be made for work done and services rendered or for goods supplied by the various services of the Council and of all other amounts due to the Council shall be promptly notified to the Executive Director of Corporate Services in a form approved by him/her and all accounts due to the Council shall be rendered by or under arrangements approved by the Executive Director of Corporate Services.
- 15.4 All receipt forms, books, tickets and other such items shall be in a form approved by the Executive Director of Corporate Services who shall satisfy himself/herself as to the arrangement for the ordering, supply and control by each service. It will be a requirement that all such records, forms etc aforementioned shall be retained by each service for a period stipulated by the Executive Director of Corporate Services.
- 15.5 All monies received on behalf of the Council in any service shall be deposited promptly with the Executive Director of Corporate Services or the Council's bankers in accordance with the arrangements made with the Executive Director of Corporate Services. No deduction may be made from such money except to the extent that the Executive Director of Corporate Services may specifically authorise.
- 15.6 Personal cheques shall not be cashed out of money held on behalf of the Council.
- 15.7 All transfers of money from one member of staff to another will be evidenced in the records of the services concerned by the signature of the receiving officer.
- 15.8 It shall be the responsibility of each Executive Director to ensure that all his/her service income is billed expeditiously.
- 15.9 The Money Laundering Reporting Officer (MLRO) nominated to receive disclosures about money laundering activity within the Council is the Incomes Manager. Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, using the relevant documentation (provided with policy and guidance). The employee must follow any subsequent directions of the MLRO, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO. The employee must not disclose or otherwise indicate their suspicions to the person or others of the suspicion of money laundering and no note is to be made within their records of this disclosure to the MLRO.
- 15.10 It is the responsibility of the MLRO to promptly evaluate any AML Reporting form received and determine whether it should be reported to the Serious and Organised Crime Agency (SOCA) and to make relevant report if required on behalf of the Council. It is a criminal offence for the MLRO to know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to SOCA.

16. Insurance

- 16.1 The Executive Director of Corporate Services shall effect, as necessary, insurance cover and negotiate all claims in consultation with other officers as necessary. Such insurances as required can be placed either with insurance companies or the risk carried in the Council's General Insurance Fund. This fund was established by the former Dundee Corporation and confirmed by the Dundee Corporation (Consolidated Powers) Order Confirmation Act 1957.

- 16.2 Each Executive Director shall give prompt notification to the Executive Director of Corporate Services of potential liabilities, property or vehicles which require to be insured or which may affect the Council's insurance or self-insurance arrangements.
- 16.3 Executive Directors shall as soon as practicable notify the Executive Director of Corporate Services of any loss of property or any action or event which may give rise to an insured or self-insured claim.
- 16.4 All appropriate employees of the Council shall be included in a fidelity guarantee insurance.
- 16.5 The Executive Director of Corporate Services shall annually or as necessary, review all insurances and self-insurance arrangements, in consultation with Executive Directors where necessary.
- 16.6 All investments of monies for the General Insurance Fund shall be made by the Executive Director of Corporate Services in the name of the Council. Any investments made will be made in accordance with the policy determined by the Policy and Resources Committee.

17. Stores and Inventories

- 17.1 The safe custody of stores and equipment shall be the responsibility of the Executive Director concerned and the Executive Director shall make a return of all stocks and stores to the Executive Director of Corporate Services at the end of each financial year. Executive Directors shall submit to the Head of Customer Services and IT at the end of the financial year details of all computer equipment held and the Head of Customer Services and IT will collate this into a verified list for the Executive Director of Corporate Services. An inventory list of all furniture and fittings, vehicles, plant and equipment should be maintained by services in a format determined by the Executive Director of Corporate Services and shall be submitted by Executive Directors to the Executive Director of Corporate Services when requested.
- 17.2 The Executive Director, in consultation with the Executive Director of Corporate Services, shall be responsible for maintaining an efficient system of stores accounting including stock control. Stores accounting systems must be approved by the Executive Director of Corporate Services. Stock reconciliation will be carried out in a continuous basis within the service and a full stocktaking done at the request of the Executive Director of Corporate Services.
- 17.3 No adjustments in respect of stocks and stores shall be made to write-off deficiencies or to bring surpluses into charge unless authorised by the Executive Director of Corporate Services.
- 17.4 All surplus plant, vehicles, tools, equipment, furnishings, materials or commodities in excess of £10,000 in value to be disposed of by any service of the Council shall be advertised for sale either by the invitation of sale offers or by public auction unless in special circumstances of which the Committee concerned shall be the sole judge it is otherwise decided.
- 17.5 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Executive Director concerned.

18. Security

- 18.1 Each Executive Director is responsible for maintaining proper security at all times for all buildings, stock, stores, furniture, equipment, cash, records etc under his/her control. They shall consult with the Executive Director of Corporate Services in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 18.2 Maximum limits for cash holdings shall be agreed with the Executive Director of Corporate Services and shall not be exceeded without his/her express permission.
- 18.3 Keys to safes and similar receptacles are the responsibility of the keyholder who shall make suitable arrangements for their security at all times. The loss of any such keys must be reported to the Executive Director of Corporate Services immediately. For insurance purposes, keys should be removed from premises overnight.

- 18.4 Each Executive Director shall be responsible for ensuring proper security and confidentiality on information held in the computer installations and in the use to which such information may be put. The Chief Executive shall make such arrangements as may be required to ensure confidentiality of information under the terms of the Data Protection Act.

19. Imprest Accounts

- 19.1 The Executive Director of Corporate Services shall make appropriate imprest advances and determine accounting periods in connection with the payment of expenses and petty outlays chargeable to the Council.
- 19.2 The limit for any one payment from petty cash shall be such sum as the Executive Director of Corporate Services may from time to time determine.
- 19.3 The Executive Director of Corporate Services shall arrange to his or her satisfaction the proper security for money advanced in this way.
- 19.4 The recipient of any advance of petty cash or imprest shall account for this money to the Executive Director of Corporate Services when required and shall repay the money on leaving the City Council's employment or when required by the Executive Director of Corporate Services.

20. Staff Travelling, Subsistence and Financial Loss Allowances

- 20.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified, in a form approved by the Executive Director of Corporate Services to him/her at such regular intervals as are agreed. The names of officers authorised to sign such records shall be sent to the Executive Director of Corporate Services by each Executive Director together with specimen signatures and shall be amended on the occasion of any change. The number of officers so authorised shall be determined in agreement with the Executive Director of Corporate Services.
- 20.2 The certification by or on behalf of an Executive Director shall be taken to mean that the certifying officer is satisfied that the journeys were properly authorised, the expenditure properly and necessarily incurred and that the allowances are properly payable.
- 20.3 Employees' claims submitted more than two months after the expenses were incurred will not be paid unless the Executive Director of Corporate Services is satisfied with the reasons given for the delay.

21. Members' Allowances and Expenses

- 21.1 Prior to the commencement of each financial year the Executive Director of Corporate Services if necessary shall prepare a scheme of members' allowances in accordance with the regulations approved by the Scottish Parliament, which shall be submitted for approval to the Policy and Resources Committee and members will be paid in accordance with the approved scheme.
- 21.2 Payment to members of the Council in respect of expenses incurred by members will be made on receipt of the prescribed form duly completed. All claims for a financial year must be submitted within ten working days of the end of that financial year.

22. Grants/Subscriptions - Following the Public Pound

- 22.1 All applications for grants or subscriptions to charitable societies, associations or institutions must comply with the Accounts Commission/COSLA Code of Guidance on Following the Public Pound.
- 22.2 A report by the relevant Executive Director shall be considered for approval by the appropriate Service Committee except where the Executive Director has been granted delegated authority. The Executive Director must ensure that in all material respects, the Code has been complied with, including receipt by the authority of the organisation's latest audited accounts.

- 22.3 A formal agreement must be entered into for each of the organisations and submitted to the Head of Democratic and Legal Services. This should be drawn up with reference to the requirements of the Accounts Commission/COSLA Code of Guidance on Following the Public Pound. In particular, the agreement must refer to the financial and performance requirements expected of the organisations.
- 22.4 Executive Directors are also required to identify all arrangements where a substantial funding relationship exists or is to be entered into and make a submission of such arrangements to the Executive Director of Corporate Services. This information must be updated on an annual basis.
- 22.5 Grants, payments and subscriptions etc will be submitted to the appropriate Committee subject to the undernoted directions.

The following grants, payments and subscriptions etc will be considered by the Committee shown.

City Development Committee

- Grants and loans or guarantees to industrial or commercial undertakings or, where appropriate, to other bodies provided that where such assistance is to be given under the powers contained in Section 171A of the Local Government (Scotland) Act 1973 the Committee shall act within the terms of such guidance as shall be provided by the Policy and Resources Committee and the Council.
- Grants and loans to business co-operatives subject to the following limits:-
 - (1) Grants to new co-operatives of up to £1,000 per new job created subject to a maximum grant of £5,000;
 - (2) Grants to existing co-operatives up to £5,000; and
 - (3) Loans of up to £10,000 on terms as to interest rates and repayment periods to be determined.
- Grants from the Vacant and Derelict Land Fund to help improve vacant and derelict land and property.
- Grants from the Community Regeneration Budget and the Community Regeneration Fund for facade enhancements.

Children and Families Service

- Grants to new registered childminders of up to £200 to support the purchase of essential resources.
- Payments to bodies providing training and support to those working in childcare across Dundee.
- Grants to Out of School Care Clubs.
- Grants to Voluntary Sector Partners for the delivery of Dundee's Early Years and Childcare Strategy.
- Grants in terms of Section 10 of the Social Work (Scotland) Act 1968 to promote social welfare and targeting voluntary organisations which provide assistance and promote social inclusion amongst the most vulnerable members of the community insofar as they relate to children and young people.
- Payments to voluntary organisations in accordance with Service Level Agreements with the Children and Families Service.

- Payments from Choose Life funding to local groups who have an important role in preventing suicide.

Neighbourhood Services Committee

- Administrative Grants to Registered Tenant Organisations.
- Grants and other forms of assistance under the Education (Scotland) Acts and Regulations made thereunder to voluntary organisations (including youth organisations) promoting social activities unless the grant is under £1,000, in which case the Executive Director of Neighbourhood Services has authority to approve an application to any one group in any financial year subject to (i) the details of any award being reported to Committee for information and record purposes, and (ii) any award made meeting criteria laid down by the Committee.

Policy and Resources Committee

- Grants from Common Good.
- Grants from the Equality and Diversity Grant Fund to promote social inclusion and contribute towards equal opportunities within the City.

Community Safety and Public Protection Committee

- Grants from the Community Safety Fund to promote community safety, support community safety initiatives and diversionary youth work.

In addition, the undernoted grants, payments and subscriptions etc, have been delegated to the officers shown.

The Chief Executive has authority to process awards from the Dundee Community Regeneration Fund.

The Executive Director of Corporate Services has authority to make a grant to the Royal British Legion Scotland to meet the costs of hiring the Caird Hall complex for the Dundee Festival of Remembrance and authority to make a grant to the Blood Transfusion Service to meet the costs of hiring the Caird Hall Complex as necessary.

The Executive Director of Neighbourhood Services has authority:-

- to process applications for improvement grants, repairs grants and improvement loans and to approve such applications where they meet the criteria laid down by the Neighbourhood Services Committee from time to time.
- to make grants to Community Councils and Neighbourhood Representative Structures.
- to make grants to Adult Education Associations.

The Executive Director of Children and Families has authority:-

- to make a revenue grant up to £500 to support playgroups;
- to defray expenses of parents, relatives or other connected persons in respect of visiting a child, in the care of the authority or receiving assistance from the authority or a child who is being looked after by the authority, or attending the funeral of such a person in terms of Section 29 of the Social Work (Scotland) Act 1968 as amended by paragraph 15(13) of Schedule 4 of the Children (Scotland) Act 1995;
- to make direct payments in respect of children or young persons under Section 12B of the Social Work (Scotland) Act 1968;
- to pay adoption allowances;

- to have the power to provide financial assistance towards expenses of education or training of a young person, under the age of 21, formerly looked after by the local authority, including contributions to accommodation and maintenance in terms of Section 30 of the Children (Scotland) Act 1995;
- to agree funding for care packages in respect of children and young persons.

23. Common Good

- 23.1 The Executive Director of Corporate Services will submit a Revenue Budget to the Policy and Resources Committee each year. The Executive Director of Corporate Services will have authority to incur expenditure within the approved budget.
- 23.2 All investments of money shall be made by the Executive Director of Corporate Services in the name of the Council. Any investments made will be made in accordance with the policy determined by the Policy and Resources Committee.
- 23.3 All securities which are the property of, or in the name of the Council, shall be held in custody under the supervision of the Executive Director of Corporate Services.

24. Trusts and Charitable Funds

- 24.1 The Executive Director of Corporate Services shall ensure the proper and safe custody and control of all charitable funds held by the Council and shall ensure that all expenditure is in accordance with the conditions of the trustees etc.
- 24.2 All officers acting as trustees by virtue of their official position shall deposit all securities etc relating to the trust or charitable fund with the Executive Director of Corporate Services.
- 24.3 All investments of money shall be made by the Executive Director of Corporate Services in the name of Council. Any investments made will be made in accordance with the policy determined by the Policy and Resources Committee.
- 24.4 The Executive Director of Corporate Services and other relevant officers shall ensure compliance with the requirements of the Office of the Scottish Charities Regulator (OSCR).
- 24.5 Director, Leisure and Communities in the capacity of Managing Director, Leisure and Culture Dundee shall ensure safe custody and control of the administration of grant funds allocated to Leisure and Culture Dundee for the promotion of cultural and/or recreational activities.

25. Pension Funds

- 25.1 The Policy and Resources Committee (or delegated Sub-Committee) shall be responsible for the supervision and control of the Tayside Pension Fund and the Tayside Transport Pension Fund, including the review of investments and the investments of new funds. This will include ensuring full compliance with all relevant legislation for the administration and investment of pension funds.
- 25.2 The Policy and Resources Committee shall provide a full remit to the Pension Sub-Committee detailing the powers delegated to it regarding the supervision and control of the operations and investments of the Pension Funds.
- 25.3 The Executive Director of Corporate Services shall ensure the proper and safe custody of the Pension Funds investments.
- 25.4 The Executive Director of Corporate Services shall provide regular reports to the Pension Sub-Committee (including quarterly review of performance) on all areas covered by its remit.
- 25.5 The Executive Director of Corporate Services shall ensure that in respect of the Pension Funds all expenditure is in accordance with the conditions of the Policy and Resources Committee (or delegated Sub-Committee) and all income is correctly received.

26. Expenditure on Service Inspections, Hospitality etc

- 26.1 Requests or proposals for the provision of hospitality or entertainment of persons visiting the area of the Council, and functions considered necessary or desirable for maintaining the dignity of the Dundee City Council shall be dealt with by the Head of Democratic and Legal Services in consultation with the Lord Provost. The Head of Democratic and Legal Services shall be authorised to incur expenditure not exceeding the sum of £5,000 on any event, subject to the amount allowed in the Estimates in any one financial year not being exceeded. A record of all hospitality or entertainment granted shall be kept and shall be open to inspection by any member of the Council.
- 26.2 The Executive Director of any service may, in consultation with the appropriate Convener, authorise the provision of hospitality to an amount not exceeding £2,000 in any one financial year and £300 on any one occasion where members and/or officers of the Council are meeting with members or officers of other local authorities or public bodies, Members of Parliament, firms, consultants or others who are assisting or co-operating with the Council in carrying out its functions. A record of all hospitality or entertainment granted shall be kept, and shall be open to inspection by any member of the Council.
- 26.3 When persons or bodies are attending meetings with members and/or Principal Officers (or their Deputies) in connection with the functions and operations of Economic Development, the Chief Executive may authorise expenditure on the provision of hospitality to an amount not exceeding the amount allowed in the Estimates in any one financial year.
- 26.4 Any expenditure in terms of paragraph 26.2 of this financial regulation shall be a charge on the service concerned.

27. Reserves and Balances

- 27.1 The Policy and Resources Committee shall receive a report from the Executive Director of Corporate Services to consider the establishment of any new reserve or fund, be they for capital or revenue expenditure purposes.
- 27.2 The Executive Director of Corporate Services has a fiduciary duty to the local taxpayers and must be satisfied that the decisions taken on balances and reserves represent proper stewardship of public funds. The Executive Director of Corporate Services and his/her staff shall therefore observe the guidance laid down in the CIPFA Guidance Note on Local Authority Reserves and Balances.
- 27.3 The Executive Director of Corporate Services shall include within the Revenue Budget report submitted to the Policy and Resources Committee at which the Council Tax is to be determined, a statement showing the estimated opening and closing and General Fund balances for the financial year ahead. This report will also include a statement by the Executive Director of Corporate Services on the adequacy of the General Fund and other reserves balances in respect of the forthcoming financial year and the Council's medium term financial strategy.
- 27.4 The Executive Director of Corporate Services shall also undertake an annual review of all earmarked revenues and report accordingly to the Policy and Resources Committee meeting which determines the Council Tax.

28. Trading Operations and Accounts

- 28.1 The Executive Director of Corporate Services in conjunction with the appropriate Executive Director shall determine which activities within their services constitute significant trading operations under the Local Government in Scotland Act 2003.
- 28.2 The appropriate Executive Director for each significant trading operation shall, in conjunction with the Executive Director of Corporate Services prepare annual and three year Revenue Budgets. These budgets to reflect the statutory requirement under the Local Government in Scotland Act 2003 that in relation to every three year period and taking every year with the two previous years' revenue is not less than expenditure.

- 28.3 The Executive Director of Corporate Services shall submit on a monthly basis trading statements for each significant trading operation to the appropriate Executive Director. That officer will provide any information timeously which is required for the purpose of the preparation of these trading statements. These trading statements will monitor the financial performance of each significant trading operation.
- 28.4 In accordance with statutory requirements for significant trading operations under the Local Government in Scotland Act 2003, the Executive Director of Corporate Services shall prepare the annual accounts for each trading activity. In order to prepare these accounts the appropriate Executive Director will provide timeously the information required by the Executive Director of Corporate Services in order to complete the accounts. These accounts or a summary will be incorporated into the Council's Statement of Accounts and Public Performance Report.

29. Revision of Financial Regulations

- 29.1 The foregoing Financial Regulations may be altered or revoked by the Council at the ordinary meeting of the Policy and Resources Committee, if the motion for alteration or revocation is supported by a majority of the Committee present and voting.

**DUNDEE CITY COUNCIL
CORPORATE SERVICES**

TENDER PROCEDURES

OF

THE COUNCIL

TENDER PROCEDURES**I N D E X**

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DUNDEE CITY COUNCIL

TENDER PROCEDURES OF THE COUNCIL

1. Commencement

- 1.1 These Tender Procedures may be altered or revoked by the Policy and Resources Committee at any ordinary meeting provided such proposals are supported by a majority of the Committee present and voting.

2. Financial Regulations

- 2.1 The financial arrangements shall be governed by the Council's Financial Regulations which may be altered or revoked by the Policy and Resources Committee at any ordinary meeting provided such proposals are supported by a majority of the Committee present and voting.

3. Invitation of Tenders for Goods and Services

- 3.1 Where any plant, vehicles, tools, equipment, furnishings, materials or commodities in excess of £50,000 in value and which are to be financed from revenue are required by any service of the Council tenders shall be invited unless the Chief Executive in any particular case because of special circumstances, decides that would not be justified or appropriate in that particular case. All such offers, by tender or otherwise, shall be reported to the appropriate Committee for approval.
- 3.2 Where any plant, vehicles, tools, equipment, furnishings, materials or commodities below £50,000 in value and which are to be financed from revenue are required by any service of the Council tenders shall be invited unless the Chief Executive in any particular case because of special circumstances, decides that would not be justified or appropriate in that particular case. All such offers, by tender or otherwise, need not be submitted to Committee for approval if specific provision has been made in the approved estimates.
- 3.3 Notwithstanding the terms of paragraph 3.2 above, where the items to be purchased are below £10,000 in value, and which are to be financed from revenue it shall be in order for the tender procedure as outlined herein to be dispensed with provided that the items are not part of a series of purchases the aggregate cost of which, would exceed EU Public Procurement Threshold Levels. However, at least three competitive quotations should be obtained, unless otherwise directed by the Chief Executive with the most advantageous quotation being accepted direct by the Executive Director concerned.
- 3.4 Where any project is to be financed from Capital, or Capital financed from revenue, tenders shall be invited unless the Chief Executive in any particular permissible case because of special circumstances, decides that would not be justified or appropriate in that particular case. All such offers by tender or otherwise, shall be reported to the appropriate Committee for approval.
- 3.5 Where any project is proposed to be carried out under a partnering arrangement the Executive Director of any service of the Council requiring tenders to be invited shall obtain the approval of the client service and the Chief Executive for the project to proceed under a partnering arrangement. Notwithstanding 3.1 to 3.4 above, contractors shall be selected in accordance with the Council's Partnering Guidelines for Construction Contracts.
- 3.6 Where any works not included in any existing contract the estimated value of which is in excess of £25,000 are required by a service of the Council, and where such works or services may appropriately be carried out by the Council, an offer shall be invited in the first instance from the appropriate Council service and will be accepted if the client service is satisfied that the price equates to current market prices obtained in the last three months and represents best value to the Council.

3.7 The Executive Director of any service of the Council requiring tenders to be invited for the purchase or sale of plant, vehicles, tools, equipment, furnishings, materials or commodities, or for the carrying out of any works, or for the procurement of any services shall, with exception of those obtained in terms of paragraph 3.3 above, advise the Chief Executive of their particular requirements; and

(a) Ensure that the requirements of the European Union in respect of the procurement of services; the execution of works or the supply of plant, vehicles, tools, equipment, furnishings, materials, or commodities are met, as these requirements are set out in:-

- (i) The Public Services Contracts Regulations 1993 (SI No 3228);
- (ii) The Public Works Contracts Regulations 1991 (SI No 2680);
- (iii) The Public Supply Contracts Regulations 1995 (SI 1995/2001);
- (iv) The Public Contracts (Scotland) Regulations 2012

and any legislation amending, consolidating or substituting.

(b) Allocate a title (eg Equipment) and serial number to that contract. The serial number shall comprise the service's code as appended hereto for the purposes of the tendering procedure eg NS, the year in which the tenders are being invited (or the year the project is initiated) and the particular number allocated to that contract. Thus if, for example, Neighbourhood Services are inviting tenders for the twentieth contract in the year 2016, the serial number of that contract shall be NS/16/20.

(c) In order to advertise the contract on behalf of the Council, officers must:-

- (a) register on the National Advertising Portal - Public Contracts Scotland; and
- (b) advertise the invitation bids or quotations through the Portal.

Officers must complete the appropriate training to allow them to invite tenders and enter into contracts on behalf of the Council.

(d) Advise the Chief Executive in writing of the details of the contract and the closing date for submission of offers. The latter shall include the appropriate serial number of the contract of the Committee concerned, the estimated value of the contract and the source of finance (Revenue Capital, Capital financed from current revenue). If in any instance selected tenderers are invited to tender by letter and there is no public advertisement of the proposed contract the same information shall be forwarded to the Chief Executive.

(e) Any additional press advertisements inviting tenders must contain the following information "Sealed offers using the official label issued by this service and endorsed (insert the title of the particular contract) must be lodged with the Chief Executive, Dundee City Council, 18 City Square, Dundee, DD1 3BY on or before 10.00 am on Failure to use the official label in the manner prescribed may at the discretion of the City Council result in the offer not being considered. The label must be affixed to the front of the envelope". In instances where there is no public notice and invitations are sent to selected tenderers then the foregoing information must be included in the invitation.

(f) The official labels referred to immediately above shall be issued to all inquirers and selected tenderers with tender documents. Before issuing a label, it shall be completed to show the title and serial number of the particular contract the service's name and the closing date for the lodging of tenders.

(g) Contract documents issued shall, where necessary, include reference to the undernoted:-

- (i) Contract documents issued by and contracts made with the Council in connection with the execution of works to the value of £1,000,000 or above shall provide that the contractor shall be required to enter into a Bond with a Bank or Insurance Company for a sum equal to 10% of the contract sum for the due performance of the contract or such other sum as is stipulated by the Executive Director of Corporate Services and/or in such circumstances as the Council may decide, a Parent Company Guarantee and/or a Minute of Agreement in respect of Window Warranty.
- (ii) All contract documents issued by, and all contracts made with the Council in connection with the carrying out of works, procurement of supplies or the provision of services shall provide that the contractor shall be insured with an insurance company authorised by the FSA to underwrite Employers Liability, Public Liability (and where required) Professional Indemnity Insurances.
- (iii) Where the Contract with the Council exceeds £50,000, tenderers must provide satisfactory evidence within their tender return that they have adequate Business Continuity arrangements in place to ensure the services provided to the Council can be maintained.
- (iv) The relevant policy or policies and premium renewal receipts shall be produced by the contractor whenever required for inspection by any officer authorised by the Council for that purpose.
- (v) All contract documents issued by, and all contracts made with the Council shall provide that the contractor shall observe safe working practices, including the requirements of the Construction Design Management Regulations, whilst working on or within the confines of any Council properties.
- (vi) All contract documents issued by, and all contracts made with the Council shall, in appropriate cases, provide that if any provider of services, contractor or supplier of plant, vehicles, tools, equipment, furnishings, materials or commodities to the Council shall offer or give (either directly or through the medium of any person employed by him/her or acting on his/her behalf) any gratuity, bonus, discount, consideration, or bribe of any kind whatsoever to any member of the Council or any officer or employee of the Council, the Council may forthwith terminate the contract and may hold that provider, contractor or supplier (as the case may be) liable for any loss or damage which the Council may thereby sustain.
- (vii) All contract documents issued by and all contracts made with the Council shall provide that the conditions and obligations thereof to be observed by contractors shall likewise apply to any sub-contractor and the contractors shall be responsible for the observance of such conditions by any sub-contractor.
- (viii) All contract documents issued by the Council shall include a questionnaire in terms of Section 18(5) of the Local Government Act 1988 to ascertain whether the requirements of the Race Relations Act 1976 are being met by contractors or such questionnaire shall be submitted with the application form for the Select Tender List.

3.8 Executive Directors shall retain until after completion of each contract, a list showing the name and address of each inquirer to whom documents have been issued, allocating to each inquirer an individual number. Before an official label to an inquirer is issued, the number allocated to that inquirer shall be inserted at the end of the serial number on the label. Thus NS/16/20 the third inquirer for that contract would have the serial number NS/16/20/3 shown on the label issued to him. This is important since the numbered list shall enable the Chief Executive to return, unopened, to the appropriate tenderer any tender which is received late.

- 3.9 Ensure that the closing time for receipt of all tenders to be submitted is fixed at 10.00 am on a weekday excluding public holidays.
- 3.10 All late tenders shall be returned, if possible, unopened to the tenderer and shall not be reported to Committee or taken into account unless otherwise agreed with the Chief Executive. In the event of the Chief Executive accepting such a tender, the reason will be detailed in the Tender Book.

4. Opening of Tenders

- 4.1 Tenders, with the exception of these obtained in terms of paragraph 3.3, shall be opened in the offices of the Chief Executive by the appropriate Convener or Depute Convener, the Convener or Depute Convener of the Policy and Resources Committee or the Chief Executive or Head of Democratic and Legal Services.
- 4.2 The person assisting at the opening of tenders shall ensure that the Tenders Register is completed in the following manner:-
- (a) The names of all tenderers and the tender amounts shall be listed.
 - (b) Where the invitation to tender does not require a specific total to be stated eg "Cost Plus" projects etc there should be inserted in the "Tender Amount" column words to that effect.
 - (c) Uncompleted tender documents returned using the official tender label must also be listed in the Tenders Register and the words "No Offer" inserted under the Tender Amount. These shall not, however, be included in total of completed tenders received.
 - (d) Where tenderers submit alternative tenders for the same project in one envelope these should be entered separately in the Tenders Register with an explanatory note in the Register.
 - (e) In cases where tenderers submit offers for two or more different contracts in one envelope using the official tender label for one of the contracts then the Tenders Register must again include an explanatory note; and
 - (f) All tenders must be initialled by the person opening them and the Register must be signed by the person opening the tenders and the official receiving them.

5. Preparation of Tender Reports

- 5.1 The Executive Director concerned shall prepare a report on tenders received for the purchase of plant, vehicles, tools, equipment, furnishings, materials or commodities, or for the carrying out of any works, or the purchase of any services, with the exception of those obtained in terms of paragraph 3.3 above.
- 5.2 The report shall include the following information:-
- (a) Whether the expenditure involved has been approved by the Policy and Resources Committee under a general or specific heading.
 - (b) A reference to the minute of meeting of the Committee approving an increase in the probable costs, if appropriate.
 - (c) In the case of Capital projects details of any Revenue implications.
 - (d) details, if any, of sub-contractors proposed by the contractor.
- 5.3 For reports on contracts below £50,000 to be met from revenue the following procedures shall be followed:-

- (a) The Executive Director concerned shall prepare a report, in terms of paragraphs 5.1 and 5.2 above, for officer approval in respect of all contracts below £50,000 where specific provision has been made in the approved estimates with the exception of those obtained in terms of paragraph 3.3 and shall submit the report to the Head of Democratic and Legal Services and the offer recommended for acceptance. If no specific provision has been made in the Estimates the Executive Director concerned shall follow the procedures in terms of paragraph 5.4 below.
- (b) The Head of Democratic and Legal Services shall thereafter submit the report to the Chief Executive and Executive Director of Corporate Services for approval or otherwise.
- (c) At the same time as (b) above an acceptance letter shall be prepared by the Head of Democratic and Legal Services and issued to the service which assessed the tender documents for initialling and return.
- (d) The Head of Democratic and Legal Services shall issue the acceptance letter subject to the approval of the Chief Executive and Executive Director of Corporate Services and a copy of the final dated acceptance forwarded to the relevant officers.
- (e) The person who assisted in the opening of the tenders shall place a copy of the acceptance together with the tender report and relative correspondence on a Register for inspection purposes.

5.4 For reports on contracts above £50,000 and all contracts to be met from capital or CFCR, the following procedures shall be followed:-

- (a) The Executive Director concerned shall prepare a report, in terms of paragraphs 5.1 and 5.2 above, for Committee approval in respect of all contracts above £50,000 and shall submit same to the Chief Executive, Head of Democratic and Legal Services and Executive Director of Corporate Services fourteen days prior to the Committee meeting.
- (b) On receipt of the report together with the offer recommended for acceptance the Head of Democratic and Legal Services shall prepare a draft acceptance letter.
- (c) The acceptance letter shall be issued by the Head of Democratic and Legal Services subject to Committee approval as soon as practically possible and a copy of the final dated acceptance forwarded to relevant officers.

6. Appointment of Sub-Contractors

- 6.1 The Principal Officer responsible for reporting on tenders shall report, for noting, the sub-contractors proposed by a contractor before any contract is entered into with such contractor and also report, for noting, any changes permitted, under the relevant contract, to this list.

7. Acceptance of Offers

- 7.1 Subject to the provisions of paragraph 3.3, all acceptances of offers for the purchase or sale of plant, vehicles, tools, equipment, furnishings, materials or commodities and for the carrying out of any works or the performance of services shall be signed on behalf of the Council by the Chief Executive or the Head of Democratic and Legal Services, or Legal Manager acting as agents for the client service unless otherwise directed by the Head of Democratic and Legal Services.

8. Payments to Contractors

- 8.1 All contracts for the carrying out of any works or the purchase of services on behalf of the Council, or for the supply of any plant, vehicles, tools, equipment, furnishings, materials or commodities to the Council will be recorded by the Principal Officer concerned, and such book shall show the amount of each contract and any payments made to account.

9. Alterations to Specifications

- 9.1 The specification of any works or services under contract and approved by the appropriate Committee shall not be altered to any substantial extent without the consent of the Council except in cases of urgency or where the nature of the services or works is such as to require deviation from the specification from time to time, but any such instance shall be reported to the appropriate Committee.

10. Determination of Contracts and Placing of New Contracts

- 10.1 If for any reason whatsoever the employment of any contractor or supplier of services, or of plant, vehicles, tools, equipment, furnishings, materials or commodities has been terminated, such contractor or supplier shall not receive any new contract from any Committee of the Council until such new contract has been approved by the Council.
- 10.2 While at all times observing the requirements of the relevant legislation, the Council shall whenever possible and commercially viable, seek to maximise the benefits to the local economy of using local companies and local labour.

11. Disposal of Surplus Plant, Materials etc

- 11.1 All surplus plant, vehicles, tools, equipment, furnishings, materials or commodities valued in excess of £10,000 in value to be disposed of by any service of the Council shall be advertised for sale either by the invitation of sealed offers or by public auction, unless in special circumstances of which the Committee concerned shall be the sole judge, it is otherwise decided. The arrangements for the disposal of surplus plant, vehicles, tools, equipment, furnishings, materials or commodities valued at less than £10,000 shall be delegated to the Executive Director of the service concerned.

12. Select Tender Lists - Construction Contracts

- 12.1 Invitation to apply for inclusion on the Council's Select Tender List for construction contracts shall be made by advertising in the local and national press and European Journal. The list shall be renewed every four years.
- 12.2 All applicants are evaluated by the Head of Design and Property for their technical ability and by the Executive Director of Corporate Services for their financial suitability prior to being recommended for inclusion on the list.
- 12.3 During the currency of the Select Tender List any contractor who fails to meet the technical or financial criteria required shall be deleted from the list. New contractors may be added to the list subject to the normal assessment by the Head of Design and Property and Executive Director of Corporate Services.

13. Engagement of Consultants

- 13.1 It shall be a condition of the engagement of the services of any private, professional practitioner (not being an officer of the Council) who is to be responsible to the Council for a contract for the execution of works that, in relation to that contract he/she shall:-
- (a) At any time during the carrying out of the contract, produce on request, to the appropriate Executive Director, all records maintained in relation to the contract.
 - (b) On completion of the contract, transmit all such records to the appropriate Executive Director.

14. Trading Operations

- 14.1 The Council's trading operations will comply with the Council's tendering procedures and all applicable legislation in all estimates or tenders submitted to the Council as client.
- 14.2 It is recognised that as part of the preparation of a tender submission, it may be necessary to seek to enter into a contract with an outside party for the supply of goods or materials or the execution of works. This may be undertaken subject to the following provisos:-

- (a) written quotations are obtained from at least three persons competent to undertake the contract and these are recorded in a Register of Contract Quotations.
- (b) any such quotation may, after it has been confirmed in writing by the offerer, be accepted by the appropriate Executive Director.
- (c) all quotations exceeding £50,000 in value which the respective Executive Directors have accepted under this paragraph shall, as soon as practical, be reported for information to the Neighbourhood Services Committee.

APPENDIX**TENDERING PROCEDURE****List of Services likely to invite tenders, and codes allocated to each**

Chief Executive's Services	-	CES
Children and Families Service	-	C&F
City Development	-	CD
Community Safety and Public Protection Services	-	CS&PP
Corporate Services Finance	-	FIN
Corporate Services Democratic and Legal	-	D&L
Corporate Services Information Technology	-	IT
Corporate Services Human Resources and Business Support	-	HR
Neighbourhood Services	-	NS

**DUNDEE CITY COUNCIL
CORPORATE SERVICES**

**DELEGATION OF POWERS
TO OFFICERS OF
THE COUNCIL**

DELEGATION OF POWERS TO OFFICERS OF THE COUNCIL**I N D E X**

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SCHEME OF ADMINISTRATION - DELEGATION OF POWERS TO OFFICERS

1. INTERPRETATION

- (i) Any reference in this scheme to a statutory or other provision shall be interpreted as a reference to that provision as amended from time to time by any subsequent legislation.
- (ii) Any power delegated to an Executive Director in terms of this scheme may be exercised by such officer or officers of his or her service as the Executive Director may authorise.

2. GENERAL DELEGATION TO CHIEF EXECUTIVE AND ALL EXECUTIVE DIRECTORS

- (i) Authority for the Chief Executive to make arrangements for the overall operation and management of the Council and its services within the policies and decisions made by the Council, the Chief Executive will delegate to Executive Directors to make similar arrangements for their service.

- (ii) **Urgent Matters Arising Between Meetings**

Authority for the Chief Executive and Executive Directors to act on urgent matters, which may arise between meetings in consultation with the Convener, Opposition Group spokesperson, Conservative member, Liberal Democrat member and the Independent member, subject to a report thereon being submitted for information to the next appropriate meeting of the Committee concerned.

- (iii) **Revenue Expenditure**

Authority to incur expenditure on salaries, wages, property costs, and supplies and services etc, within the approved budget and subject to the Council's Human Resources policies, financial regulations and tendering procedures.

- (iv) **Training Plan**

Authority to develop training plans and authorise attendance at appropriate training courses.

- (v) **Action Plan**

Authority to develop service Action Plans.

- (vi) **Outside Bodies**

Authority to represent the Council on outside bodies relevant to the activities of their service. Executive Directors may also authorise members of staff to represent the Council on appropriate bodies for the same purpose.

- (vii) **Attendance at Meetings**

The Chief Executive and Executive Directors, may, at the expense of the Council, attend meetings arranged by any appropriate body for the discussion of matters relating to any of the functions of the Council. Officers other than the Chief Executive or Executive Directors may be authorised to incur expense in attending such meetings by the Chief Executive and Executive Directors.

- (viii) **Disposal of Surplus Plant etc**

Authority to make arrangements for the disposal of surplus plant, vehicles, tools, equipment, furnishings, materials or commodities valued at less than £10,000.

(ix) **Best Value**

Authority to conduct customer consultation exercises, enter into benchmarking partnerships and take all steps necessary to meet the standards required in terms of cost and quality to demonstrate the achievement of best value in delivering services which have been measured against customers' needs and strategic priorities.

(x) **Partnerships**

Authority to identify and develop partnerships with organisations who can assist in the delivery of services.

(xi) **Licensing Applications**

Heads of Service of the Council shall be authorised to lodge objections to applications for licences being considered by the Council's Licensing Committee and/or the Licensing Board for the City of Dundee.

(xii) **Miscellaneous**

- (a) Authority for Executive Directors to manage and deliver services in accordance with the Council's policies subject to compliance with the Council's Standing Orders, Tender Procedures, Financial Regulations and any directions given by the Chief Executive.
- (b) Authority to carry out such other matters not detailed in the Schemes of Administration but nevertheless necessary to carry out service functions which are not otherwise dealt with by the Council, its Committees or Sub-Committees or any other service.

CHIEF EXECUTIVE

The Chief Executive has delegated authority for the following activities:-

(a) **General**

1. to implement and monitor general policies adopted by the Council.
2. to provide advice and guidance to the Council on policy options.
3. to act as Returning Officer at all Local Government, National and European elections and referenda and to appoint Depute Returning Officers as appropriate.
4. to act as Proper Officer for the Council for the purposes of Sections 33A, 34, 40, 231 and Schedule 7 of the Local Government (Scotland) Act 1973.
5. to affix the common seal of the Council to any deed or other document to which the Council is a party.
6. to call meetings of the Council or any of its Committees or Sub-Committees.
7. to authorise the attendance of members and officers of the Council at meetings, conferences or other functions within and outwith the United Kingdom.
8. subject to the provisions of Standing Order No 61(1) authority to establish and fill posts, extend posts and delete posts irrespective of the nature of the posts eg temporary or permanent.
9. to consider appeals in respect of spare time remunerative employment.
10. when persons or bodies are attending meetings with members and/or Executive Directors or their deputies in connection with the functions and operations of the City Development , the Chief Executive may authorise expenditure on the provision of hospitality to an amount not exceeding the amount allowed in the estimates in any one year.
11. subject to the provisions of paragraph 3 of the Scheme of Administration on Tender Procedures, the Chief Executive may, in special circumstances, decide that the normal tender process would not be justified or appropriate.
12. to open tenders.
13. to appoint a Chairperson for the Social Work Complaints Review Committee and to arrange for substitutes to be available if required.
14. to deal with all disciplinary matters affecting Executive Directors subject to the employee's right of appeal within the Disciplinary Procedure.
15. to lead the Council's Community Planning Officers' Team and Dundee Partnership Management Group.
16. to lead the Management Team and ensure effective delivery of Council services in accordance with the approved budgets.
17. together with the Executive Director of Children and Families Service to sign agreements reached by the Local Negotiating Committee for Teachers.
18. subject to the provisions of any enactment, Statutory Order or Instrument and to the terms of Standing Order 62(1) and (2) authority to vary the grade of any post.

19. Chief Executive or nominee to attend all meetings of members of Leisure & Culture Dundee including the AGM as the Council's authorised representative.
20. to approve attendance at the undernoted conferences:-
 1. COSLA Annual Conference;
 2. CIPFA Scottish Conference;
 3. Chartered Institute of Housing Conference;
 4. Social Work Scotland Conference; and

at one-off events of a particular relevance/importance to the Council, by one member from the Administration and one member from the Opposition.
21. to implement directions given to the Council by Dundee Health and Social Care Integration Joint Board.
22. Processing awards from the Dundee Community Regeneration Fund.

(b) **Corporate**

1. to promote corporate working amongst services to ensure that policy objectives from elected members are translated into functional objectives and that clear performance and service delivery standards are set and achieved.
2. to identify short-term action plans to improve the quality of services provided by services and assist in the monitoring of these action plans to ensure that performance targets are achieved.
3. to develop recommendations for medium and long-term action plans to improve the quality, effectiveness and efficiency of the delivery of City Council services.
4. to develop an integrated management information system to support the preparation, monitoring and review of the City Council's corporate strategies and action plans.
5. to monitor the operation of quangos, joint boards/arrangements, partnerships, ALEO's and other agencies/bodies in order to project and protect the interests of Dundee City Council.
6. to conduct research into policy issues, including comparisons with other authorities and customer research.
7. to provide administrative, clerical and secretarial support facilities and services to the elected members of the Council.
8. to develop the National Entitlement Card in partnership with other organisations to improve efficiency and effectiveness of services.
9. to develop health improvement issues.
10. to develop proposals for Community Regeneration Priority Areas.

(c) **Leisure and Culture**

1. to develop proposals for the provision of adequate facilities for social, cultural and recreational activities as defined in the Education (Scotland) Act 1980.
2. in liaison with Leisure and Culture Dundee to ensure the provision of adequate library facilities for all persons resident in the City in terms of Section 163(2) of the Local Government (Scotland) Act 1973.
3. to develop and provide advice to the Council on policies and in liaison with Leisure and Culture Dundee policies for libraries, leisure and cultural facilities including sports centres and school halls, and heritage facilities and the promotion of the arts/culture in general.

4. in liaison with Leisure and Culture Dundee to purchase exhibits to a value which may exceed the limit laid down by Financial Regulations provided that it does not exceed the annual sum set aside in any one year's estimates or in special cases not exceeding the accrued resources in any one year of the Art Fund annual allocations and funds accrued in the Charles Ower Bequest after consultation with the Executive Director of Corporate Services.
5. to close premises leased to Leisure and Culture Dundee to allow essential repair/maintenance or over the festive season work to be carried out, or for elections.
6. to approve applications from voluntary organisations, for grants and other forms of assistance under the Education (Scotland) Acts and relevant Regulations up to a value of £1,000 to any one group in any financial year subject to (i) the details of any award being reported to Committee for information and record purposes and (ii) any award made meeting criteria laid down by the Policy and Resources Committee.

(d) **Communications**

The Head of Corporate Communications has delegated authority for the following activities:-

- (i) to provide advice and guidance to the Council on policies and strategies in the fields of media, communications and design services.
- (ii) to respond to media enquiries on behalf of the Council, in liaison with appropriate Conveners and Executive Directors.
- (iii) to design and regulate the use of the City Council's brand and to ensure that corporate design specifications are adhered to.
- (iv) to develop advice to the Council to ensure that all aspects of the Council's work reflect its statutory duty under the 2010 Equality Act to eliminate discrimination, advance equality of opportunity and to foster good relations across the range of people with protected characteristics.

CHILDREN AND FAMILIES SERVICES

The Executive Director of Children and Families Service has delegated authority for the following activities:-

(a) Education Matters

1. to provide advice to the Council on the formulation of policies and strategies in respect of the provision and development of long and short-term Education services.
2. to ensure that the Council complies with all statutory requirements in relation to the Education service.
3. to make available information to parents to enable them to enrol their children in the delineated area school or to make a placing request for another school.
4. to grant all placing requests, whenever possible, and to explain the right of appeal to any parents whose placing requests are refused.
5. to authorise school transport arrangements for all children who are entitled to school transport statutorily, or as a result of Council policy, and to authorise school transport for any children in exceptional circumstances who would not otherwise be entitled to it, subject to appropriate provision having been made in the approved estimates of expenditure.
6. to make provision for the education of children identified as having additional support needs under the terms of the Education (Additional Support for Learning) (Scotland) Act 2004.
7. to exercise the powers available to the Council with regard to the provision of education for pupils belonging to areas of other education authorities; to pay any agreed rate to another education authority which has provided education for pupils normally resident in the area of the Council but who are, for various reasons, placed in schools outwith the Council area, subject to appropriate provision having been made in the approved estimates of expenditure; and to make arrangements for the receipt of payments from other Councils whose pupils are placed in Dundee schools.
8. to transfer/-deploy teachers within the policy established by the Council.
9. to be responsible for disciplinary procedures for teaching staff, in accordance with the Council's policies, including dismissal.
10. to approve the premature retirement of teachers without enhancement at no additional cost to the Council.
11. to carry out the administration, assessment and payment of education maintenance allowances and further education bursaries, insofar as the Council has the power to award such bursaries and to decide whether or not to accept a late application.
12. to issue licences in terms of the Children (Performances) and Activities (Scotland) Regulations 2014.
13. to ensure that free school meals are provided for all entitled pupils, and that clothing grants are provided in accordance with the Council's policies.
14. to be responsible for the provision of a psychology service.
15. to make all arrangements for the election of members of Parent Councils.
16. to promote parental involvement in Parent Councils.
17. to administer the Council's scheme for the letting of school premises.
18. to administer the Council's scheme of Devolved School Management.

19. to make revenue grant up to £500 to support playgroups.
20. together with the Chief Executive, to sign agreements reached by the Local Negotiating Committee for Teachers.
21. to exclude pupils from schools.
22. to administer the functions of the Education Authority under Sections 35-43 of the Education (Scotland) Act 1980 (except the appointment of a person to institute proceedings in terms of Section 43(2)), being consideration of Cases of School Attendance Default including the power to impose an Attendance Order or to decide that the parent/carer be prosecuted.
23. to make arrangements to monitor the attendance of pupils at school, and to implement measures to combat truancy and other unauthorised absence.
24. to monitor performance and operation of the PPP for Schools Contracts.
25. to consent to the withdrawal of children from school in terms of Section 35 of the Education (Scotland) Act 1980.

(b) Social Work Matters

1. to provide advice to the Council on the formulation of policies and strategies in respect of Social Work services.
2. to take steps to ensure that the Council complies with all statutory requirements in respect of the provision of Social Work services including:-
 - (i) to bury or cremate any child who was immediately before their death being looked after by the local authority and recover expenses in terms of Section 28 of the Social Work (Scotland) Act 1968.
 - (ii) to defray expenses of parents, relatives or other connected persons in respect of visiting a child who is being looked after by the authority, or attending the funeral of such a person in terms of Section 29 of the Social Work (Scotland) Act 1968 as amended by paragraph 15(13) of Schedule 4 of the Children (Scotland) Act 1995.
 - (iii) to provide and maintain in terms of Section 59 of the Social Work Act 1968 such residential and other establishments as are required for the Council's functions under Part II of the Children (Scotland) Act 1995.
 - (iv) to recover any charges for services provided under or by virtue of Part II of the Children (Scotland) Act 1995 all in terms of Section 87 of the Social Work (Scotland) Act 1968.
 - (v) to prepare a plan for the provision of community care services in the Council area in terms of Section 5(a) of the Social Work (Scotland) Act 1968 as inserted by Section 52 of the National Health Service and Community Care Act 1990.
 - (vi) to operate a procedure as approved by the Council for the receipt and investigation of complaints in terms of Section 5B of the Social Work (Scotland) Act 1968 insofar as they relate to Children and Families Service.
 - (vii) to provide services to chronically sick and disabled children and young persons in terms of Section 2 of the Chronically Sick and Disabled Persons Act 1970.
 - (viii) to assess needs when requested to do so by a disabled child or young person or their carer in terms of Section 4 of the Disabled Persons (Services, Consultation and Representation) Act 1986.
 - (ix) to provide information on Social Work services and any relevant services of other authorities or organisations in terms of Section 1 of the Chronically Sick and Disabled Persons Act 1970.

- (x) to have the power to make direct payments under Section 12B of the Social Work (Scotland) Act 1968 in respect of children or young people.
- (xi) to make arrangements for the exercise by the Council of its functions other than those delegated to the Dundee City Health and Social Care Integration Joint Board in respect of persons under the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000.
- (xii) to make arrangements for the exercise by the Council of its functions, other than those delegated to Dundee City Health and Social Care Integration Joint Board, in respect of persons under the Adult Support and Protection Act 2007 including without prejudice to the foregoing generality the appointment of Council Officers under that Act.
- (xiii) to supervise and care for persons put on probation, released from prison or subject to a Community Service Order and to provide the necessary social background reports and other reports to the Court as required in terms of Section 27 of the Social Work (Scotland) Act 1968.
- (xiv) to provide supervision for the purpose of assisting and advising an offender in regard to payment of a fine in terms of Section 217 of the Criminal Procedure (Scotland) Act 1995.
- (xv) to supervise people placed on Supervised Attendance Order in terms of Sections 235, 236 or 237 of the Criminal (Procedure) Scotland Act 1995.
- (xvi) to supervise people placed on a Drug Treatment and Testing Order in terms of Sections 89-95 of the Crime and Disorder Act 1998.
- (xvii) to jointly establish arrangements with other responsible authorities for the assessment and management of the risks posed by certain high risk offenders as defined by Section 10 of the Management of Offenders etc (Scotland) Act 2005.
- (xviii) to provide a throughcare service to prisoners during their period of imprisonment and who will be subject to supervision following release as specified by Section 71 of the Criminal Justice (Scotland) Act 2003.
- (xix) jointly with Scottish Ministers to establish arrangements for the assessment and management of the risks posed by custody and community prisoners in accordance with the Custodial Sentences and Weapons Act 2007.
- (xx) to provide services to safeguard and promote the welfare of children who are in need and to promote the upbringing of such children by their families in terms of Section 22(1) of the Children (Scotland) Act 1995, including giving assistance in kind or, in exceptional circumstances, in cash.
- (xxi) to provide accommodation for any child in the local authority area to promote or safeguard his/her welfare in terms of Section 25(1) and (2) of the Children (Scotland) Act 1995.
- (xxii) in conjunction with the Executive Director of Neighbourhood Services, to have the power to provide accommodation to persons who are over the age of eighteen, but not yet twenty-one, when such provision would promote the young person's welfare in terms of Section 25(3) of the Children (Scotland) Act 1995.
- (xxiii) to provide adoption support services (including the payment of allowances) in terms of the Adoption and Children (Scotland) Act 2007 and the Adoption Support Services and Allowances (Scotland) Regulations 2009.
- (xxiv) to safeguard and promote the welfare of a child where the child is looked after by the local authority in terms of Section 17(1) of the Children (Scotland) Act 1995.

- (xxv) to provide advice and assistance to prepare the child for when he/she is no longer looked after by the local authority in terms of Section 17(2) of the Children (Scotland) Act 1995.
- (xxvi) to review cases of children looked after by the local authority in terms of Section 31 of the Children (Scotland) Act 1995.
- (xxvii) to provide continuing care to an eligible person in terms of Section 26A of the Children (Scotland) Act 1995.
- (xxviii) to provide accommodation and maintenance for children who are looked after by the local authority in terms of Section 26 of the Children (Scotland) Act 1995.
- (xxix) to remove a child from a residential establishment in terms of Section 32 of the Children (Scotland) Act 1995.
- (xxx) to provide advice and assistance for young persons under nineteen, but over school age and formerly looked after by a local authority in terms of Section 29 of the Children (Scotland) Act 1995.
- (xxxi) to have the power to provide financial assistance towards expenses of education or training of a young person, under the age of twenty-one, formerly looked after by the local authority, including contributions to accommodation and maintenance in terms of Section 30 of the Children (Scotland) Act 1995.
- (xxxii) to pay allowances in terms of Section 50 of the Children Act 1975.
- (xxxiii) to cause inquiries to be made and to provide information to the Principal Reporter where compulsory measures of supervision may be necessary in respect of a child in terms of Sections 60 of the Children's Hearings (Scotland) Act 2011.
- (xxxiv) to provide reports on children and their social background for a Children's Hearing in terms of Sections 66(4) and/or (5) and (6) of the Children's Hearings (Scotland) Act 2011.
- (xxxv) to put into effect a Compulsory Supervision Order made by a Children's Hearing in terms of Section 83 of the Children's Hearings (Scotland) Act 2011.
- (xxxvi) to require a review of a Compulsory Supervision Order made by a Children's Hearings by notice to the Principal Reporter in terms of Section 131(1) of the Children's Hearings (Scotland) Act 2011.
- (xxxvii) to recover contributions in respect of children who are looked after by the authority in terms of Section 78A of the Social Work (Scotland) Act 1968.
- (xxxviii) to recover contributions that have not been paid in terms of Section 82 of the Social Work (Scotland) Act 1968.
- (xxxix) on behalf of the Chief Executive of the Council to prepare and publish a plan for the provision of relevant services for, or in respect of, children in the local authority area in terms of Section 19 of the Children (Scotland) Act 1995.
- (xl) to prepare and publish information about relevant services for children in the local authority area in terms of Section 20 of the Children (Scotland) Act 1995.
- (xli) to request help in the exercise of any functions that the local authority has under Part II of the Children (Scotland) Act 1995 from any of the specified persons in terms of Section 21 of the Children (Scotland) Act 1995.
- (xlii) to provide day care for children in need within the local authority who are aged five or under and who have not yet started school in terms of Section 27(1) of the Children (Scotland) Act 1995.

- (xliii) to provide appropriate care for school children in need within the local authority area outside school hours or during school holidays in term of Section 27(3) of the Children (Scotland) Act 1995.
- (xliv) to assess the need for the provision of Social Work services to any young person reaching school leaving age who is regarded as disabled in terms of Section 13 of the Disabled Persons (Services, Consultation and Representation) Act 1986.
- (xlv) to provide a report to the Court, on request, where the Court is considering any question relating to the care and upbringing of a child.
- (xlvi) to ensure that services provided under Section 22 of the Children (Scotland) Act 1995 to a child with or affected by a disability are designed to minimise the effect of his/her disability, or to minimise the effect of the disability of a family member on the child and to provide the opportunity for the child to lead as normal a life as possible in terms of Section 23(1) of the Children (Scotland) Act 1995.
- (xlvii) to carry out an assessment (if asked to do so by the child's parent or guardian) of the child or any other person in his/her family in order to ascertain the child's needs insofar as they are attributable to his/her disability or that of the other person in terms of Section 23(3) of the Children (Scotland) Act 1995.
- (xlviii) to assess a carer's ability to provide, or to continue to provide, care for the child when asked to do so by the carer in terms of Section 24 of the Children (Scotland) Act 1995.
- (xlix) upon receipt of notification in terms of Section 36(1) of the Children (Scotland) Act 1995 to determine whether the child's welfare is adequately safeguarded and whether to exercise any functions under the Act in terms of Section 36(2).
- (l) to provide short-term refuge to children who appear to be at risk of harm and who themselves request to be provided with such refuge in terms of Section 38 of the Children (Scotland) Act 1995.
- (li) to designate residential establishments and households as short-term refuges for children for the purposes of Section 38 of the Children (Scotland) Act 1995.
- (lii) to have the power to apply to a Sheriff for a Child Protection Order in terms of Section 37 and 38 of the Children's Hearings (Scotland) Act 2011.
- (liii) to have the power to apply to a Justice of the Peace for emergency child protection measures in terms of Section 55 of the Children's Hearings (Scotland) Act 2011.
- (liv) to exercise any parental rights and responsibilities in respect of a child given to the Council in terms of a Permanence Order while that Order remains in force.
- (lv) to act as agency decision-maker in relation to decisions on adoption or to authorise another officer to act in such a capacity.
- (lvi) to have the power to cause an inquiry to be held into the local authority's functions under the Children (Scotland) Act 1995 insofar as those functions relate to children in terms of Section 6B of the Social Work (Scotland) Act 1968 and Section 100 of the Children (Scotland) Act 1995.
- (lvii) to accept or not accept any person for assessment as a prospective adopter in accordance with the provisions of the Adoption Agencies (Scotland) Regulations 2009.
- (lviii) to assess prospective adopters in accordance with the provisions of the Adoption Agencies (Scotland) Regulations 2009.
- (lix) to establish an adoption panel in terms of the Adoption Agencies (Scotland) Regulations 2009.

- (Ix) to approve prospective adopters in accordance with the provisions of the Adoption Agencies (Scotland) Regulations 2009.
- (Ixi) to place or secure the placing of a child for adoption with prospective adopters in accordance with the provisions of the Adoption Agencies (Scotland) Regulations 2009.
- (Ixii) to submit to the Court a report on the suitability of applicants for an Adoption Order where a child has been placed for adoption by the Council and to assist the Court in any manner the Court may direct all in terms of Section 17 of the Adoption and Children (Scotland) Act 2007.
- (Ixiii) to investigate the suitability of adoption applicants and other matters and to report to Court in terms of Section 19 of the Adoption and Children (Scotland) Act 2007.
- (Ixiv) to assess and approve kinship carers and foster carers in accordance with the provisions of the Looked After Children (Scotland) Regulations 2009.
- (Ixv) to place a child with a kinship carer or in a foster placement in accordance with the provisions of the Looked After Children (Scotland) Regulations 2009.
- (Ixvi) to establish a fostering panel in terms of the Looked After Children (Scotland) Regulations 2009.
- (Ixvii) to pay allowances to kinship carers and foster carers in accordance with the Looked After Children (Scotland) Regulations 2009.
- (Ixviii) to ensure that the corporate parenting responsibilities of the Council are addressed through the Children's Services planning process, including the development of an action plan and the publication of baseline data on children in need.
- (Ixi) to agree funding for care packages subject to the agreed financial guidance Social Work Committee 26 June 2006, Article II refers.
- (Ixx) to make provision for guidance to be provided to the Council by the Chief Social Work Officer in terms of the Local Government (Scotland) Act 1994.

CITY DEVELOPMENT

The Executive Director of City Development has delegated authority for the following activities:-

1. General

- (a) to discuss with the private sector and other agencies for the purposes of securing development of and for the City.
- (b) to develop advice for the Council on creative planning policies for land use in the City.

2. Architects and Quantity Surveying

- (i) appointment of Consultants - to appoint Consultants, as may become necessary, to accommodate periodic increases in the workload.
- (ii) to assess and evaluate applications for inclusion in the Council's Select Tender Lists.
- (iii) to delete contractors from the Select Tender List when they fail to meet the technical or financial criteria required by the Council.

3. Development Management

1. General

- 1.1 This Scheme of Delegation was prepared by Dundee City Council as required by Section 43A(1) of the Town and Country Planning (Scotland) Act 1997 as inserted by the Planning etc (Scotland) Act 2006 and in accordance with Regulations 3 and 4 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The Scheme of Delegation was approved by the Policy and Resources Committee of Dundee City Council on 11 November 2013 and Scottish Ministers on 3 December 2013.
- 1.3 "Local development" for the purposes of this Scheme of Delegation will include all development other than national development, as designated in a National Planning Framework document prepared and published by the Scottish Ministers under Part 1A of the 1997 Act; and major development, as identified in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

2. Classes of Development to be Determined by the "Appointed Officer" of the Council and Exemptions from the Mandatory Scheme

- 2.1 *Planning applications in the following Classes of Development as defined in Sections 3A (4)(b) and 26A of the Town and Country Planning (Scotland) Act 1997 as inserted by the Planning etc (Scotland) Act 2006 and supported by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 shall be determined by an officer or officers who shall be appointed by the Head of Planning for that purpose. A range of postholders may be appointed to determine cases or different classes of case under the scheme.*

The applications concerned are:-

- (a) all applications for planning permission in respect of development within the category of "local development"; and
- (b) all applications for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within the category of "local" development.

2.2 **Exemptions** - *the appointed officer is prohibited, however, from determining the following types of application for planning permission within the category of "local" development:-*

- (i) any application¹ in respect of which six or more valid written objections received within the timescales specified in statutory notifications or press notices; and the application is recommended for approval;
- (ii) any application which attracts a valid timeous objection from a statutory consultee² and the application is recommended for approval;
- (iii) any application where the appointed officer is minded to approve in circumstances where it is significantly contrary³; to the development plan;
- (iv) any application which a member, within one month of the publication of the appropriate weekly list, has requested in writing to the appointed officer that it be submitted to the Development Management Committee;
- (v) any application submitted by or on behalf of an Elected Member of the Council;
- (vi) any application requiring the submission of an Environmental Impact Statement in terms of the Environmental Impact Assessment (Scotland) Regulations 2011 as amended⁴ and
- (vii) any application which the Executive Director of City Development proposes should, for valid planning reasons, be determined by the Development Management Committee rather than by the appointed person.

3. **Subsequent Schemes of Delegation**

- 3.1 *The Council will review or if appropriate adopt a revised Scheme of Delegation no later than a period of five calendar years following the approval of this Scheme of Delegation by Scottish Ministers.*

¹ The meaning of "application" shall be taken to include applications for planning permission; planning permission in principle; applications for consent, agreement or approval required by condition imposed on a grant of consent for local developments.

² For the purposes of this Scheme of Delegation a statutory consultee shall be taken to be consultees referred to in Regulation 25 and Schedule 5 of the Town and County Planning (Development Management Procedure) (Scotland) Regulations and will include a Community Council or officially recognised Neighbourhood Representative Structure.

³;A proposed development is "significantly contrary to the development plan" if the departure concerned, in the judgement of the "appointed person" is directly related to the achievement of the core objectives of any element of the development plan and the approval of the application would seriously compromise the achievement of the development plan's objectives and compromise its other policies and proposals. For the avoidance of doubt a proposal will not necessarily be significant if, for example, it fails to meet the terms on one or more policies or one or more of the criteria in any criteria based policy.

⁴ An application which is determined by the Executive Director of City Development to be an application requiring the submission of an Environmental Impact Statement in terms of the Environmental Impact Assessment Regulations 2011, as amended.

ANNEX B**Proposed Discretionary Scheme of Delegation in Relation to Development Management as Provided for by the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 and the Local Government (Scotland) Act**

<i>Issue</i>	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
1 General Powers to delegate Negotiations Planning Policy Entry to Land Day to Day Procedural Matters	 Authorise the Head of Planning to appoint appropriate officers to determine cases of application or different classes of case which fall to be determined under the approved mandatory Scheme of Delegation. Authority to negotiate with the private sector and other agencies for the purposes of securing the proper development of the city in accordance with the Council's objectives". Authority to advise the Council on land use planning matters for the purposes of securing the proper development of the city in accordance with the Council's objectives. Authority to authorise a person to enter upon any land at any reasonable time for the purposes mentioned in Sections 156, 158, 160-163, 167, 172-175, 177, 269 and 270 of the 1997 Act as amended and section 18-21 of the High Hedges (Scotland) Act 2013. The undertaking by the appropriate officer of the Council of all day to day procedural matters and other actions relevant to the Council's planning functions, as provided for in the planning and related legislation.
2 Hierarchy of Application Types	To determine with reference to the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 whether or not a description of a development falls into the categories of "major" and "local" respectively and to so determine where a Pre-application Screening Notice is submitted to the Council.

<i>Issue</i>	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
3 Pre-application Consultation and Scrutiny	<p>The implementation and enforcement of pre-application procedures under Section 35A of the 1997 Act as amended including:</p> <ul style="list-style-type: none"> • assessing and responding to Pre-application Screening Notices; • assessing and responding to Proposal of Application Notices; and • assessing Pre-application Consultation Reports and determining the validity of related applications.
4 Determination of Planning Applications	<p>the determination of all applications for planning permission and planning permission in principle; applications for the approval of matters specified in conditions attached to planning permissions and planning permissions in principle; further applications; applications seeking to amend or delete conditions; listed building consent applications; conservation area consent applications; applications for consent to display advertisements (including the unconditional approval of applications), EXCEPT:</p> <ul style="list-style-type: none"> • "national" and "major " categories of application; • "local" category applications which the Council has decided in its Scheme of Delegation, approved by Scottish Ministers, should be determined by it as opposed to the Appointed Officer, except any application where, within one month of the application appearing on the Weekly List, written notice is given to the Committee Services Officer that the Development Management Committee intends to determine the application. Such information (which shall be referred to as a Section 43A(6) referral shall only be valid when signed by the Convener and Vice Convener and shall include a statement of the reasons for such a referral; • all applications for the removal or amendment of conditions which were originally imposed at the specific request of members; • all applications for Hazardous Substance Consent; • any application submitted by or on behalf of an officer of the Council involved in the statutory planning process; and

<i>Issue</i>	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
	<ul style="list-style-type: none"> • applications which had been determined subject to a planning agreement (planning obligation) and which now require to be determined as a consequence of the Council and the applicant and other parties to the agreement not being able to conclude the agreement within a reasonable period of time. This provision will apply in cases where the original decision was taken by Committee.
5 Reasons for Decisions	<ul style="list-style-type: none"> • issuing to applicants reasons for the decisions in respect of all planning and related applications made by the Council.
6 Attachment of Conditions at the Request of Scottish Ministers	<ul style="list-style-type: none"> • to consider whether to impose a condition directed by Scottish Ministers in respect of a planning application referred to them.
7 Processing Agreements	<ul style="list-style-type: none"> • where necessary to negotiate and agree with applicants and other parties to the agreement, the terms of Processing Agreements.
8 Determination of the Validity of Objections and Representations	<ul style="list-style-type: none"> • determining whether a representation or objection in respect of a planning or related application is timeous, valid or material in respect of the application under consideration.
9 Variations to Planning Permissions	<ul style="list-style-type: none"> • determining to approve a variation, as provided for by Section 64 of the 1997 Act as amended and to issue refusals where the terms of Section 64 are not satisfied.
10 Variations to Planning Applications Not Yet Determined	<ul style="list-style-type: none"> • to determine to agree to a variation by the applicant to a submitted application, as provided for by Section 32A of the 1997 Act as amended and to issue refusals where the terms of Section 32A are not satisfied. • to determine what notice if any to give to other parties concerning such a variation if agreed.
11 Approval of Matters of Detail Covered by Conditions	<ul style="list-style-type: none"> • approving matters of detail which have been reserved when previously granting the conditional approval of a detailed planning application.

<i>Issue</i>	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
12 Determination of Repeat Applications	<ul style="list-style-type: none"> the authority to decline to determine applications which fall within Section 39 of the 1997 Act as amended.
13 Consultation on Applications Submitted to Neighbouring Planning Authorities	<ul style="list-style-type: none"> the authority to express views on behalf of the Council when it is statutorily or informally consulted by neighbouring planning authorities on planning applications submitted to them for determination.
14 Environmental Impact Assessments	<ul style="list-style-type: none"> the authority to provide informal and formal Screening and Scoping Opinions and to assess submitted Environmental Statements, all in terms of the provisions of The Environmental Impact Assessment (Scotland) Regulations 2011 as amended.
15 Requests for Further Information on Applications	<ul style="list-style-type: none"> the authority to identify and seek further information from applicants to enable the Council to deal with applications.
16 Legal Agreements/ Planning Obligations	<ul style="list-style-type: none"> In consultation with the Head of Democratic and Legal Services, negotiating, concluding and enforcing planning agreements (planning obligations) under Section 75 of the 1997 Act as amended.
	<ul style="list-style-type: none"> In consultation with the Head of Democratic and Legal Services, to amend Agreements which do not significantly alter their general provisions already concluded under Section 75 of the 1997 Act, as amended.
17 Certificates of Lawfulness of Existing or Proposed Development	<ul style="list-style-type: none"> in consultation with the Head of Democratic and Legal Services to determine all applications for Certificates of Lawfulness of Existing Development and Certificates of Lawfulness of Proposed Development.

<i>Issue</i>	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
18 Enforcement	<p>In consultation with the Head of Democratic and Legal Services, initiation, progression and conclusion of enforcement action or interdict action under Parts VI, VII and or XIV of the Town and Country Planning (Scotland) Act 1997 as amended by Part 4 of the Planning etc (Scotland) Act 2006 or Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended, or Part VII of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 and related legislation or the High Hedges (Scotland) Act 2013.</p> <p>For the avoidance of doubt this delegated authority relates to:</p> <ul style="list-style-type: none"> • Planning Contravention Notices; • Enforcement Notices; • Making reports to the Procurator Fiscal as necessary; • Breach of Condition Notices; • Amenity Notices; • Stop Notices; • Serving of Temporary Stop Notices; • Serving of Fixed Penalty Notices; • Notices to remove Placards/Posters • Hazardous Substances Contravention Notices; • Tree Replacement Notices; • High Hedges Notices; • Notices of Initiation and Completion of Development and indicating development being carried out. • Notices Requiring an Application for Planning Permission to be made.

Issue	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
	but EXCLUDES <ul style="list-style-type: none"> the taking of Direct Action in pursuit of any of the above other than notices seeking the removal of placards/posters.
19 Prior Notifications	<ul style="list-style-type: none"> the authority to determine prior notification applications relating to the demolition of buildings under Class 70 of the GPDO; and the erection or significant alteration or extension of agriculture or forestry building as provided for under Part 6 and 7 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended. to determine prior notification applications relating to the demolition of or the erection of, or the significant alteration or extension of agricultural and forestry buildings as provided for under Part 6 and Part 7 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended.
20 Building Preservation Notices	In consultation with the Head of Democratic and Legal Services the serving of a Building Preservation Notice under Sections 3 and 4 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended.
21 Tree Preservation	<ul style="list-style-type: none"> the authority to determine the need to make Tree Preservation Orders and to vary or revoke existing Tree Preservation Orders. <p>In consultation with the Head of Democratic and Legal Services the drafting and service of Tree Preservation Orders and Emergency Tree Preservation Orders under Part VII of the 1997 Act, as amended by Part V of the Planning etc (Scotland) Act 2006, with the proviso that the serving of any such Order recommended for confirmation shall be reported to the City Development Committee.</p> <p>In consultation with the Head of Democratic and Legal Services, determining the appropriateness of the serving of Tree Replacement Notices under Section 168 of the 1997 Act as amended and once served to monitor implementation and enforce as necessary.</p> <ul style="list-style-type: none"> granting or refusal of statutory permission to carry out work on trees subject of a Tree Preservation Order or the granting or refusal of such permission for works in relation to trees within a Conservation Area or protected by planning condition.

Issue	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
	In consultation with the Head of Democratic and Legal Services, the enforcement of Tree Preservation Orders under Section 171 of the 1997 Act as amended with the proviso that the action taken shall be reported to the City Development Committee as soon as practicable thereafter.
22 Appeals and Inquiries	<ul style="list-style-type: none"> to prepare and deliver written and oral evidence in respect of all appeals and public inquiries relating to the determination of planning and related applications; the enforcement of planning control; tree preservation and high hedges all with the proviso that the outcome of each appeal/inquiry shall be reported to the Development Management Committee as soon as practicable. in consultation with the Head of Democratic and Legal Services to determine the appropriateness of claiming, on behalf of the Council, expenses from appellants in accordance with the terms of Circular 6/1990.
23 Road Construction Consents	<ul style="list-style-type: none"> the issuing of Road Construction Consents under Section 21 of the Roads (Scotland) Act 1984 as amended, the calculation of annual revenue implications for the Council of each consent, and the negotiation and the imposition of road bonds under Section 17 of the Roads (Scotland) Act 1984 with the proviso that the actions taken shall be reported to the Planning and Transport Committee as soon as practicable thereafter. However, where a valid objection is received by the Council then the application will be referred to the City Development Committee for determination. to serve Failure to Comply with Roads Construction Consent Notices under Section 21(5) of the Roads (Scotland) Act 1984 and to report breaches of Roads Construction Consent Notices under Section 22 of the Roads (Scotland) Act 1984 with the proviso that the actions taken shall be reported to the City Development Committee as soon as practicable thereafter. on satisfactory completion of roads to which the provisions of Section 21 of the Roads (Scotland) Act 1984 apply, and if so requested by the applicants to enter these roads on the List of Public Roads for the purposes of management and maintenance in consultation with the Head of Finance and Conveners of the Policy and Resources and City Development Committees.
24 Authority to Enter Upon Land	<ul style="list-style-type: none"> to authorise a person to enter upon any land at any reasonable time for the purposes mentioned in the Town and Country Planning (Scotland) Act 1997 Act as amended by the Planning etc (Scotland) Act 2006 and similar provisions in the legislation relating to listed buildings, conservation areas, high hedges and hazardous substances.

<i>Issue</i>	<u>Proposed Scheme</u> <u>The Executive Director of City Development shall undertake the following under powers delegated to him/her by the Council</u>
25 High Hedges	The determination of all applications for a High Hedge Notice and carry out all functions under the High Hedges (Scotland) Act 2013.

Note 1

For the purposes of the Council's Scheme of Delegation as approved by Scottish Ministers and this operational scheme of delegation a valid representation (letter or statement) shall require to meet the following criteria:

- (a) be in the form of a signed and dated letter or statement or an e-mail indicating the name and postal address of the sender specifically indicating an objection to the application concerned. The letter/statement shall bear a legible name of the signatory and the signatory's address;
- (b) be received by the Council no later than 21 calendar days from the date on which the application was declared as valid by the Council or no later than 21 calendar days of any subsequent Neighbour Notification, or in the case of applications which have the subject of statutory advertisement, no later than the timescale specified in that advertisement;
- (c) where more than one letter/statement of representation per household is received this shall be defined as the Council having received one letter/statement;
- (d) where a letter or petition is received which is signed by more than one person, each signatory must provide a valid postal address, otherwise they will not be considered as a valid representation;
- (e) for the avoidance of doubt pre printed letters or cards which are not individually addressed and signed will not be entertained as valid and acknowledged as such. Photocopied standard template letters will be valid as long as they are signed and dated and bear the postal address of the sender;
- (f) to be valid a representation must contain matters which relate to the application involved and raise matters material in planning terms to the application concerned;
- (g) the content of invalid letters/statements will not be referred to in Director's reports and similarly non-material matters referred to in valid letters of representation will not be referred to or taken into account in the determination of the application;
- (h) the Executive Director of City Development shall, in cases of doubt, determine whether an objection or other representation is valid or timeous; and
- (i) in respect of petitions, notification of decisions will be sent only to the co-ordinator of the petition (if known) or to the first named signatory.

Note 2

For the purposes of the Council's Mandatory Scheme of Delegation and this Discretionary Scheme of Delegation a statutory consultee shall be taken to be consultees referred to in Regulation 25 and Schedule 5 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and will include a Community Council or officially recognised Neighbourhood Representative Structure.

Note 3

For the purposes of the Council's Mandatory Scheme of Delegation and this Discretionary Scheme of Delegation a proposed development is "significantly contrary to the development plan" if the departure concerned, in the judgement of the Executive Director of City Development, is directly related to the achievement of the core objectives of any element of the development plan and the approval of the application would seriously compromise the achievement of the development plan's objectives and compromise its other policies and proposals. For the avoidance of doubt a proposal will not necessarily be significant if, for example, it fails to meet the terms on one or more policies or one or more of the criteria in any criteria based policy.

4. **Building Standards**

- (i) to service Notices and Orders, issue documents and carry out works relating to Dangerous and Defective Buildings and to recover costs from the owner of the building.
- (ii) to grant or refuse Building Warrants, including amendments to warrant.
- (iii) to accept or reject Certificates of Completion.
- (iv) to enter premises for inspection and testing as defined in Sections 39 and 40 of the Building (Scotland) Act 2003.
- (v) to process Building Warrants under the Scottish Type Approval Scheme (STAS) administered by The Scottish Association of Building Standards Managers (SABSM).
- (vi) to grant all relaxation of the Building Standards (Scotland) Regulations.
- (vii) to carry out Building Standard Assessments as required by Section 6 of the Building (Scotland) Act 2003.
- (viii) to impose and discharge a continuing requirement as defined in Sections 22 and 23 of the Building (Scotland) Act 2003.
- (ix) to serve notices under the terms of Sections 25, 26, 27, 28, 29 and 30 of the Building (Scotland) Act 2003.
- (x) to exercise all functions under The Safety of Sports Grounds Act 1975 as amended and all regulations made thereto.
- (xi) to exercise all functions under the Civic Government (Scotland) Act 1982, Section 89 relating to raised structures.
- (xii) to extend duration of validity of Building Warrants.
- (xiii) to require the production of Energy Performance Certificates, serve Penalty Charge Notices and Building Regulations Compliance Notices on building owners and generally have power to enforce the provisions of the Energy Performance of Buildings (Scotland) Regulations 2008 and directions made under the regulations in cases other than the sale of domestic dwellinghouses.

5. **Economic Development**

- (i) to advise the Council on the development and implementation of policies and strategies to promote the economic wellbeing of the City and to take steps for their implementation.
- (ii) to negotiate on behalf of the City Council with existing and prospective investors in relation to all forms of economic activity in the City.
- (iii) to investigate and secure sources of external funding.
- (iv) to identify and develop partnerships with other bodies and companies who can contribute to the City's economic development.
- (v) to negotiate on behalf of the City Council with prospective conference organisers in relation to sponsorship and other forms of support to attract conferences to the City.
- (vi) to negotiate and enter into contracts for the sale or lease of commercial and industrial property held on the City Development Account up to a rental value of £25,000 per annum or a capital value of £25,000.

- (vii) to grant landlords consent for sub-tenancies under traditional ground leases in shopping centres on/and held on City Development Account where the financial consideration is of a minor nature.
- (viii) to grant permission for the use of open pedestrianised areas in the Overgate and to fix fees for non-charitable activities.
- (ix) to approve loans and grants to companies and individuals for economic development purposes (within limits defined by the City Development Committee).
- (x) to prepare and implement the Council's Property Management Strategy.
- (xi) to purchase subject to survey and financial conditions, property available that is either suitable or adaptable to meet the needs of disabled people.
- (xii) in liaison with the Head of Democratic and Legal Services, to investigate and negotiate on the terms of any legal agreements associated with developments, projects or transactions prior to bringing proposals to Committee.
- (xiii) subject to the Council's general provisions regarding the incurring of capital and revenue expenditure to appoint consultants where specialist advice is required.
- (xiv) to process all wayleave, servitude and sub-station site applications from statutory bodies for essential services such as gas mains, telecom cables, call boxes, overhead and underground electricity lines, mains water and drainage pipes and subject to the Head of Democratic and Legal Services signing the appropriate document.
- (xv) to process superior's consent, including retrospective consent, in connection with changes of use, or erection of buildings and fences held on service accounts, where the financial consideration is of a minor nature and subject to the Head of Democratic and Legal Services signing the appropriate document.
- (xvi) with reference to paragraph (e)4 of the powers delegated to the Executive Director of Neighbourhood Services regarding void property and with reference to paragraph 13(xiv) of the powers delegated to the Head of Democratic and Legal Services the Executive Director of City Development will report the sale price to the City Development Committee for information.

6. **Road Network**

6.1 **Roads (Scotland) Act 1984**

- (a) to issue notices under Parts II, V and VIII and to extend notice period under Section 141(3) of the above Act;
- (b) to issue permission or consent, including imposing appropriate conditions thereto, under Parts IV, V and VIII of the above Act (except for permitting trading on principal roads under Section 97);
- (c) to instruct necessary work under Section 15 and Parts IV, V, VIII and XIII of the above Act;
- (d) to recover costs under Parts IV, V, VIII and XIII of the above Act.

6.2 **New Road and Street Works Act 1991**

to carry out the functions of the Council under Sections 112, 115, 117, 118, 120, 122, 123, 124, 131 and 134 of the above Act.

6.3 New Roads - Road Construction Consent

to grant road construction consent with the provision that any consent granted be reported to the City Development Committee as soon as practicable thereafter for information and record purposes.

6.4 Road Traffic Regulation Act 1984 and Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999

The traffic regulation process will be as follows:-

(a) Consultation Stage

The City Development Committee will be asked to authorise the preparation of a Traffic Regulation Order. Once this authority is given, the draft Traffic Regulation Order will be consulted through statutory consultees including emergency services, local bus operators and local councillors.

(b) Publication/Advertisement Stage

If there are amendments to be made to the draft Traffic Regulation Order as a result of comments received during the consultation stage, then a report will then be brought to the City Development Committee and the members will be asked to give permission to proceed to advertise the amended Traffic Regulation Order to the public.

If there are no changes required as a result of the consultation stage, then the Traffic Regulation Order will then progress to be advertised to the public without further reference to the Committee.

(c) Making of the Order Stage

Any maintained objections that cannot be resolved by officers of the Council, will then be brought to the attention of the City Development Committee and the Committee will be asked to consider these objections and to decide whether to make the Traffic Regulation Order or not.

If no objections are raised and maintained, then the Traffic Regulation Order process will allow officers to make the Order without further reference to the Committee.

For all Traffic Regulation Orders that have reached the stage of making of the Order, the Head of Democratic and Legal Services will place a Public Notice (currently in a local newspaper) to advise that the Traffic Regulation Order has been made and confirming the date upon which the Traffic Regulation Order becomes effective.

7. Transportation

(i) Transport Act 1985 and Transport (Scotland) Act 2001

to accept tenders (verbal if the circumstances dictate) as in Section 91(2). Where "action is urgently required" for the purpose of:-

- (a) maintaining an existing service;
- (b) securing the provision of a service in place of a service which has ceased to operate; or
- (c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought, in the opinion of the authority, to be met without delay.

This is in specific regard to Section 88(2).

(ii) Children and Families Service

(i) to accept tenders (verbal if circumstances dictate) as directed by officers of the Children and Families Service where "action is urgently required" for the purpose of school transport provision for:-

- (a) children entitled to statutory school transport;
- (b) children entitled to school transport in terms of Council policy; or
- (c) children authorised for school transport under special circumstances.

(iii) Fleet Management

(i) to operate an MOT and Taxi Testing Station.

8. Engineering(a) Appointment of Consultants

to appoint consultants as may become necessary to accommodate periodic increases in the workload of the service.

(b) Coastal Protection Act 1949

to issue Notices in respect of defective coastal protection works and to instruct any urgent or emergency works required to prevent breaches of the coastal defence system.

(c) Flood Prevention (Scotland) Act 1961 and Flood Prevention and Land Drainage Act 1997

to undertake emergency works to prevent or mitigate flooding of non-agricultural land.

(d) Reservoirs Act 1975

to maintain a register of large raised reservoirs and to arrange regular inspections by suitably qualified consulting engineers.

(e) Roads (Scotland) Act 1984

to maintain the register of bridges and to carry out inspections, assessments and emergency repairs and maintenance to roads, bridges and street lighting.

CORPORATE SERVICES

(a) Finance

The Executive Director of Corporate Services has delegated authority for the following:-

1. write off unpaid Non-Domestic Rates, Council Tax and miscellaneous debts subject to all possible measures to effect collection having been exhausted.
2. establish, administer and monitor the Council's Procurement Strategy, including joint arrangements with other Council's bodies.
3. establish procedures for considering, authorising and making discretionary housing payments and for the consideration by officers, other than the original decision-makers, of appeals against decisions on such application, in line with guidelines approved by Committee.
4. take all necessary actions with regard to the billing, collection and recovery of any Council Tax, Non-Domestic Rate Income or Miscellaneous Income due to the Council.
5. take all necessary actions with regard to the processing of credit balances and refunds in respect of the Council Tax, Non-Domestic Rate Income or Miscellaneous Income due to the Council.
6. exercise all functions on behalf of Dundee City Council relating to the operation of the Tayside Procurement Consortium (TPC), including the award of contracts, provided the same is within the Council's approved Capital and Revenue Budgets and is in accordance with the Procurement Strategy and any other TPC policy approved for that purpose by the Council.
7. act as Treasurer to the Tayside Valuation Joint Board.
8. act as Treasurer to the Tay Road Bridge Joint Board.
9. act as Proper Officer to the Tayside Contracts Joint Committee.
10. act as Treasurer to the Dundee, Perth and Angus and North Fife Strategic Development Planning Authority (Tayplan).
11. act as Treasurer to the Tayside Community Justice Authority.
12. act as Proper Officer for the purposes of Section 95 of the Local Government (Scotland) Act 1973 (proper administration of financial affairs).
13. prepare and maintain a Scheme of Administration on Financial Regulations.
14. monitor and enforce the Council's Financial Regulations.
15. administer the Council's Treasury Policy and Strategy including revising the list and limit of approved counterparties for lending transactions.
16. to approve the voluntary retirement of employees without enhancement (excluding teachers).
17. administer the Local Government Pension Scheme and relevant Additional Voluntary Contribution Schemes.
18. take all necessary steps to ensure risks of loss, damage or injury emanating from Council service provision are properly managed and, where considered necessary, insured against.
19. provide financial advice regarding the status of companies to be included on the Council's Standing List of Contractors.

20. offer advice on Business Finance issues.
21. submit all financial returns on behalf of the Council.
22. together with the Head of Democratic and Legal Services and the Pensions Manager, in terms of Regulation 37 of the Local Government Pension Scheme (Scotland) Regulations 1998, determine to whom the death grant should be paid.
23. to make a grant to the Royal British Legion Scotland to meet the costs of hiring the Caird Hall complex for the Dundee Festival of Remembrance.
24. to make a grant to the Blood Transfusion Service to meet the costs of hiring the Caird Hall complex as necessary.
25. to grant additional exemptions or charge reduced levels of increase in respect of Council Tax on long-term empty properties where hardship or unfairness would otherwise result.

(b) **Information Technology**

The Head of Customer Services and IT has delegated authority for the following activities:-

1. **IT**
 - (i) to provide professional and objective advice on all matters relating to the adoption of information technology solutions to management across the authority at both corporate and service level.
 - (ii) to plan and schedule network and control work carried out by contractors and where practical, install networking.
 - (iii) to design networks (small local PC networks, service networks and corporate networks, both local and wide area), continually bearing in mind the current investment, the changing technology and the increasing and changing needs of the users.
 - (iv) to respond to and resolve all failures and faults in any of the authority's networks.
2. **IT Desktop**
 - (i) to assess hardware requirements; draw up specifications for tendering for and procurement of all IT classified hardware and related systems software. This includes the procurement of all personal computers (PC's), network computers and PC hardware upgrades.
 - (ii) to arrange the installation of all computer hardware to services within the authority (including schools and education).
 - (iii) to carry out maintenance of computer hardware in corporate services (including schools and education).
 - (iv) to control and standardise PC software used within the authority, including version control and the planning, scheduling and implementation of version upgrades.
 - (v) to provide a support and advice service relating to PC software.
3. **IT Software**
 - (i) to develop applications for user services, including systems analysis, systems design, programming, testing and implementation. This service also includes installing the system to user sites where required and support in initial start-up, training and in any subsequent enhancement requirement.

- (ii) to provide a systems maintenance service to all service areas.
- (iii) to install support and provide guidance on application packages bought in from outside suppliers.
- (iv) to provide advice and help to services to eliminate duplication in systems functionality and the integration of PC usage into the corporate work of the service.
- (v) to control and monitor data usage within systems, and the application of database optimization techniques to support the working of the authority's systems.

4. IT Central Operations

- (i) to manage the processing of the authority's corporate systems, including data-input, centralised printing and distribution.
- (ii) to administer and control the operating systems for corporate and service servers and applications machines.
- (iii) to control the usage of the corporate computers and to plan capacity availability for any new systems and/or changes in usage of current systems.

5. IT Client Related Services

- (i) to manage all the authority's IT related contracts.
- (ii) to control and manage all software evaluation and procurement.
- (iii) to develop the Council's IT Strategy/Policy and monitor and control its implementation.
- (iv) to determine standards within the IT Service and to monitor their implementation and application.
- (v) to determine the Council's policy on, and the review, planning and implementation of replacement systems.
- (vi) to develop and manage an in-house IT training facility to support all IT activity within the Council and relevant outside bodies.

6. Telephone Installation

to enter into negotiations and discussions, as necessary, with Telecoms providers for the procurement of equipment to supply the Council's requirements.

(c) **Human Resources and Business Support**

The Head of Human Resources and Business Support has delegated authority for the following activities:-

- (i) to provide advice to the Council on policies to be adopted for its human resources and related functions.
- (ii) to undertake organisational and system reviews for all services of the Council.
- (iii) to design and implement in-house training courses and other development solutions including e-learning and corporate performance and development appraisal arrangements for Council staff.
- (iv) authority to advise services and take action on matters relating to recruitment.
- (v) to carry out negotiations with trade unions on matters relating to conditions of service and industrial relations etc.

- (vi) to advise services and take action on matters relating to discipline, grievances and appeals.
- (vii) to take action necessary to ensure that the Council observes its equal opportunities policies in its role as an employer.
- (viii) appointed person, together with the Head of Democratic and Legal Services, in terms of Regulation 98 of the Local Government Pension Scheme (Scotland) Regulations 1998.
- (ix) to make recommendations to the Chief Executive in relation to the establishment of posts and other establishment changes.
- (x) to oversee the Council's Human Resources and Business Support systems.
- (xi) to advise services and take action on matters relating to employee health, safety and welfare.
- (xii) to advise services on conditions of service issues.
- (xiii) to conduct job evaluations and make recommendations on pay and grading structures.

(d) **Democratic and Legal Services**

The Head of Democratic and Legal Services has delegated authority for the following activities:-

1. act as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989.
2. act as Clerk to the Licensing Board.
3. act as Clerk to the Tayside Valuation Joint Board.
4. act as Clerk to the Tay Road Bridge Joint Board.
5. act as Clerk to the Tayside Contracts Joint Committee.
6. act as Secretary to the Tayside Community Justice Authority.
7. act as Clerk to the Tayside Area Support Team.
8. appointed person, together with the Head of Human Resources and Business Support, in terms of Regulation 98 of the Local Government Pension Scheme (Scotland) Regulations 1998.
9. together with the Executive Director of Corporate Services and the Pensions Manager, in terms of Regulation 37 of the Local Government Pension Scheme (Scotland) Regulations 1998, to determine to whom the death grant should be paid.
10. to charge for responding to Freedom of Information requests where it is permitted to do so (unless in consultation with the Executive Director of Corporate Services it is decided, in a particular case, that it would be inappropriate to do so) and in consultation with the Executive Director of Corporate Services, be authorised to determine the fee chargeable for each request.
11. in consultation with the Executive Director of Corporate Services to decide whether or not to respond to requests for information where the projected costs of doing so would exceed the prescribed amount (£600 at 1 January 2005).

12. **Democratic Services**

(i) **Licensing**

to deal with the undernoted applications in consultation with the Convener of the Licensing Committee:-

- (a) applications to use City Square, Murraygate and the central area of Dundee;
- (b) applications for public charitable collections;
- (c) applications for minibus permits;
- (d) notification for street parades and processions (where no objections have been received);
- (e) applications for small lotteries licences and renewals;
- (f) applications to operate a slaughterhouse;
- (g) applications for temporary public entertainment licences (charitable organisations);
- (h) to grant applications for temporary licence for private hire driver, street trader, taxi driver and window cleaner licences if applicants have satisfied all requirements within 21 days of lodging the application;
- (i) to grant applications for renewal of licences and metal dealer exemption warrants where no objections have been received;
- (j) to vary taxi licence conditions to allow advertising on taxis (except where it is felt appropriate due to the nature of the advertising the application should be dealt with by the Licensing Committee);
- (k) to grant applications under the Marriage (Approval of Places) (Scotland) Regulations 2002 (where there are no objections);
- (l) to suspend a taxi driver's licence or a private hire car driver's licence in terms of paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982 in consultation with the Convener in the event of the Council's medical examiner certifying that the holder of a taxi driver's licence or a private hire car driver's licence was unfit to drive a taxi or a private hire car and that a hearing in terms of paragraph 11 be called within six weeks of the date of the suspension;
- (m) to recall the suspension order in terms of paragraph 12(6) of Schedule 1 in consultation with the Convener in the event of the Council's medical examiner in the period between the suspension and the date of the hearing subsequently certifying that the licence holder had returned to fitness to drive a taxi or a private hire car;
- (n) to vary the condition of licence for Private Hire Cars that the operator must put a vehicle on service within 28 days of the licence coming into effect subject to any subsequent requests being referred to the Licensing Committee for consideration;
- (o) to grant all new applications under Schedule 1 of the 1982 Act where they are within policy and there are no objections, comments or representations and in the case of HMO applications authority in consultation with the Convener to deal with all new applications unless:-

- (i) there is no named managing agent for the premises or the owner/applicant or the named agent has not previously been approved by the Committee as a managing agent;
 - (ii) the application would be in potential breach of the Committee's policy on over-provision of Houses in Multiple Occupation and has not been previously licensed or does not fall within any of the other exceptions to the policy (ie City Centre, purpose built, etc); and
 - (iii) there are no representations, objections or any other adverse comments or issues relating to the application.
 - (p) to determine whether or not good cause exists for allowing late renewal applications to be considered under Schedule 1 to the 1982 Act in consultation with the Convener;
 - (q) to consider applications for renewal where representations from Police Scotland (as opposed to objections) have been lodged in consultation with the Convener and Depute Convener which would include authority to grant applications with or without issuing a warning but not to refuse any applications;
 - (r) to defer consideration of any applications/hearings under Part II of the Civic Government (Scotland) Act 1982, as appropriate, and to advise applicants and agents accordingly;
 - (s) to reject, as incompetent, applications in respect of market operators, public entertainment (site) and street trader's licences (where a permanent or semi-permanent pitch is involved) where evidence has not been submitted by the applicant within the six month period allowed for processing applications that they have the consent of the owner of the ground to occupy the site.
 - (t) to authorise Civic Licensing Standards Officers in terms of Section 5(a), (b) and (c) of the Civic Government (Scotland) Act 1982 to enter and inspect any premises, vehicle or vessel, require production of or inspect any equipment, plant, apparatus or stock in trade and to inspect documentation all as may be required to carry out the provisions of the Act.
- (ii) Data Protection/Freedom of Information
- to deal with any necessary matters on behalf of the Council.
- (iii) Electoral Registration and Election Management
- (a) to act as Electoral Registration Officer.
 - (b) to carry out an annual canvass of households for the purposes of producing an Electoral Register.
 - (c) decide on the validity or otherwise of claims for inclusion on the Register.
 - (d) decide on the eligibility or otherwise of applications for postal/proxy votes.
 - (e) make all necessary arrangements in relation to elections, including accommodation, staffing, stationery and transport etc.
- (iv) Committee Services
- (a) to operate the Council's tendering procedures, including signing of acceptance letters/contracts on behalf of the Council.
 - (b) to enforce the Council's Standing Order and agenda preparation procedures.

- (c) to prepare a Scheme of Administration on Tender Procedures.
- (d) to prepare a Scheme of Administration on Delegated Powers.
- (v) General/Administrative Functions
 - (a) hospitality - in consultation with the Lord Provost, to incur expenditure on the provision of hospitality or entertainment of persons visiting the area of the Council, and functions considered necessary or desirable for maintaining the dignity of the Council/City, subject to the expenditure incurred not exceeding £5,000 on any event and to the amount allowed in the estimates for any one financial year not being exceeded.
 - (b) to affix the common seal of the Council to any deed or other document to which the Council is a party.
 - (c) to make appointments to the Panel of Safeguarders in consultation with the Chairperson of the Children's Panel and the Sheriff Principal.
- (vi) Registration of Births, Deaths and Marriages

to interpret and implement Council policies and Registrar General directives with regard to provision of registration services.

13. Legal Services

to take all action necessary or appropriate to support other officers in the implementation of the powers and duties delegated to them including without prejudice to that generality.

- (i) to appoint Counsel.
- (ii) to appoint external legal advisers.
- (iii) to defend legal actions raised against the Council.
- (iv) to take necessary action for the recovery of debts, monies due to the Council.
- (v) to raise, defend and settle legal proceedings in the Council's best interests.
- (vi) to conclude missives and settle conveyancing transactions.
- (vii) to instruct searches in Property, Personal and Charges Registers.
- (viii) to appoint Sheriff Officers when required.
- (ix) to represent the City Council in all proceedings before Courts, tribunals, enquiries etc.
- (x) to serve Statutory Notices, Orders and the like on behalf of the Council.
- (xi) to decide when a prosecution of parents in a school attendance default case should be withdrawn where circumstances alter to such an extent that prosecution is considered no longer necessary or desirable. This power to be exercised after consultation with the Executive Director of Children and Families Services.
- (xii) to sign the appropriate documentation in respect of all wayleave, servitude and sub-station site applications from statutory bodies for essential services such as gas mains, telecom cables, call boxes, overhead and underground electricity lines, mains water and drainage pipes.
- (xiii) to sign the appropriate documentation in respect of superior's consent, including retrospective consent, in connection with changes of use, or erection of buildings and fences held on service accounts, where the financial consideration is of a minor nature.

- (xiv) with reference to paragraph (e)4 of the powers delegated to the Executive Director of Neighbourhood Services regarding void property, to accept the best offer in each case, on the Council's behalf. Thereafter, the Executive Director of City Development will report the sale price to the City Development Committee for information.

14. Scientific Services

- (i) the functioning, operation and administration of Scientific Services.
- (ii) the statutory duties of Public Analyst, Food Examiner and Official Agricultural Analyst for Dundee City, Angus, Perth and Kinross and Fife Councils.
- (iii) to liaise with relevant local authority services and the private sector etc, as necessary, to provide the information required as a result of an enquiry or submission of a sample for analysis.
- (iv) to supervise analytical work on the whole range of sample types submitted by local authority services involved in the enforcement of legislation relating to food safety, consumer protection, health and safety and enactments relating to the environment with special emphasis on these samples likely to result in legal proceedings.
- (v) to compile reports based on analytical findings and issue them as authorised signatory.
- (vi) to provide scientific and technical advice to local authority services, commercial and industrial concerns and private individuals as required.
- (vii) to supervise, and undertake, as necessary, on-site sampling, inspections and laboratory investigations in order to provide the necessary service.
- (viii) to ensure that the quality assurance system throughout the laboratory is maintained at a level that complies with UKAS requirements.
- (ix) to supervise procedures established for the maintenance of the Laboratory Information Management System (LIMS) as it relates to the internal quality control of the laboratory and to the Food Standards Agency Central Food Database.
- (x) to ensure that a sufficient scope of inter-laboratory collaborative trials is carried out to satisfy the requirements of UKAS Accreditation.
- (xi) to ensure that the requirements of Minutes of Agreement with Dundee City, Angus and Perth and Kinross Councils are maintained to the satisfaction of all signatories to the Agreement.
- (xii) to ensure that the requirements of the Service Level Agreement with Fife Council are maintained to the satisfaction of both parties to the Agreement.
- (xiii) to develop arrangements with Aberdeen and other Councils to provide services of the Public Analyst and other scientific services.

NEIGHBOURHOOD SERVICES

The Executive Director of Neighbourhood Services or appropriate nominated officer has delegated authority for the following activities:-

(a) **General**

1. to provide advice to the Council on policies and strategies to ensure that the service achieves prescribed financial and service objectives.
2. to implement the management systems necessary to support and administer the operations of the service including the use of information and communication technology and to seek external assessment where appropriate eg ISO9001 Investors in People.
3. to conduct customer research in relation to enhancing service provision.

(b) **Construction**

1. to tender for or negotiate appropriate construction and buildings maintenance contracts.
2. to appoint sub-contractors and suppliers as necessary subject to the provisions in the Council's Tender Procedures.
3. to seek to reduce the costs of the services to the Council through identifying and entering into partnerships and/or external trading arrangements which will allow effective use of resources.

(c) **Regulatory Services**

1. to issue Notices on abandoned vehicles in terms of Section 3 of the Refuse Disposal (Amenity) Act 1978.
2. to issue Fixed Penalty Notices in respect of flytipping and dropping of litter in terms of Sections 33A and 88 of the Environmental Protection Act 1990.
3. to issue Notices in respect of the presentation of domestic waste and trade waste in terms of Sections 46 and 47 of the Environmental Protection Act 1990.
4. to issue and withdraw graffiti removal notices under Sections 58 to 65 of the Anti-Social Behaviour etc (Scotland) Act 2004.
5. to process applications for improvement grants, repairs grants and improvement loans and to approve such applications where they meet the criteria laid down by the Community Safety and Public Protection Committee from time to time.
6. to issue Rent Penalty Notices under Section 94 of the Anti-Social Behaviour etc (Scotland) Act 2004 and to decide upon any applications under Section 95 of the said 2004 Act for the revocation of such notices.

7. **Anti-Social Behaviour etc (Scotland) Act 2004 (Part 5) - Noise Nuisance**

- (a) Enforcement Officers to enforce the provisions under Part 5 of the above Act.
- (b) to issue Fixed Penalty Notices under Section 46.

8. **National Assistance Act 1948 as amended by the Local Government (Scotland) Act 1973 (Burial or Cremation of the Dead)**

to arrange for the burial or cremation of deceased persons where no-one is available to make such arrangements.

9. Health Services and Public Health Act 1968 and Orders made thereunder

to exclude food handlers suffering from infectious diseases from work, and arrange for payment of compensation.

10. Dangerous Dogs Act 1989 and 1991 as amended

to seize and detain dogs of several breeds, whose owners have not fulfilled statutory obligations for registration, marking etc.

11. Dog Fouling (Scotland) Act 2003

to issue Fixed Penalty Notices under Section 4.

12. Civic Government (Scotland) Act 1982

- (a) to instruct necessary works for the repair of buildings under Section 87(3) of the Act, in the interest of health. Persons so instructed to prepare, carry out, supervise or inspect these works have been authorised to enter the buildings and the lands pertaining thereto for these purposes.
- (b) to recover costs of any works carried out under Section 87(3) of the above Act from the various owners of the properties concerned on the basis that apportionment is based on equal shares.
- (c) to issue Notices under Section 90 of the Act.
- (d) to instruct necessary works for the repair of the lighting in the common property under Section 90 of the Act in the interest of safety. Persons so instructed to prepare, carry out, supervise or inspect these works have been authorised to enter the buildings and the lands pertaining thereto for these purposes.
- (e) to recover costs of any works carried out under Section 90 of the above Act from the various owners of the properties concerned on the basis that apportionment is based on equal shares.
- (f) to issue Notices under Section 94(2) of the above Act requiring owner or occupier of land or premises containing a disused petrol tank, to have the tank made safe.
- (g) to levy a charge for administration costs in respect of the above as follows:-
10% of the sum of accounts received from contractors with a minimum of £20.

13. Health and Safety at Work etc Act 1974 and any Regulations thereunder

- (a) to issue Improvement and Prohibition Notices.
- (b) to temporarily appoint inspectors to carry out technical appraisals, examinations and/or inspections.
- (c) to give temporary authority to persons with specialist knowledge to accompany authorised officers on site.
- (d) to transfer premises to the Health and Safety Executive and vice-versa.

14. Environmental Protection Act 1990 as amended

- (a) to issue Notices in terms of Section 80 of the Act.
- (b) to instruct necessary works under Section 81 of the Act to abate the statutory nuisance or prevent the recurrence of the statutory nuisance. Persons so instructed to prepare, carry out, supervise or inspect these works have been authorised to enter the buildings and lands pertaining thereto for these purposes.

- (c) to recover costs of any works carried out under Section 81 of the above Act from the person by whose act or default the nuisance was caused.
15. Food Safety Act 1990 and Food Safety and Standards Regulations made under the European Communities Act 1972
- (a) to issue Notices in terms of the legislation.
 - (b) to temporarily appoint inspectors to carry out technical appraisals, examinations and/or inspections and to exercise some or all of the powers specified in paragraph 15(b) hereunder.
 - (c) to give temporary authority to persons with specialist knowledge to accompany authorised officers on site.
16. Prevention of Damage by Pests Act 1949
- (a) to issue Notices under Section 4(1) under the Prevention of Damage by Pests Act 1949.
 - (b) to instruct the works required to comply with the Notice, should the person or persons to whom the Notice had been served not do so within the permitted time.
 - (c) to recover the cost of the works carried out in default.
17. Smoking, Health and Social Care (Scotland) Act 2005 (Part 1)
- (a) for Enforcement Officers to issue Fixed Penalty Notices under Section 6 of the Act.
 - (b) to hear appeals against the issue of Fixed Penalty Notices and to report the findings to the Community Safety and Public Protection Committee for information.
18. Environmental Protection Act 1990 - Sections 33A and 88
- (a) to issue Fixed Penalty Notices in respect of flytipping and dropping of litter in terms of Sections 33A and 88 of the Environmental Protection Act 1990.
 - (b) to issue Notices in respect of the presentation of domestic waste and trade waste in terms of Sections 46 and 47 of the Environmental Protection Act 1990.
19. Tobacco and Primary Medical Services (Scotland) Act 2010
- (a) for Enforcement Officers to issue Fixed Penalty Notices under Section 27 of the Act.
 - (b) to hear representations against the issue of Fixed Penalty Notices.
 - (c) to authorise under Section 5 of the Act persons under the age of 18 to buy, or attempt to buy, tobacco products for the purpose of determining whether an offence has been committed.
20. Legislation Enforced by Environmental Health Officers

Environmental Health Officers, Food Safety Officers, Enforcement Officers or other appropriate officers appointed by Dundee City Council are authorised by virtue of the legislation contained in the Schedule below to enter and inspect premises including any place, stall, vehicle, ship or aircraft, and to inspect, test, seize, sample, detain or purchase such goods, equipment or documents as may be required to carry out the provisions of the said legislation.

SCHEDULE

Air Weapons and Licensing (Scotland) Act 2015
 Animal Boarding Establishments Act 1963
 Animal Health and Welfare (Scotland) Act 2006
 Anti-Social Behaviour etc (Scotland) Act 2004 (Part 5) - Noise Nuisance
 Animal Health Act 1981
 The Beef and Veal Labelling (Scotland) Regulations 2010
 Betting, Gaming and Lotteries Act 1963
 Breeding of Dogs Act 1973 and 1991
 Breeding and Sale of Dogs (Welfare) Act 1999
 Caravan Sites and Control of Development Act 1960
 Civic Government (Scotland) Act 1982
 Clean Air Act 1993
 Control of Dogs (Scotland) Act 2010
 Control of Pollution Act 1974
 Dangerous Dogs Act 1989 and 1991 (as amended)
 Dangerous Wild Animals Act 1976
 Dogs Act 1906
 Dog Fouling (Scotland) Act 2003
 Environment Act 1995
 Environmental and Safety Information Act 1988
 Environmental Protection Act 1990 (as amended)
 European Communities Act 1972 and Orders or Regulations or amendments made thereunder
 Factories Act 1961
 Food and Environment Protection Act 1985
 The Food Hygiene (Scotland) Regulations 2006 (as amended)
 Food Information (Scotland) Regulations 2014 (as amended)
 Food Safety Act 1990 (as amended)
 The Gambling Act 2005
 Food Safety and Food Standards Regulations made under the European Communities Act 1972
 The Food Safety, Ships and Aircraft (England and Scotland) Order 2003
 General Food Regulations 2004
 Guard Dogs Act 1975
 Health and Safety at Work etc Act 1974 and any Regulations thereunder
 Health Services and Public Health Act 1968
 Housing (Scotland) Act 2006
 Licensing (Scotland) Act 2005
 Medicines Act 1968
 Microchipping of Dogs (Scotland) Regulations 2016
 National Assistance Act 1948 (as amended)
 Offices, Shops and Railway Premises Act 1963
 Official Feed and Food Controls (Scotland) Regulations 2009 (as amended)
 Performing Animals (Regulation) Act 1925
 Pet Animals Act 1951
 Prevention of Damage by Pests Act 1949
 Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006
 Public Health (Scotland) Act 2008
 Regulatory Reform (Scotland) Act 2014
 Riding Establishments Acts 1964 and 1970
 Smoking, Health and Social Care (Scotland) Act 2005 (Part 1)
 Tobacco and Primary Medical Services (Scotland) Act 2010
 Theatres Act 1968
 Trade in Animals and Related Products (Scotland) Regulations 2012 (as amended)
 Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010
 Waste (Scotland) Regulations 2012
 Water (Scotland) Act 1980

- and all Orders and Regulations made under the above.

21. **Specific Authorisation for Environmental Health Officers and Food Safety Officers**

- (a) Environmental Health Officers are authorised to be inspectors for the purposes of the Health and Safety at Work etc Act 1974 and to exercise the powers of an inspector specified in:-
 - (i) Sections 20, 21, 22 and 25;
 - (ii) any Health and Safety Regulations;
 - (iii) the provisions of the relevant Acts mentioned in Schedule 1 of the 1974 Act which specified in the third column of that Schedule and of the Regulations, Orders or other Instruments of a legislative character made or having effect under any provision so specified.
- (b) Environmental Health Officers and Food Safety Officers holding the Higher Certificate in Food Safety Inspection are authorised to be inspectors for the purpose of:-
 - (i) the Food Safety Act 1990, Part I, Section 5(6) and to exercise powers of an inspector specified in Sections 9, 10 and 12, Part III, Sections 29, 30 and 32, Part IV, Sections 49 and 50;
 - (ii) the Food Hygiene (Scotland) Regulations 2006 and to exercise powers of an authorised officer specified in Regulations 6, 8, 9, 12, 13 and 14;
 - (iii) the Official Feed and Food Controls (Scotland) Regulations 2009;
 - (iv) Regulations (EC) No 852/2004 and 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin and to grant, refuse or withdraw approval to establishments subject to approval in terms of the Regulations;
 - (v) any Food Safety Regulations and Food Standard Regulations made under the Food Safety Act 1990 or having effect by virtue of the European Communities Act 1972; and
 - (vi) any modification or re-enactment or any of the foregoing.
- (c) Environmental Health Officers are authorised to issue Notices under Section 60 of the Control of Pollution Act 1974 to control noise levels emanating from construction sites.
- (d) Environmental Health Officers are authorised to approve applications in terms of Section 61 of the Control of Pollution Act 1974 for prior consent for work undertaken on a construction site.

22. **Legislation Enforced by Trading Standards Officers**

Trading Standards Officers or other appropriate officers appointed by Dundee City Council are authorised by virtue of the legislation contained in the Schedule below to enter and inspect premises including any place, stall, vehicle, ship or aircraft, and to inspect, test, seize, sample, detain or purchase such goods, equipment or documents as may be required to carry out the provisions of the said legislation.

SCHEDULE

Agriculture Act 1970
 Agriculture Produce (Grading and Marking) Acts 1928-1931
 Animal Health Act 1981
 Animal Health and Welfare (Scotland) Act 2006
 Anti-Social Behaviour etc (Scotland) Act 2004
 Biocidal Products and Chemicals Regulations 2013
 Business Protection from Misleading Marketing Regulations 2008
 Civic Government (Scotland) Act 1982 - Sections 94 and 99
 Children and Young Persons Act 1937
 Children and Young Persons (Protection from Tobacco) Act 1991
 Construction Products Regulations 2013
 Consumer Credit Act 1974 and 2006
 Consumer Protection Act 1987
 Consumer Protection from Unfair Trading Regulations 2008
 Consumer Rights Act 2015
 Clean Air Act 1993 - Section 30
 Copyright Designs and Patents Act 1988
 Education Reform Act 1988 - Section 214
 Energy Act 1976
 Energy Conservation Act 1981
 Enterprise Act 2002 - Part 8
 Environment and Safety Information Act 1988
 Estate Agents Act 1979
 European Communities Act 1972
 Explosives Acts 1875 and 1923
 Explosive Regulations 2014
 Fair Trading Act 1973
 Farm and Garden Chemicals Act 1967
 Fireworks Act 2003
 Food and Environmental Protection Act 1985 - Part III
 General Product Safety Regulations 2005
 Hallmarking Act 1973
 Health and Safety at Work etc Act 1974 - Sections 19 and 20
 Housing (Scotland) Act 2006
 Medicines Act 1968
 Motor Cycle Noise Act 1987
 Official Feed and Food Controls (Scotland) Regulations 2005
 Pesticides Act 1998
 Petroleum (Consolidation) Regulations 2014
 Petroleum (Regulations) Acts 1928-1936
 Prices Acts 1974 and 1975
 Psychoactive Substances Act 2016
 Road Traffic Act 1988 - Section 17
 Single Use Carrier Bags Charge (Scotland) Regulations 2014
 Smoking, Health and Social Care (Scotland) Act 2005
 Telecommunications Act 1984 - Sections 28 and 29
 Timeshare, Holiday Products, Resale and Exchange Regulations 2010
 Tobacco Advertising and Promotion Act 2002
 Tobacco and Primary Medical Services (Scotland) Act 2010
 Trade Descriptions Act 1968
 Trade Marks Act 1994
 Trading Schemes Act 1996
 Trading Stamps Act 1964
 Unsolicited Goods and Services Act 1971
 Video Recordings Acts 1984 and 1993
 Weights and Measures Act 1985

- and all Orders and Regulations made under the above.

23. **Specific Authorisation for Trading Standards Officers and Enforcement Officers**

- (a) Trading Standards Officers are authorised to issue Suspension Notices under Section 14 of the Consumer Protection Act 1987.
- (b) Trading Standards Officers are authorised to be inspectors for the purposes of the Health and Safety at Work etc Act 1974 and to exercise the powers of an inspector specified in:-
 - (i) Sections 20, 21, 22 and 25;
 - (ii) any relevant Health and Safety Regulations; and
 - (iii) the provisions of the relevant Acts mentioned in Schedule 1 to the 1974 Act which specified in the third column of that Schedule and of the Regulations, Orders or other Instruments of a legislative character made or having effect under any provision so specified.
- (c) Trading Standards Officers are appointed as Inspectors of Weights and Measures under Section 73 of the Weights and Measures Act 1985 to discharge all of the functions conferred or imposed on inspectors by or under this Act.
- (d) **General Product Safety Regulations 2005**
 Trading Standards Officers are authorised to exercise the enforcement powers specified in Part 3, Regulations 11, 12, 13, 14, 15 and 22.
- (e) **Food Safety Act 1990 and Food Safety and Standard Regulations made under the European Communities Act 1972**
 Trading Standards Officers are authorised to be inspectors for the purposes of:-
 - (i) the Food Safety Act 1990 Part I, Section 5(6) and to exercise the powers of an inspector specified in Part II, Section 9, Part III, Sections 29, 30 and 32 and Part IV, Sections 49 and 50;
 - (ii) the Food Hygiene (Scotland) Regulations 2006 and to exercise powers of an authorised officer specified in Regulations 12, 13 and 14;
 - (iii) the Official Feed and Food Controls (Scotland) Regulations 2005;
 - (iv) any Food Safety Regulations and Food Standard Regulations made under the Food Safety Act 1990, or having effect by virtue of the European Communities Act 1972; and
 - (v) any modification or re-enactment of the foregoing.
- (f) **Housing (Scotland) Act 2006**
 Trading Standards Officers are authorised to exercise the enforcement powers specified in Part 3 of the Act, including the requirement to produce prescribed documents, and to serve Penalty Charge Notices, and generally have power to enforce the provisions of Regulations made under the Act.

24. **Other Authorisations**

Officers nominated by the Executive Director of Neighbourhood Services are authorised to carry out the statutory duties of the City Council in the terms of the Control of Pollution Act 1974, the Environmental Protection Act 1990, Part II and as the Litter Authority in terms of the Environmental Protection Act 1990, Part IV.

(d) Environment

1. to tender for or negotiate appropriate grounds maintenance and arboriculture contracts.
2. to appoint sub-contractors and suppliers, as necessary, subject to the provisions in the Council's Tender Procedures.
3. to grant permission and approve bookings for the use of public open spaces and landscaped areas, playing fields and other facilities under the auspices of the Environment Service including lets and repeat events.
4. to develop and provide advice to the Council on policies for the development and maintenance of open spaces and landscaped areas including playgrounds.
5. to alter charges to service facilities and activities as part of short-term marketing initiatives, improve access to all citizens and in order to react to the changing marketing environment.
6. to approve/refuse requests for the use of parks and open spaces as civil marriage venues as far as the service's interest is concerned.
7. to develop and provide advice to the Council on policies for the development and maintenance of parks, playing fields, outdoor recreation, playgrounds, cemeteries, burial grounds, allotments, urban areas, outdoor access, open spaces and landscaped areas including playgrounds.
8. in liaison with the Head of Democratic and Legal Services, to issue duplicate title deeds for burial plots.
9. to progress exhumation as and when such instances and measures are required.

(e) Housing and Communities

1. to advise the Council on strategies and policies for the development and implementation of a comprehensive housing service including Local Housing Strategy and Strategic Housing Involvement Plan.
2. to administer the sale of Council houses to tenants.
3. to administer the Council's House Letting Scheme.
4. to offer for sale on the open market properties from the Housing stock which became void and were the sole remaining property in the block of three or more properties and allow marketing by either the Executive Director of City Development or by a local firm of solicitors whichever the Head of Housing and Communities considered appropriate in each case (also see powers delegated to the Head of Democratic and Legal Services (paragraph 13(xiv) refers).
5. the undernoted officers or their equivalents have delegated authority to sign Tenancy Agreements and Short Scottish Secure Tenancies on behalf of the Council:-

District Managers
 Team Leaders
 Housing Officers
 Advice and Information Officers

6. to deal with requests for consent from owners of ex-Council houses or to delegate such authority to such appropriate Senior Housing Officer as he or she may decide, where such consent is necessary in terms of the title deeds.
7. to designate appropriate members of staff to exercise the powers of inspection and entry vested in the Council by Section 17(2) of the Housing (Scotland) Act 1987 as amended (with regard to furnished tenancies).
8. to assess homeless applications and provide a range of temporary and permanent accommodation in accordance with the Housing (Scotland) Act 2001 and Homelessness (Scotland) Act 2003.
9. to provide housing for essential incoming workers.
10. to approve Service Level Agreements with Women's Aid and other voluntary organisations.
11. to approve tenant representation at conferences.
12. to develop proposals for a Scheme for Decentralisation in terms of Section 23 of the Local Government etc (Scotland) Act 1994.
13. to operate the Council's Scheme for Establishment of Community Councils; and
14. to organise and supervise elections or other voting arrangements for the purpose of establishing Community Councils.
15. to grant permission for the use of community facilities including lets and repeat events.
16. management and operation of community buildings in accordance with policy.
17. to develop and provide advice to the Council on policies for community centres.
18. to approve applications from voluntary organisations, including youth organisations and adult learning, for grants and other forms of assistance under the Education (Scotland) Acts and relevant Regulations up to a value of £1,000 to any one group in any financial year subject to (i) the details of any award being reported to Committee for information and record purposes and (ii) any award made meeting criteria laid down by the Policy and Resources Committee.
19. to organise and supervise elections or other voting arrangements for the purpose of establishing Community Councils.
20. to approve Administration grants to Community Councils and Neighbourhood Representative Structures.
21. to approve Administration grants to Adult Education Associations.