



# **Fife Council List of Officer Powers**

**Fife House,  
North Street,  
GLENROTHES,  
Fife.  
KY7 5LT**

**Effective from 12th November, 2020**

<b>Date</b>	<b>Author</b>	<b>Version</b>	<b>Status</b>	<b>Reason for Change</b>
27/09/17	ACF	1.0		Draft for changes to be put to Council 05.10.17
17/10/17	ACF	1.1	As approved by Council	Final publication version
20/10/17	ACF	1.2		Working draft incorporating suggested changes from Services for consultation
04/01/18	ACF	1.3		Updated working draft
23/02/18	ACF	1.4		Final version for submission to full Council 8/3/18
15/03/18	ACF	1.5	As approved by Council	Publication version pending approval of planning scheme by Scottish Ministers
22/03/18	ACF	1.6		Final version following approval of 7.3.1 by Scottish Ministers
09/02/19	ACF	1.7	Approved under delegated powers (para 3.2.4)	Technical amendments to take account of consequential changes, forthcoming legislation, etc. Reordering of E & E Directorate list to take account of current structures.
18/06/19	ACF	1.8	Submission version for Fife Council	
04/07/19	ACF	2.0	Finalised version following Fife Council decision of 27/06/19	
12/11/20	HC	3.0	Post Council Final Version	Includes amendments agreed at Council on 12th Nov 2020 and consequential minor amendments made under delegated authority

# List of Officer Powers

## Contents

<b>Section</b>		<b>Page</b>
<b>1.0</b>	<b>Application</b>	5
	1.1 Commencement	5
	1.2 Interpretation	5
	1.3 Alteration	5
	1.4 General provisions for all users of delegated powers	5
<b>2.0</b>	<b>Delegations to all Executive Directors</b>	8
	2.1 Emergencies and Cases of Urgency	8
	2.2 Proper Officer	8
	2.3 Employees	8
	2.4 Contracts	9
	2.5 Finance	9
	2.6 Advertising	9
	2.7 Grants	9
	2.8 Ex Gratia Payments	10
	2.9 Power of Well-being	10
<b>3.0</b>	<b>Chief Executive</b>	11
	3.1 General	11
	3.2 Proper Officer	11
	3.3 Employment Matters	11
	3.4 Elections	12
<b>4.0</b>	<b>Executive Director (Finance and Corporate Services)</b>	13
	4.1 General	13
	4.2 Proper Officer	14
	4.3 Property Transactions	15
	4.4 Finance	17
	4.5 Delegations relating to Pensions Administration Collaboration	18

<b>Section</b>		<b>Page</b>
<b>5.0</b>	<b>Executive Director (Education and Children's Services)</b>	19
<b>6.0</b>	<b>Director of Health and Social Care</b>	20
<b>7.0</b>	<b>Executive Director (Enterprise and Environment)</b>	22
	7.1 Assets, Transportation and Environment Service	22
	7.2 Protective Services	24
	7.3 Planning Service	27
	7.4 Business & Employability Services	31
<b>8.0</b>	<b>Executive Director (Communities)</b>	31
	8.1 Housing Services	31
	8.2 Communities and Neighbourhoods	32
	8.3 Customer and Online Services	33
	8.4 Communications	33
<b>9.0</b>	<b>Other Delegations</b>	34
	9.1 Head of Legal and Democratic Services	34

<b>Appendices of Relevant Legislation</b>		35
Section 1 – Environmental Health		35
Section 2 – Trading Standards		37
Section 3 – Children's Social Work Services		39
Section 4 – Integration Joint Board and Health and Social Care Partnership		39
Section 5 – Communities		39

## **1.0 Application**

---

### **1.1 Commencement**

This List of Officer Powers shall commence and have effect as from 12th November, 2020. It replaces the List of Officer Powers which came into effect on 4th July, 2019. It is a summary of the functions, with associated powers, which the Council has chosen to delegate to officers in terms of s.56 of the Local Government (Scotland) Act 1973.

### **1.2 Interpretation**

1.2.1 In the document, the following words shall have the following meanings assigned to them, that is to say:-

- "Act" means the Local Government (Scotland) Act 1973
- "Council" means the Fife Council
- "Executive Director" means any of the Chief Executive, the Executive Directors (Education and Children's Services), (Enterprise and Environment), (Finance and Corporate Services) and (Communities); and the Director of Health and Social Care.

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

1.2.3 Subject to the rest of paragraph 1.2, the Interpretation Act 1978 shall apply to the interpretation of this document as it applies to the interpretation of an Act of Parliament.

### **1.3 Alteration**

Subject to the provisions of the Act, the Council shall be entitled to amend, vary or revoke this document from time to time. Non-substantive amendments may be made by the Chief Executive in terms of paragraph 3.2.4.

### **1.4 General provisions for all users of delegated powers**

1.4.1 Where an Executive Director has delegated authority, the principle of subsidiarity should be applied and decisions should be further delegated to as close to the point of service delivery as is appropriate in the circumstances. Each Executive Director must prepare and publish internally a List of Officer Powers / Scheme of Delegation for the Services for which they are responsible which details those decisions which have been delegated to officers within these Services, as well as making a copy available to members of the public on request. Actions which relate to areas of professional specialisms must be delegated to appropriate officers.

- 1.4.2 An Executive Director may arrange for powers delegated to them to be exercised by another Executive Director. When powers are delegated to another Executive Director, both Executive Directors must retain a written record of the delegated powers in question.
- 1.4.3 All delegated powers must be exercised subject to adequate budgetary provision being available and having regard to the terms of:-
- all relevant legislation and other legal frameworks
  - the Council's Financial Regulations
  - Standing Orders - Scheme of Tender Procedures
  - the Council's human resources policies and procedures
  - relevant plans and policies adopted by the Council, including the Plan for Fife
  - National Code of Local Government Conduct
  - The Scottish Joint Committee Council's Terms and Conditions for all employees working for Local Councils
  - any relevant provisions contained elsewhere in the Council's Governance Scheme (including Standing Orders and the List of Committee Powers)
  - The Public Sector Equality Duty.
- 1.4.4 An employee must not make any decision or take any action in accordance with powers conferred by this document or any Service Scheme of Delegation if the decision or outcome could create the perception that an employee is not strictly adhering to the key principles of public life as set out in the Council's Employee Code of Conduct. These principles are:
- Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Respect
  - Leadership.
- 1.4.5 Delegated powers must not be used where either the interests of the employee, the matter to which the decision relates or the identity of any other person involved could lead a member of the public to conclude that the powers had been used to obtain preferential treatment or to avoid scrutiny by the Council or a Committee of the Council. If an employee is in any doubt as to whether they should make use of delegated powers, then they should seek guidance from their Executive Director.
- 1.4.6 The provisions of this document are intended to assist in the efficient and effective management of the Council's activities and to foster a culture of responsiveness to customers and service users. In applying this document, it is important that officers pay due regard to the need for appropriate periodic reporting of delegated decisions to members of the Council, both for information purposes and to allow Councillors to properly discharge their scrutiny role.
- 1.4.7 The powers granted directly to officers under statute, and those implicit in the terms of contracts of employment of Executive Directors or other officers, are not covered exhaustively in this document: when set out in the body of this document, it is for information purposes only.

- 1.4.8 Where a power to be exercised is in pursuance of a specific statutory function, then the relevant officer shall be presumed to have delegated authority to exercise the power, except where:
- the exercise involves the setting of policy
  - the power has been specifically reserved to the Council or a Committee or Sub-Committee and paragraph 2.1 does not apply; or
  - the power cannot be delegated by law to an officer.
- 1.4.9 Where appropriate, and as provided for in this document, consultation with relevant elected members should be carried out wherever practicable by officers before exercising delegated powers. Such consultation should be meaningful and have regard to the terms of the Member Officer Protocol whilst balancing the need for open and honest dialogue against time pressures and the efficient dispatch of Council business.
- 1.4.10 The way we communicate as a Council, and as individuals on behalf of the Council, is bound by The Code of Recommended Practice on Local Government Publicity (1988).

In summary, this confirms all Council communication should:

- be directly relevant to the functions of the Council
- not duplicate unnecessarily publicity produced by another authority
- be targeted, objective, fact based and explanatory
- not be – or liable to be – misrepresented as being party political
- not over simplify controversial issues
- be delivered efficiently and effectively
- be justifiable in terms of public spending

## **2.0 Delegations to all Executive Directors**

---

### **2.1 Emergencies and Cases of Urgency**

2.1.1 An Executive Director is authorised to take such measures as may be required in emergency situations, or in cases of urgency, including during a vacation period, subject to advising the appropriate Convener and Vice-Convener, as soon as possible, and to reporting to the appropriate Committee as soon as possible thereafter, on any items for which Committee approval would normally be necessary. Where such measures involve the Council in incurring expenditure, then the Chief Executive and Executive Director (Finance and Corporate Services) should be advised.

### **2.2 Proper Officer**

2.2.1 An Executive Director shall, in respect of any report prepared by or on their behalf, act in consultation with the Executive Director (Finance and Corporate Services) as the proper officer for the purposes of section 50D of the Act (Inspection of Background Papers).

### **2.3 Employees**

2.3.1 An Executive Director may amend the establishment of their Services below second tier level where:-

- the Executive Director (Finance and Corporate Services) has been consulted
- costs can be met on a continuing basis
- the post has been graded (new posts) or re-graded (existing posts) under the appropriate Job Evaluation Scheme
- there is no conflict with other Council policies

Any posts established should be reported in the Directorate's annual performance monitoring report to Committee, consulting with the political groups on any major establishment changes.

2.3.2 An Executive Director may appoint an employee below second tier level where:-

- the appointment is in accordance with the Council's pay and grading arrangements
- costs can be met on a continuing basis
- there is no conflict with any current policy on appointments to vacancies

2.3.3 An Executive Director shall be responsible for implementing the provisions of the Council's employment policies and procedures including decisions to dismiss under the agreed Disciplinary and Attendance Management Procedures. Dismissals should be reported in the Annual Workforce Report.

2.3.4 An Executive Director may authorise employees to attend:-

- training and development events, courses, conferences and seminars subject to reports being made available to elected members
- meetings of appropriate professional associations



2.3.5 An Executive Director may approve the voluntary redundancy, early retirement or ill health retirement of any employee in their Directorate where:-

- the Executive Director (Finance and Corporate Services) has been consulted and has agreed (in the case of Finance and Corporate Services employees, the Executive Director shall advise the Chief Executive of any relevant matters)
- the termination is in accordance with the relevant Council policy

Any such terminations should be reported to the Superannuation Fund and Pensions Committee, for monitoring purposes, and to the Policy and Co-ordination Committee as part of the Annual Workforce Report.

2.3.6 An Executive Director may respond to consultations from the Scottish or UK Government, local authorities or other bodies on matters relevant to the Council where, so far as practicable within the timescales available:-

- the Convener, Vice Convener and other members of any appropriate Committee have been consulted as to whether the matter should be considered at Committee
- the views of individual members are taken into account so far as possible

## 2.4 **Contracts**

2.4.1 The delegations to Executive Directors in respect of contracts are set out in the Council's Standing Orders - Scheme of Tender Procedures.

## 2.5 **Finance**

2.5.1 An Executive Director may, in accordance with procedures set out in the Council's Financial Regulations, transfer amounts between heads of expenditure.

## 2.6 **Advertising**

2.6.1 An Executive Director may authorise the accepting of advertising and/or sponsorship in respect of Council controlled media where the value of the contract to be entered into is less than £20,000 and the terms of the Council's Advertising and Sponsorship Policy are complied with, with the agreement of the Executive Director (Communities).

## 2.7 **Grants**

2.7.1 An Executive Director may determine applications for grant which are received from individuals, voluntary bodies, agencies or businesses in those cases where the sum applied for is less than £5,000 and the Council already has in place agreed criteria and assessment systems relating to the type of grant applied for. An annual report detailing such expenditure must be submitted to the relevant Committee.

2.7.2 Decisions in respect of grants paid from the Community Safety Project Fund should only be made following consultation with the Convener of, and the elected member representatives on, the Community Safety Partnership Group and the Convener of the Environment and Protective Services Committee.

2.7.3 An Executive Director may apply for and accept grants or a challenge fund, so long as these do not give rise to future financial commitments that the Council has to meet, or do not need the Council to provide additional funding that cannot be met from existing resources. A record will be kept of all such additional funding so as to enable its full auditing.

## 2.8 **Ex Gratia Payments**

2.8.1 Where an individual complaint or claim for compensation has been or is likely to be submitted to the Council, then an Executive Director may decide that the circumstances giving rise to the claim merit the making of an ex gratia payment. All ex gratia payments must be made without any admission of legal liability and this must be stated in writing at the time any payment is made. Executive Directors and the Chief Executive are authorised to make such payments up to the value of £2,500 and £5,000 respectively.

## 2.9 **Power of Well-being**

2.9.1 An Executive Director may, following consultation with the Executive Director (Finance and Corporate Services), exercise the Council's Power to Advance Well-being to take measures where expedited action is necessary. The Executive Director shall record the exercise of the power and the costs incurred in a register to be maintained by the Executive Director (Finance and Corporate Services). Where the use of the power relates to a single ward, the ward members shall be advised of its use.

## **3.0 Chief Executive**

---

In addition to the delegated authority specified in section 2 above, the Chief Executive is authorised:-

### **3.1 General**

- 3.1.1 To act as the Head of the Council's Paid Service in terms of section 4 of the Local Government and Housing Act 1989.
- 3.1.2 To give a direction in special circumstances that any employee shall not exercise a delegated function subject to reporting on the terms of the direction to the next meeting of the appropriate Committee.
- 3.1.3 To determine, in the temporary absence of any Executive Director, who may exercise powers not already delegated further on their behalf; in the absence of the Chief Executive, this power will be exercised by the Executive Director (Finance and Corporate Services).
- 3.1.4 To decide, in consultation with the Provost and the Council Leader(s), requests for inward and outward visits in connection with existing twinning links.
- 3.1.5 To determine applications by employees to attend training and development events, courses including conferences and seminars and meetings of professional associations, within and outwith the United Kingdom.

### **3.2 Proper Officer**

3.2.1 To act as the Proper Officer for the following purposes of the Act:-

- (a) section 33A - Declaration of acceptance of office as a councillor
- (b) section 34 - Receipt of resignations of councillors
- (c) section 194 (1) - Execution of deeds.

Other than provided for in this document, this authority cannot be delegated further.

- 3.2.2 To act as Proper Officer for the nomination of a substitute member pro tem for any specific meeting of the Tay Road Bridge Joint Board in the event of neither the member nor the substitute member being available.
- 3.2.3 To act as the Proper Officer for the purpose of determining which Committee or Sub-Committee should consider any matter in terms of the Council's List of Committee Powers.
- 3.2.4 To make, in consultation as necessary with the Council Leader and the Leader of the Opposition, such non-substantive amendments of a technical, or grammatical nature as may from time to time be required to the List of Committee Powers, List of Officer Powers, Standing Orders and / or Financial Regulations, arising from changes to the organisational structure, changes to the law, or otherwise.

### **3.3 Employment Matters**

- 3.3.1 To suspend any Executive Director from duty on full pay for the proper exercise of discipline and to protect the interests of the Council where:-

- there is no conflict with relevant statutory provisions and Council policies
- any suspension should be reported to the Policy and Co-ordination Committee as soon as practicable.

3.3.2 To agree severance terms with any Chief Officer whereby the Chief Officer agrees to terminate their contract of employment with the Council where:-

- there is no conflict with relevant statutory provisions and Council policies

3.3.3 To deal with and, where appropriate, approve applications by employees for assistance with legal expenses for their defence or towards the payment of any fine imposed where:-

- an employee has been charged, convicted or fined in respect of acts or omissions arising in the course of their employment under:
  - the Health and Safety at Work etc. Act 1974
  - the Road Traffic Acts
  - other relevant legislation
- an employee aggrieved by a decision of the Chief Executive has a right to appeal to the appropriate Appeals Committee.

#### 3.4 **Elections**

3.4.1 To act as the Returning Officer or equivalent role for the purpose of any elections or referenda.

## **4.0 Executive Director (Finance and Corporate Services)**

---

In addition to the delegated authority specified in section 2 above, the Executive Director (Finance and Corporate Services), is authorised:-

### **4.1 General**

- 4.1.1 To institute, defend, settle or appear in any legal or tribunal proceedings or any hearing or inquiry held by or on behalf of any minister or public body under any enactment (including, for the avoidance of doubt, proceedings before any statutory tribunal, board or authority) and to appoint or consult with external legal advisers including Counsel, where it is considered expedient to do so for the promotion or protection of the Council's interests.
- 4.1.2 To execute, publish or serve on any person or body, any notice, direction, order, licence, summons, writ or other document which the Council is required or authorised to execute, publish or serve under the Act or any other Act or any regulation or order made thereunder, other than where the execution, publication or service of any document has been delegated by the Council to another Executive Director.
- 4.1.3 To make arrangements (where no arrangements are being made on a person's behalf and they are incapable of adequately managing their property and affairs) for applying to the Court for the appointment of a welfare or financial guardian or intervener under the Adults with Incapacity (Scotland) Act 2000 ("the 2000 Act") and to otherwise act on the Council's behalf in any proceedings under the 2000 Act.
- 4.1.4 With reference to planning appeals - to submit a statement on behalf of the Council in respect of such appeals where decisions have been made contrary to the officer's recommendation. This power is to be exercised in consultation with the appropriate officers.
- 4.1.5 To lodge, maintain and withdraw representations or objections on behalf of the Council to liquor licensing applications. This power is to be exercised in consultation with any other Executive Director who wishes to be represented.
- 4.1.6 To lodge, maintain and withdraw representations or objections on behalf of the Council relating to applications for the provision of gaming machines.
- 4.1.7 To consider applications for licences under Section 3 of the Civic Government (Scotland) Act 1982 and thereafter to determine these and other applications for licences, permissions, permits and ancillary matters in terms of that Act, the Theatres Act 1968, the Gambling Act 2005 and the Cinemas Act 1985 that determination being subject to there being no objections to the application.
- 4.1.8 On being satisfied that it is appropriate to do so, to institute proceedings against persons contravening sections 35, 41 or 42 of the Education (Scotland) Act 1980 in relation to irregular attendance of school pupils, in consultation with the Executive Director (Education and Children's Services).

- 4.1.9 To take such measures as considered appropriate to discharge responsibilities set out in the Council's Contract Standing Orders ("the Scheme of Tender Procedures").
- 4.1.10 To carry out all functions of the Council relating to the Children's Panel in terms of the Children's Hearings (Scotland) Act 2011.
- 4.1.11 To carry out all necessary actions to ensure the Council complies with its obligations in relation to data protection and freedom of information legislation as well as the Regulation of Investigatory Powers (Scotland) Act 2000; this power shall include the power to appoint a Data Protection Officer and acting as designated senior officer for the purposes of the Regulation of Investigatory Powers Act 2000.
- 4.2 **Proper Officer**
- 4.2.1 To act as the Proper Officer in terms of section 194 of the Act and to sign all deeds and documents, including stock certificates, bonds and mortgages, which require to be sealed with the common seal of the Council.
- 4.2.2 To act as the proper officer for the following purposes of the Act:-
- (a) section 68 - Recording of disclosures of interest by employees
  - (b) section 50B - Access to agenda and connected reports
  - (c) section 50C - Inspection of minutes and other documents
  - (d) section 50D - Inspection of background papers (in respect of consultation by the appropriate head of service)
  - (e) section 50F - Additional rights of access to documents for members of local authorities
  - (f) section 145 - Ordnance Survey
  - (g) section 190 - Service of legal proceedings, notices, etc.
  - (h) section 191 - Claims in sequestrations and liquidations
  - (i) section 192 - Service of notices etc. by local authority
  - (j) section 193 - Authentication of documents
  - (k) section 197 - Inspection and deposit of documents
  - (l) sections 202 and 202B - Procedure etc. for and register of byelaws
  - (m) section 204 - Evidence of byelaws and
  - (n) Schedule 7, paragraph 2(2) - Receipt of summonses to meetings.
- 4.2.3 To act as the Proper Officer for the purposes of section 2 (politically restricted posts) of the Local Government and Housing Act 1989.
- 4.2.4 To act, in the absence of the Chief Executive, as the Proper Officer for the purposes of section 33A of the Act (Declaration of Acceptance of Office of Councillor).

- 4.2.5 To act as the Proper Officer for the purposes of section 223 of the Act (Property held on trust) unless the Council have otherwise specified the appointment of another officer for any of such purposes.
- 4.2.6 To act as the Proper Officer for the purposes of accepting a notice of resignation by any member of a Committee.
- 4.2.7 To act as Proper Officer for the purposes of section 113 of the Civic Government (Scotland) Act 1982 (evidence of Management Rules).
- 4.2.8 To act, in the absence of the Chief Executive, as Proper Officer for the nomination of a substitute member pro tem for any specific meeting of the Tay Road Bridge Joint Board in the event of neither the member nor the substitute member being available.
- 4.2.9 To carry out necessary duties incumbent on the Council in relation to registration of members, interests under section 7 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 and the regulations made thereunder.
- 4.2.10 In the absence of the Chief Executive, to act as the Proper Officer for the purpose of determining which Committee or Sub-Committee should consider any matter in terms of the Council's List of Officer Powers.
- 4.2.11 In the absence of the Chief Executive, to determine, in the temporary absence of any other Executive Director, who may exercise powers not already delegated further on that Executive Director's behalf.

#### 4.3 **Property Transactions**

In paragraphs 4.3.1 – 4.3.4, the term property includes land, buildings and all related rights and obligations. The term "dispose" shall include dealings with Council property less than full disposal, including consent to assignments of leases, exclusivity agreements and appropriating land for another Council function. Where consent to assignment of a lease is for the purpose of the tenant restructuring or changing corporate identity, consultation shall not normally be required.

- 4.3.1 To acquire property by lease or purchase where:-
  - (a) the market value of the property, including in the case of leases the capitalised value of the rent over the term of the lease, or over ten years whichever is the longer, is £750,000 or less; and
  - (b) consultation has taken place with the Convener of the appropriate Committee, the local members and the relevant Executive Director responsible for the property.
- 4.3.2 To acquire property by lease or purchase in cases of urgency where:-
  - (a) the market value of the property, including in the case of leases, the capitalised value of the rent over the term of the lease, or over ten years whichever is the longer, is **more** than £750,000; and

- (b) consultation has taken place with the Convener of the appropriate Committee, the local members and the relevant Executive Director responsible for the property.

4.3.3 To dispose of property by sale or lease where:-

- (a) the market value of the property, including in the case of leases, the capitalised value of the rent over the term of the lease, or over ten years whichever is the longer, is £750,000 or less; and
- (b) consultation has taken place with the relevant Executive Director responsible for the property. Where property is disposed of by sale, the local members must be consulted.

4.3.4 (a) The power of disposal shall specifically include disposal in circumstances where the Disposal of Land by Local Authorities (Scotland) Regulations 2010 apply, following consultation with the local members where the value of the property, including in the case of leases, the capitalised value of the rent over ten years is £750,000 or less; and

- (b) Officers shall periodically report to each Area Committee on those disposals where the Disposal of Land by Local Authorities (Scotland) Regulations 2010 and/or the Council's Subsidised Leases Policy have been applied, setting out the level of subsidy given and the reasons for this.

4.3.5 To dispose of property by sale or lease in cases of urgency where:-

- (a) the market value of the property, including in the case of leases, the capitalised value of the rent over the term of the lease, or over ten years whichever is the longer is **more** than £750,000; and
- (b) consultation has taken place with the Convener of the appropriate Committee, the local members and the relevant Executive Director responsible for the property.

4.3.6 To accept offers received for the purchase of Council property where:-

- (a) the sale of the property has been agreed by the appropriate Committee or Sub-Committee or the Executive Director (Finance and Corporate Services) has delegated powers under this document; and
- (b) the offer which represents the best consideration which could be reasonably obtained by the Council is to be accepted or paragraph 4.3.4 applies.

In this paragraph, the term property includes land, buildings and all rights and obligations relating thereto. Reports on the use of delegated powers shall be reported to the following meeting of the appropriate Area Committee for information.

4.3.7 To accept offers received to purchase tenanted houses in terms of Part III of the Housing (Scotland) Act 1987.

4.3.8 To determine requests to withdraw from missives for the sale of a tenanted house subject to the tenant meeting the Council's expenses.



- 4.3.9 To determine when leases should be renewed, either by tacit relocation or otherwise, where:-
- (a) the capitalised market value of the rent over the term of the lease, or over ten years whichever is the longer, is more than £750,000; and
  - (b) consultation has taken place with the Convener of the appropriate Committee, the local members and the relevant Executive Director responsible for the property.
- 4.3.10 To carry out, in conjunction with the Head of Assets, Transportation and Environment, all other necessary functions relating to the Council's estates function, including valuations, rent reviews, and relevant negotiations leading to property acquisition or disposal.

#### 4.4 **Finance**

- 4.4.1 To determine payments in respect of claims made against the Council under Part 1 of the Land Compensation (Scotland) Act 1973 of up to £5,000.
- 4.4.2 To review annually the Scheme for Members' Allowances.
- 4.4.3 To determine the fee to be charged for issuing property enquiry certificates and to determine any miscellaneous legal fees.
- 4.4.4 To make arrangements for the collection and recovery of all income due to or to be collected by the Council including the council tax, water charges, rent, rates and (insofar as still applicable) community charge income.
- 4.4.5 To consider and dispose of applications made to the Council on behalf of pupils for free school meals and school clothing grants. This power is to be exercised in consultation with the Executive Director (Education and Children's Services).
- 4.4.6 To make arrangements for payments, by whatever means, on behalf of the Council in respect of authorised expenditure.
- 4.4.7 To make the necessary arrangements for duly authorised borrowing and lending in terms of Schedule 3 to the Local Government (Scotland) Act 1975.
- 4.4.8 To act, as the proper officer for the purposes of section 92 of the Act (Transfer of securities on alteration of area, etc.).
- 4.4.9 To act, as Registrar of Stocks, Bonds and Mortgages.
- 4.4.10 To make up and maintain the Assessment Roll, to prepare and issue demand notes for the payment of rates and to receive claims for exemption, abatement or remission of rates and to determine applications for discretionary relief, in accordance with Council Policy.
- 4.4.11 Without prejudice to section 69 of the Act, to act for the purposes of section 95 of the Act as the proper officer responsible for the administration of the financial affairs of the Council in accordance with the arrangements made or to be made by the Council for the proper administration of such affairs.

- 4.4.12 To execute and administer treasury management matters in accordance with the Council's policy and treasury management practices and, if relevant, current professional codes.
- 4.4.13 To deal with claims under the self-funded insurance scheme.
- 4.4.14 To determine requests for discretionary payments in respect of housing benefit.
- 4.4.15 To sign operating lease documentation.
- 4.4.16 To arrange, through the Fife Council Pension Fund's Investment Managers, for the making of investments in accordance with the policy of the Council.
- 4.4.17 To arrange through the Fife Council Pension Fund's Investment Managers, for the investment of the moveable capital of the Fife Educational Trust in accordance with the Fife Educational Trust Scheme 1958 and where appropriate to arrange for the investment of moveable capital in other Trusts and common good funds.

4.5 **Delegations Relating to Pensions Administration Collaboration**

N.B.: the following delegations are intended to elaborate upon, and be compatible with, the delegation to the Executive Director (Finance and Corporate Services) in the List of Officer Powers (paragraph 4.4.16) to “arrange, through the Fife Council Pension Fund’s Investment Managers, for the making of investments in accordance with the policy of the Council.”

**Delegation to Executive Director (Finance and Corporate Services) and Head of Finance**

1. To carry out all actions required to implement the Memorandum of Understanding with the City of Edinburgh Council (CEC) relating to collaboration on pensions administration and all subsequent iterations of it.
2. To enter into more detailed terms and conditions with CEC and/or its subsidiaries tasked with pension arrangements, being companies part of the LPF Group; subject to taking all appropriate advice in relation to such matters including that of the Head of Legal and Democratic Services.
3. To implement strategies and policies agreed by the Superannuation Fund and Pensions Committee including the investment strategy of the pension fund and performing any function on behalf of the pensions fund which would reasonably be deemed to be investment business subject to taking all appropriate advice.
4. To implement pension regulations including the application of discretions as required in accordance with policies approved by the Superannuation Fund and Pensions Committee from time to time.
5. To appoint, monitor and review such specialist managers and advisers as are necessary to make sure that the pension fund’s assets are managed effectively.

**Delegation to Head of Finance**

To act as the Council’s representative on the Joint Investment Strategy Panel which shall govern the collaboration with CEC and others, with all necessary powers to execute that function.

## **5.0 Executive Director (Education and Children's Services)**

In addition to the delegated authority specified in section 2 above, the Executive Director (Education and Children's Services) is authorised to carry out the functions of the Council relating to education and children, including (but not limited to) those conferred by the legislation set out at Section 3 of the Appendix to this document, and, specifically:-

- 5.1 To exercise the functions of the Council under the Education (Additional Support for Learning) (Scotland) Act 2004 in relation to children and young persons with additional support needs.
- 5.2 To appoint persons recommended by an Education Appointment Committee for the posts of Headteacher and Depute Headteacher of a school.
- 5.3 To determine, in the first instance, placing requests under section 28A of the Education (Scotland) Act 1980.
- 5.4 To exercise the Council's powers in relation to irregular attendance of school pupils under sections 36, 37, 38, 39 and 42 of the Education (Scotland) Act 1980; this power to be exercised in conjunction with the Executive Director (Finance and Corporate Services)'s power to take proceedings in relations to such matters.
- 5.5. To carry out the functions of the Council under section 11 of the Matrimonial Proceedings (Children) Act 1958.
- 5.6 To administer the Panel or Panels appointed under the Curators ad litem and Reporting Officers (Panels) (Scotland) Regulations 1984, including arrangements for training of members of said Panel or Panels.
- 5.7 To carry out the functions of the Council under the Adoption (Scotland) Act 1978 and Regulations made thereunder including the operation of the Adoption Allowance Scheme.
- 5.8 To operate the scheme for the payment of allowances under section 50 of the Children Act 1975.
- 5.9 To carry out the functions of the Council under the Foster Children (Scotland) Act 1984 and the Private Fostering (Scotland) Regulations 1985.
- 5.10 To carry out the functions of the Council in relation to the provision of services for children in terms of the Children (Scotland) Act 1995 and regulations made thereunder.
- 5.11 To consider and dispose of applications made to the Council for licences in respect of children taking part in public performances.
- 5.12 Nothing in this paragraph 5 shall be taken to empower the Executive Director (Education and Children's Services) to carry out any functions which are specifically reserved by law to the Chief Social Work Officer, which remains a separate appointment.

## **6.0 Director of Health and Social Care**

---

In addition to the delegated authority specified in section 2 above, the Director of Health and Social Care and, as appropriate in relation to such matters as relate to their statutory duties, and/or in relation to Children and Families and Criminal Justice, the Chief Social Work Officer is authorised to carry out the functions of the Council relating to health and social care, including (but not limited to) those conferred by the legislation set out at Section 4 of the Appendix to this document, and, specifically:-

- 6.1 To carry out the functions of the Council in terms of the following sections of the Social Work (Scotland) Act 1968:-
- section 12 - general social welfare services of local authorities,
  - section 13 - power of local authority to assist persons in need in disposal of produce of their work,
  - section 14 - home help and laundry facilities,
  - section 27 - supervision and care of persons put on probation or released from prisons or under the community service scheme,
  - section 28 - burial or cremation of the dead,
  - section 29 - power of local authority to defray expenses of parents, etc. visiting persons or attending funerals.
- 6.2 To make arrangements, in consultation with the Executive Director (Finance and Corporate Services), for the care of persons who are suffering from grave chronic disease or who, being aged, infirm or physically incapacitated, are living in unsanitary conditions and are unable to devote to themselves - and are not receiving from others - proper care and attention, in terms of section 47 of the National Assistance Act 1948.
- 6.3 To make arrangements for the protection of property of persons admitted to hospitals, etc. in terms of section 48 of the National Assistance Act 1948.
- 6.4 To carry out the functions of the Council under sections 1 and 2 of the Chronically Sick and Disabled Persons Act 1970.
- 6.5 To make arrangements for facilities for seriously disabled persons for sheltered employment and training in terms of the Disabled Persons (Employment) Act 1958.
- 6.6 To make arrangements with respect to the prevention of illness, care and aftercare of persons suffering from mental disorder under sections 7(1)(a) - in so far as relating to the care of persons for the time being resident in accommodation - 7(1)(b) to (d) and 8 of the Mental Health (Scotland) Act 1984.
- 6.7 To instruct, in consultation with the Executive Director (Finance and Corporate Services), the provision of aids and the adaptation of property of chronically sick and disabled persons in accordance with the relevant Council policy.
- 6.8 Approval of luncheon clubs subject to provision having been made for any expenditure in the approved estimates of the Council.

- 6.9 To issue contracts under the National Health Service and Community Care Act 1990 for the provision of residential accommodation subject to the terms of the contracts having been approved in advance by the Executive Director (Finance and Corporate Services).
- 6.10 To carry out the functions of the Chief Social Work Officer and to exercise the powers and duties of the Council in terms of the following provisions of the Adults with Incapacity (Scotland) Act 2000:-
- section 10 - exercise of general functions in relation to guardians, welfare attorneys and persons authorised under intervention orders
  - section 12 - safeguarding of property, financial affairs or personal welfare following investigation
  - Part 6 - various powers and duties in respect of intervention orders and guardianship orders.
- 6.11 The Director of Health and Social Care will also act as the Chief Officer of the Health and Social Care Integration Joint Board for Fife as provided for by section 10 of the Public Bodies (Joint Working) (Scotland) Act 2014.
- 6.12 In consultation with the elected members on the Board of the Health and Social Care Partnership, to make staff appointments at second tier within the Health and Social Care Partnership.
- 6.13 Nothing in this paragraph 6 shall be taken to empower the Director of Health and Social Care to carry out any functions which are specifically reserved by law to the Chief Social Work Officer, which remains a separate appointment.

## **7.0 Executive Director (Enterprise and Environment)**

---

In addition to the delegated authority specified in section above, the Executive Director (Enterprise and Environment) is authorised to determine in relation to all services within the Directorate, the following matters:-

- numbers of staff and workforce;
- provision of vehicles for Council;
- tendering strategies; and
- provision of materials, plant and equipment

### **7.1. ASSETS, TRANSPORTATION AND ENVIRONMENT SERVICE**

7.1.1 To carry out the functions of the Council in respect of the Climate Change (Scotland) Act 2009.

7.1.1.1 On an annual basis, produce and update a Public Bodies Duty Report on compliance with climate change duties.

7.1.1.2 To develop the Fife Sustainable Energy and Climate Action Plan (SECAP).

### **7.1.2 Roads and Transportation**

To carry out the functions of the Council as local roads authority and as traffic authority under the Roads (Scotland) Act 1984, the Road Traffic Regulation Act 1984, the New Roads and Street Works Act 1991, the Transport (Scotland) Act 2005 and all other relevant legislation, including specifically:

7.1.2.1 The serving of notices, withdrawal of any notices, issue of any licences, giving any consents, the temporary prohibition or restriction of traffic (whether by order or notice) and generally taking any necessary action on behalf of the Council in terms of the Council's functions in relation to roads, road traffic regulation transport;

7.1.2.2 To accept tenders in accordance with the powers delegated by the Council's Standing Orders – Scheme of Tender Procedures;

7.1.2.3 To implement the functions of the Transport Act 1985 and Transport (Scotland) Act 2001 and Transport (Scotland) Act 2019, in relation to bus services;

7.1.2.4 Without prejudice to the generality of paragraph 2.1.1 of this document, to instruct immediate repairs to engineering works which have become damaged in order to mitigate any loss, damage or injury to property or persons;

7.1.2.5 To operate the national scheme for Disabled Persons under the Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000;

7.1.2.6 To determine applications for street parades and processions and to make orders imposing conditions on the holding of such processions under the Civic Government (Scotland) Act 1982. This power may not be exercised if a competent written objection to the application has been submitted to the Council;

- 7.1.2.7 To exercise the functions of the Council under the Flood Risk Management (Scotland) Act 2009;
- 7.1.2.8 To exercise the functions of the Council under the Coast Protection Act 1949 regarding the carrying out of coast protection work for the protection of land;
- 7.1.2.9 To exercise the functions of the Council under the Harbours, Docks and Piers Clauses Act 1847 and all supplementary and subsequent legislation.
- 7.1.3 Property Services (including Bereavement Service)**
- 7.1.3.1 To accept tenders in accordance with the powers delegated by the Council's Standing Orders - Scheme of Tender Procedures.
- 7.1.3.2 Without prejudice to the generality of paragraph 2.1.1 of this document, to instruct immediate repairs to buildings over which the Council has control which have become damaged in order to mitigate any loss, damage or injury to property or persons; where practicable, such repairs must be carried out after consultation with the appropriate Executive Director.
- 7.1.3.3 To instruct the repair and maintenance of any Council building and to furnish and re-furnish such accommodation subject to provision having been made therefor in the approved budget estimates of the Council and, where appropriate, compliance with the Council's Standing Orders relating to Contracts.
- 7.1.3.4 Where necessary, in the interests of public safety or for other reasons of expediency, to authorise the demolition of any Council building.
- 7.1.3.5 To enter into wayleaves of any duration for services and utilities crossing council land following consultation with relevant Services and to enter into leases or agreements relating to heritable property the duration of which does not exceed one year.
- 7.1.3.6 To advertise any land or property for sale after consultation and agreement with the relevant Executive Director and the local members.
- 7.1.3.7 To carry out the Council's functions relating to burial and cremation, including the management, maintenance, regulation and control of burial grounds, cemeteries and crematoria, all in accordance with the Burial Grounds (Scotland) Act, the Cremation Acts 1902 and 1952, and/or the Burial and Cremation (Scotland) Act 2016, insofar as in force.
- 7.1.4 Facilities Management**
- 7.1.4.1 To conclude and sign agreements with partners under the Council's "Comfort Scheme".
- 7.1.5 Environment and Building Services**
- 7.1.5.1 To accept tenders in accordance with the powers delegated by the Council's Standing Orders - Scheme of Tender Procedures.
- 7.1.5.2 To act as, or arrange for the appointment of, a suitably qualified officer to be the Council's vehicle operator and hold the Council's vehicle operator's licence in terms of the Goods Vehicles (Licensing of Operators) Act 1995.

## 7.2 PROTECTIVE SERVICES

### Building Standards & Public Safety Team

- 7.2.1 In connection with the enforcement of Building Standards:- to issue any Building Standards qualifying statement where this is considered appropriate; to serve any notice or certificate relating to works carried out without or in contravention of a Building Warrant; to require buildings to be brought up to standard; to require such action as it is considered necessary or appropriate to take in connection with defective or dangerous buildings including the removal of people from them or any adjoining building; and to authorise entry to land under any statutory power available to the Council to enable the Council to discharge their functions under Building Standards legislation.
- 7.2.2 In cases of urgency to authorise any action by the Council as Building Standards authority which is considered necessary or appropriate to protect people or property.
- 7.2.3 To determine and to take all action necessary to enable the determination of any application for Building Warrant and to determine any application for relaxation of the Building Standards Regulations unless the application has attracted relevant and unresolved representations or objections and to determine whether any representation or objection made in response to such an application is a relevant representation or objection.
- 7.2.4 To approve/refuse grants for the improvement of water quality for private water supplies in terms of the Private Water Supplies (Grants) (Scotland) Regulations 2006.
- 7.2.5 To refuse applications for a repairs grant where the owner's proposals are such that, in terms of section 248 of the Housing (Scotland) Act 1987, a financial assessment requires to be applied and it appears that the owner would be able to finance the expense of the work to which the application relates without undue hardship:-
- 7.2.5.1 To approve extensions to the date by which authorised works should be completed up to a maximum extension of 18 months; and
- 7.2.5.2 To approve applications for discretionary improvement grants including those for the conversion of buildings into houses.
- 7.2.6 To serve, suspend and/or revoke Notices/Orders in terms of the Housing (Scotland) Acts 1987 and 2006 insofar as they relate to the closure, demolition, repair, maintenance or improvement of property; in relation to Houses in Multiple Occupation, to exercise such powers under the 2006 Act relating to enforcement as shall be agreed with the Executive Director (Communities).
- 7.2.7 To approve applications for grants in terms of the Housing (Scotland) Act 1987 insofar as the applications relate to financial assistance in respect of:-
- 7.2.7.1 The improvement of property; and
- 7.2.7.2 The repair of property.
- 7.2.8 To determine Housing Improvement Orders and revoke Closing Orders in terms of the Housing (Scotland) Act 1987.



- 7.2.9 To approve and issue Caravan Site Licences in terms of the Caravan Sites and Control of Development Act 1960.
- 7.2.10 To determine applications for safety certificates submitted under the Safety of Sports Grounds Act 1975 and to issue, amend, replace and cancel such certificates.

#### Environmental Health Teams

- 7.2.11 To serve Notices and to designate employees of the Council to carry out the functions assigned to employees in terms including (but not limited to) those conferred by the legislation set out at Section 1 of the Appendix to this document
- 7.2.12 To carry out the functions and to designate employees to carry out the functions assigned to the Council as the local food authority, health and safety authority, pollution control authority, public health authority, and pest control and animal health and welfare authority; which functions include (but are not limited to) those conferred by legislation set out at Section 1 of the Appendix to this document and, specifically:-
- 7.2.12.1 In consultation with the Head of Legal and Democratic Services, serve notices, designate land and recover costs including that of remediation as they relate to contaminated land.
- 7.2.12.2 To carry out the functions of the Council in terms of Parts 1, 2 and 3 and Schedules 1 and 2 of the Civic Government (Scotland) Act 1982 and to serve Notices and issue certificates in terms of the relevant legislation.
- 7.2.12.3 To act as Chief Inspector for the purposes of the relevant animal health and welfare legislation, and to appoint as Inspectors such employees as are deemed necessary and appropriate.
- 7.2.12.4 To designate a sufficient number of persons under the Public Health etc (Scotland) Act 2008 (Local Authority Competent Person).
- 7.2.12.5 To appoint officers to carry out the functions of Licensing Standards Officers.
- 7.2.12.6 To grant certificates relative to Food Hygiene.
- 7.2.12.7 To agree transfer of responsibility for enforcement in terms of the Health and Safety (Enforcing Authority) Regulations.
- 7.2.12.8 To appoint inspectors in terms of section 19 of the Health and Safety at Work, etc. Act 1974 for the purposes of the said Act.
- 7.2.12.9 To carry out the functions of the Council under the Offices, Shops and Railway Premises Act 1963.
- 7.2.12.10 To issue Improvement and Prohibition notices and to inspect, detain and seize suspect food under the Food Safety Act 1990.
- 7.2.12.11 To arrange for burials in terms of section 50 of the National Assistance Act 1948 and/or section 87 of the Burials (Scotland) Act, 2016, when in force.
- 7.2.12.12 To determine applications for approval of the height of chimneys in terms of the Clean Air Act 1993.

- 7.2.12.13 To appoint the Council's Public Analyst, Agricultural Analyst and Deputy Agricultural Analyst.
- 7.2.12.14 To serve notices in terms of Parts II, III and IV of the Environmental Protection Act 1990.
- 7.2.12.15 To serve notices in terms of the Council's Management Rules relating to Recycling Centres.
- 7.2.12.16 To enforce the provisions contained within the Smoking, Health and Social Care (Scotland) Act 2005.
- 7.2.12.17 To control the employment of children in terms of the Council's Bye-Laws. This power is to be exercised in consultation with the Executive Director (Finance and Corporate Services) and the Executive Director (Education and Children's Services).

#### Trading Standards Team

- 7.2.13 To carry out the functions and to designate employees to carry out the functions assigned to employees of the Council as the trading standards and local weights and measures authority which functions include (but are not limited to) those conferred by the legislation set out at Section 2 of the Appendix to this document and, specifically:-
  - 7.2.13.1 To serve notices on occupiers or owners of premises or land on which disused petrol tanks are situated, requiring them to take such steps as are reasonably necessary to prevent damage from the containers.
  - 7.2.13.2 To provide facilities to Class F2 standard, or other such approved standard.
  - 7.2.13.3 To exercise the functions of the Council under the Explosives Act 1875 and Explosives Regulations 2014.
  - 7.2.13.4 To carry out the functions and to designate employees to carry out the functions of the Council in relation to the enforcement of the Environmental Protection (Controls On Ozone- Depleting Substances) Regulations 2002.
  - 7.2.13.5 To carry the functions of the Council in relation to the powers conferred on the Council by the Unfair Terms in Consumer Contracts Regulations 1999.
  - 7.2.13.6 To accept on behalf of the Council undertakings in terms of the Enterprise Act 2002.
  - 7.2.13.7 To exercise the licensing powers of the Council under the Fireworks Regulations 2004.
  - 7.2.13.8 To authorise any officers of Trading Standards Scotland to operate in Fife under the Consumer Credit Act 1974 and any other relevant legislation.
  - 7.2.13.9 To enforce the provisions relating to (a) noise and (b) the sale of paint to those under 16 years of age contained within the Anti-Social Behaviour, etc. (Scotland) Act 2004.

7.2.13.10 To enforce the provisions contained within the Smoking, Health and Social Care (Scotland) Act 2005.

7.2.13.11 To carry out the functions of the Council in terms of Parts 1, 2 and 3 and Schedules 1 and 2 of the Civic Government (Scotland) Act 1982 and to serve notices and issue certificates in terms of the relevant legislation.

### 7.3 **PLANNING SERVICE**

#### **Local Developments**

NB: The following paragraph 7.3.1 below shall constitute the Council's planning scheme of delegation as required by s.43A of the Act (as defined below).

7.3.1 To determine all applications for planning permission by means of an appointed person which fall within the relevant categories below. In this paragraph:-

**"the Act"** shall mean the Town and Country Planning (Scotland) Act 1997;

**"the appointed person"** shall mean any officer appointed by the Council to carry out the actions delegated to them in terms of this document;

**"Local development application"** shall mean an application for planning permission or planning permission in principle for a development within the category of local developments, as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, as well as all local development applications made under section 42 of the Act and all local development applications for Approval of Matters Specified in Conditions.

The appointed person is authorised:-

To determine all local development applications whether for approval or refusal with the exception of:-

7.3.1.1 Applications attracting six or more separate individual representations (i.e. this excludes six letters of representation from a single person / organisation) which are contrary to the officer's recommendation.

7.3.1.2 Applications which are significantly contrary to the Development Plan and which are recommended for approval.

7.3.1.3 Applications which are submitted by members of staff directly either employed in Planning Services or who regularly provide advice in relation to the assessment of planning applications, Fife Councillors and officers of the Council who are Senior Managers, Heads of Service, Executive Directors or the Chief Executive of Fife Council or any persons who have held any of these posts up to twelve months preceding the date of the application.

7.3.1.4 Applications attracting objections from statutory consultees, where the officer's recommendation is for approval.

7.3.1.5 Applications which the Council considers should be referred to Committee for determination in terms of section 43A(6) of the Town and Country Planning, etc. (Scotland) Act 1997.

7.3.1.6 Applications requiring an environmental impact assessment.

- 7.3.1.7 Applications which have associated applications for other forms of consent (e.g. listed building consent) where the appointed person considers it expedient for both applications to be considered by Committee.
- 7.3.1.8 Applications which require a retail impact assessment.
- 7.3.1.9 Any application for a wind turbine or turbines where the height of those turbines exceeds 50m to the top of the blade.
- 7.3.1.10 Section 42 Applications where the application relates to a condition specifically added by Committee
- 7.3.1.11 The above exceptions shall not prevent applications from being determined which are not progressing satisfactorily due to protracted delays by the applicant/agent or failure on their part to provide appropriate levels of detail or information.

### **Major Applications**

- 7.3.2 In this paragraph:

“Major Application” shall mean an application for planning permission or planning permission in principle for a development within the category of Major developments as defined in the hierarchy of Development. This shall include all Major applications made under section 42 of the Act and all applications for Approval of Matters Specified in Conditions in relation to a Major development.

The appointed person is authorised to determine the following Major Applications, whether for approval or refusal:-

- 7.3.2.1 Any application for Approval of Matters Specified in Conditions relating to a Major Application for Planning Permission in Principle attracting 5 or less separate individual representations (i.e. this excludes 5 letters of representation from a single person/organisation) which are contrary to the officer’s recommendation.
- 7.3.2.2 Major section 42 Applications where the application does not relate to a condition specifically added by Committee.
- 7.3.2.3 Major applications (including in that context applications for approval of matters specified in the Conditions) which are not progressing satisfactorily due to protracted delays by the applicant/agent or failure on their part to provide appropriate levels of details or information, including the conclusion of a legal agreement.

### **Other Development Applications and related matters**

- 7.3.3 Subject to 7.3.1 and 7.3.2, to determine all applications of whatever nature submitted to the Council for determination as planning authority, including (but not limited to) certificates of lawfulness, listed building consent, advertisement consent and conservation area consent as well as consent to undertake work on protected trees; whether for approval or refusal, with the exception of:-
  - 7.3.3.1 Applications attracting six or more separate individual representations (i.e. this excludes six letters of representation from a single person / organisation) which are contrary to the officer's recommendation.

- 7.3.3.2 Applications which are submitted by members of staff directly involved in the consideration of planning applications, Fife Councillors and officers of the Council who are Senior Managers, Heads of Service, Executive Directors or the Chief Executive of Fife Council or any persons who have held any of these posts up to twelve months preceding the date of application.
- 7.3.3.3 Applications attracting objections from statutory consultees, where the recommendation is for approval.
- 7.3.3.4 The above exceptions shall not prevent applications from being determined which are not progressing satisfactorily due to protracted delays by the applicant/agent or failure on their part to provide appropriate levels of detail or information.
- 7.3.4 In consultation with the Convener of the relevant Committee, to take any decision or determine any procedural or substantive matter in connection with the consideration or assessment of any planning or other application including such matters as pre-application notification and consultation, referral of local development applications to committee, decisions relating to which Committee(s) should determine specific applications, deciding whether or not to hold a Discretionary Hearing and determining the Council's position at any appeal in relation to planning matters.
- 7.3.5 To respond to Consultations from an adjoining Planning Authority or Scottish Government in relation to development proposals being considered by that authority, whether under the provisions of the Planning Acts, The Electricity Act or Marine Licensing Provisions.
- 7.3.6 To promote and, in the absence of six or more objections, confirm orders made to stop up roads or footpaths under sections 207 and 208 of the Act.
- 7.3.7 To determine whether to take enforcement action including issuing fixed penalty notices and the service of any other relevant notices, including:
  - 7.3.7.1 Enforcement Notice, Planning Contravention Notice, Breach of Conditions Notice, Discontinuance Notice;
  - 7.3.7.2 High Hedges Notice;
  - 7.3.7.3 Building Repairs Notice or Urgent Repairs Notice.
- 7.3.8 To refer alleged breaches to the Procurator Fiscal, and to authorise entry to land made under any statutory power available to the Council to enable the Council to discharge any of their functions as planning authority including direct action.
- 7.3.9 To serve any notice in connection with or to secure the removal of advertisements displayed in contravention of any regulations controlling the display of advertisements.
- 7.3.10 In the interests of expediency, to take such action as necessary or appropriate in the interests of, or to preserve the position of the planning authority including the service of any stop notice (including a temporary stop notice) or the making of any statutory order including a Tree Preservation Order.
- 7.3.11 In consultation with the Executive Director (Finance and Corporate Services), to enter into legal agreements ancillary to the approval of local development

applications under section 7.2.3.1 or 7.2.3.2; and such other agreements including processing agreements and variation and discharge of other agreements as are nonmaterial to the determination of the relevant application. For the avoidance of doubt, this shall include determining applications for the modification and discharge of agreements made under s.75A of the Town and Country Planning (Scotland) Act 1997.

- 7.3.12 In relation to all mineral consents, to ensure that appropriate terms, s.75 Agreements and bonds are in place and properly recorded, reported, monitored and enforced. In the absence of a formal Committee decision taken and recorded to the contrary, the termination terms of bonds should be enforced.
- 7.3.13 To take all action necessary to protect Fife's trees and enhance the environment, including the making of Tree Preservation Orders and giving consent to felling, pruning, lopping and other matters relating to existing Orders.
- 7.3.14 To approve or refuse, as appropriate, any application for a Notice under the High Hedges (Scotland) Act 2013.
- 7.3.15 To grant, subject to such conditions as the Executive Director (Enterprise and Environment) may recommend, construction consents under section 21 of the Roads (Scotland) Act 1984 in all cases where six or more representations are received in respect of applications for said consents, or any representations so received are withdrawn.

#### 7.4 **BUSINESS & EMPLOYABILITY SERVICES**

- 7.4.1 To determine applications for grant assistance under any Scheme approved by the Council which is operated by the Executive Director (Enterprise and Environment).
- 7.4.2 To incur expenditure on single items up to £100,000 in respect of maintaining and expanding the Council's Business Property Portfolio.
- 7.4.3 To determine applications for financial assistance to businesses administered by Business Gateway Fife (or its successors) or the Scottish Local Authority Loan Fund (or their successors) in the form of grants, loans, or repayable grants up to the value of £100,000 (or 50% of the cost of the project – whichever is lower); subject to the submission of a report to the relevant Scrutiny Committee annually, detailing such expenditure.
- 7.4.4 To allocate street names and numbers in terms of section 97 of the Civic Government (Scotland) Act 1982 and in accordance with the Council's names and numbering policy and procedure.
- 7.4.5 To approve the advance reservation of space of participating in trade exhibitions, missions or events in the UK and overseas.

## **8.0 Executive Director (Communities)**

---

In addition to the delegated authority specified in section 2 above, the Executive Director (Communities) is authorised to carry out the functions of the Council relating to communities, including (but not limited to) those conferred by the legislation set out at Section 5 of the Appendix to this document:-

### **8.1 Housing Services**

- 8.1.1 To allocate housing (including the allocation of pitches to Travelling Persons and the letting of garages) and to make decisions on homeless priority and the allocation of housing to homeless applicants, in accordance with Council policy.
- 8.1.2 To pay statutory compensation to tenants up to a maximum of £5,000 in any case subject to confirmation by the Executive Director (Finance and Corporate Services) that the tenant is entitled to said compensation.
- 8.1.3 To determine, in consultation with the Executive Director (Finance and Corporate Services), requests for communal heating charge rebates.
- 8.1.4 To act as the Proper Officer in terms of sections 193 and 194 of the Act for the purposes of granting leases and serving notices in terms of Part III of the Housing (Scotland) Act 1987.
- 8.1.5 To raise court action for eviction of tenants on the grounds of nuisance or other breach of tenancy, this power to be exercised with the approval of the Executive Director (Finance and Corporate Services).
- 8.1.6 To raise court action to compel compliance with each tenant's obligation to maintain their garden ground, this power to be exercised with the approval of the Executive Director (Finance and Corporate Services). Such court action to be as follows:-
  - (a) specific implement which failing warrant to carry out the works and recover the costs;
  - (b) Variation of Tenancy Agreement to allow the Council to remedy the tenant's failure to maintain the garden ground and recover its reasonable costs; or
  - (c) re-possession of the dwelling house for persistent failure to maintain garden ground amounting to a deterioration of the premises.
- 8.1.7 To raise court action to compel compliance with each owner-occupier's obligation to maintain their garden ground, this power to be exercised with the approval of the Executive Director (Finance and Corporate Services).
- 8.1.8 To take houses out of management following consultation with the relevant Area Convener and the local members.
- 8.1.9 To take action on behalf of the Council in accordance with the exercise of the Council's powers and functions under Part 7 (Housing: Antisocial Behaviour Notices) and Part 8 (Housing: Registration of Certain Landlords) of the Antisocial Behaviour, etc. (Scotland) Act 2004.

- 8.1.10 To determine applications for licences in respect of houses in Multiple Occupation in accordance with the terms of the Housing (Scotland) Act 2006, except where there are 6 or more timeous objections in which case the matter will be determined by the relevant Committee; and otherwise to act on the Council's behalf in relation to all other matters relating to the licensing of Houses in Multiple Occupation, including variations and enforcement (including rent suspension notices) except where such matters are to be carried out by officers in other Directorates with the agreement of the Executive Director (Communities).
- 8.1.11 To agree to the voluntary disposal of individual Council houses and individual parcels of land held on the Housing Revenue Account; this power to be exercised in consultation with the Executive Director (Finance and Corporate Services).
- 8.1.12 To register a notice of potential liability for costs in terms of the Tenements (Scotland) Act 2004, this power to be exercised with the approval of the Executive Director (Finance and Corporate Services).
- 8.1.13 To submit all necessary applications, evidence and reports required by the Property Factors (Scotland) Act 2011 to the Scottish Ministers.
- 8.1.14 To serve Notices and to designate employees of the Council to carry out the functions assigned to employees in terms including (but not limited to) those conferred by the legislation set out at Section 5 of the Appendix to this document.
- 8.1.15 To seize dogs under section 5(1) of the Dangerous Dogs Act 1991.
- 8.1.16 To take action in terms of the control of dogs powers set out in sections 149, 150 and 151 of the Environmental Protection Act 1990.
- 8.1.17 To serve abatement notices and fixed penalty notices under Section 80 of the Environmental Protection Act 1990,

## 8.2 **Communities and Neighbourhoods**

- 8.2.1 To grant or refuse applications for an order to exempt land from access in terms of section 11 of the Land Reform (Scotland) Act 2003 where the order is:-
- for the purpose of allowing a charge to be levied for an event
  - required as there are no other reasonable alternative available
  - for the minimum period possible, and in any event, five days or less.
- 8.2.2 Except insofar as reserved to a Committee for decision in terms of the List of Committee Powers, to carry out the Council's functions in relation to community planning and community empowerment.
- 8.2.3 To consider requests for free lets or lets at a reduced charge of community facilities. The Executive Director shall include reference to the exercise of powers in this connection in their annual performance monitoring report to Committee.
- 8.2.4 To have responsibility for overall budgetary control for the Council's common good funds, including decisions relating to repair and maintenance of common good assets, and approval of grant applications up to £5000.



### 8.3 **Customer and Online Services**

- 8.3.1 To carry out the functions of Registrar of Births, Marriages and Deaths.
- 8.3.2 To administer, in accordance with agreed policy, payments etc., under the Scottish Welfare Fund.
- 8.3.3 To implement the Council's responsibilities as category 1 provider under the Civil Contingencies Act 2004.
- 8.3.4 To carry out the Council's obligations under freedom of information environmental information and data protection legislation, as well as matters arising to the Scottish Public Service Ombudsman.

### 8.4 **Communications**

- 8.4.1 To communicate on the Council's behalf by means of all available media, in line with the relevant legislation and the Local Government Code of Practice; overseeing the Council's reputation and corporate identity.
- 8.4.2 Exercise oversight of advertising and sponsorship activities.

## **9.0 Other Delegations**

---

In addition to the delegations specified above, the following matters are delegated to officers who are not Executive Directors:-

### **9.1 Head of Legal and Democratic Services**

- 9.1.1 To act as the Monitoring Officer for the purpose of section 5 of the Local Government and Housing Act 1989.
- 9.1.2 To act as Clerk to Fife Licensing Board in terms of the Licensing (Scotland) Act 2005.
- 9.1.3 To act as the Electoral Registration Officer for the purposes of section 8(3) of the Representation of the People Act 1983; and to appoint such a deputy as may be required to carry out the relevant functions.

## **Appendix – List of relevant legislation**

### **Section 1 – Environmental Health**

Abandonment of Animals Act 1960

Agriculture Act 1970

Agriculture (Miscellaneous Provisions) Act 1968

Animal Boarding Establishments Act 1963

Animal Health and Welfare Act 1984

Animal Health & Welfare (Scotland) Act 2006

Animal Health Act 1981

Breeding of Dogs Acts 1973 and 1991

Breeding & Sale of Dogs (Welfare) Act 1999

Burial and Cremation (Scotland) Act 2016

Caravan Sites & Control of Development Act 1960

Civic Government (Scotland) Act 1982

Clean Air Act 1993

Control of Dogs Order 1992

Control of Dogs (Scotland) Act 2010

Control of Pollution Act 1974

Contaminated Land (Scotland) Regulations 2000

Coronavirus Act 2020

Dangerous Dogs Acts 1989 and 1991

Dangerous Wild Animals Act 1976

Deer (Scotland) Act 1996

Dogs Act 1906

Environment Act 1995

Environmental Protection Act 1990

European Communities Act 1972

Fire Safety and Safety of Places of Sports Act 1987

Food and Environment Protection Act 1985 (S.19)

Food Hygiene (Scotland) Regulations 2006

Food Safety Act 1990

Food Information (Scotland) Regulations 2014 as amended

Food (Scotland) Act 2015

Gambling Act 2005

General Product Safety Regulations 2005

Guard Dogs Act 1975

Health and Safety at Work etc. Act 1974

Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020

Health Protection (Coronavirus, Restrictions)(Directions by Local Authorities)(Scotland) Regulations 2020

Housing (Scotland) Act 1987/88/2001/2006

Licensing (Scotland) Act 2005  
The Licensing of Animal Dealers (Young Cats & Young Dogs) (Scotland) Regulations 2009  
Local Government Act 1972

National Assistance Act 1948  
Noise and Statutory Nuisances Act 1993

Official Feed and Food Controls (Scotland) Regulations 2009  
Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations  
2019

Pet Animals Act 1951  
Performing Animals (Regulation) Act 1925  
Prevention of Damage by Pests Act 1949  
Version 23/11/2017  
Protection of Animals (Scotland) Act 1912 and 1954  
Public Health (Ships) Regulations 1979  
Public Health (Ships) (Scotland) Regulations 1971  
Public Health (Ships) (Scotland) Amendment Regulations 2007  
Public Health etc. (Scotland) Act 2008

Refuse Disposal (Amenity) Act 1978  
Regulation (EU) 2017/625 and Associated Tertiary Legislation  
Riding Establishments Act 1964 and 1970

Sewerage (Scotland) Act 1968  
Smoking, Health and Social Care (Scotland) Act 2005

The Beef and Veal Labelling (Scotland) Regulations 2010  
The Bovines & Bovine Products (Trade) Regulations 1999  
The Novel Foods (Scotland) Regulations 2017  
The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007  
The Spirit Drinks Regulations 2008 as amended  
The Trade in Animals and Related Products (Scotland) Regulations 2012  
Theatres Act 1968  
Tobacco and Primary Medical Services Act 2010

Water (Scotland) Act 1980

Zoo Licensing Act 1981

## **Section 2 – Trading Standards**

Coronavirus Act 2020

Hallmarking Act 1973

Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020

Health Protection (Coronavirus, Restrictions)(Directions by Local Authorities)(Scotland) Regulations 2020

Health and Safety at Work etc. Act 1974

Medicines Act 1968

Petroleum (Regulations) Acts 1928 and 1936

Poisons Act 1972

Prices Acts 1974

Road Traffic Act 1988

Tobacco Advertising and Promotions Act 2002

Trade Descriptions Act 1968

Trade Marks Acts 1994

Video Recordings Act 1984 and 1993

Weights and Measures Act 1985;

Agriculture Act 1970

Agricultural Produce (Grading & Marking) Act 1928

Antisocial Behaviour (Scotland) Act 2004, Secs 122 and 123

Children & Young Persons (Protection from Tobacco) Act 1991

Civic Government (Scotland) Act 1982

Clean Air Act 1993

Consumer Credit Act 1974

Consumer Protection Act 1987 (including the issue of Suspension Notices under Sec 14)

Consumer Protection from Unfair Trading Regulations 2008

Consumer Rights Act 2015

Copyright Designs & Patents Act 1988

Customs and Excise Management Act 1979

Development of Tourism Act 1969

Education Reform Act 1988

Energy Act 1976

Energy Conservation Act 1981

Environment Act 1995

Enterprise Act 2002

Estate Agents Act 1979

European Communities Act 1972

Explosives Act 1875

Fair Trading Act 1973

Farm and Garden Chemicals Act 1967

Fireworks Act 2003  
Food and Environmental Protection Act 1985

Hallmarking Act 1973  
Health and Safety at Work etc. Act 1974  
Housing (Scotland) Act 2006

Intellectual Property Act 2014

Medicines Act 1968  
Motorcycle Noise Act 1987  
Poisons Act 1972  
Prices Acts 1974-75  
Psychoactive Substances Act 2016

Road Traffic Act 1988

Tobacco Advertising and Promotion Act 2002  
Tobacco and Primary Medical Services (Scotland) Act 2010  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Unsolicited Goods and Services Act 1971  
Video Recordings Act 1984 (as amended by the Video Recordings Act 2010) and  
1993

Weights and Measures Act 1976 and 1985

### **Section 3 – Children’s Social Work Services**

Part IV of the Children and Young Persons (Scotland) Act 1937  
Children and Young People (Scotland) Act 2014  
The Matrimonial Proceedings (Children) Act 1958  
The Children Act 1975  
The Adoption (Scotland) Act 1978  
The Adoption and Children (Scotland) Act 2007  
The Foster Children (Scotland) Act 1984  
Social Care (Self-directed Support) (Scotland) Act 2013  
Scheme of Governance| 135  
Part 2B - List of Officer Powers  
The Children (Scotland) Act 1995  
The Children’s Hearings (Scotland) Act 2011  
The Criminal Procedure (Scotland) Act 1995  
Secure Accommodation (Scotland) Regulations 2013

### **Section 4 – Integration Joint Board and Health and Social Care Partnership**

National Assistance Acts  
Disabled Persons (Employment) Act 1958  
Social Work (Scotland) Act 1968  
Chronically Sick and Disabled Persons Act 1970  
Disabled Persons (Services, Consultation and Representation) Act 1986  
National Health Service and Community Care Act 1990  
Criminal Procedure (Scotland) Act 1995  
Adults with Incapacity (Scotland) Act 2000  
Housing (Scotland) Act 2001  
Curators ad litem and Reporting Officers (Panels) (Scotland) Regulations 2001  
Community Care and Health (Scotland) Act 2002  
Homelessness etc. (Scotland) Act 2003  
Mental Health (Care and Treatment) (Scotland) Act 2003  
Adult Support and Protection (Scotland) Act 2007  
Public Services Reform (Scotland) Act 2010  
Social Care (Self-directed Support) (Scotland) Act 2013

### **Section 5 Communities**

Antisocial Behaviour etc. (Scotland) Act 2004  
Control of Dogs (Scotland) Act 2010  
Dog Fouling (Scotland) Act 2003  
Environmental Protection Act 1990  
Refuse Disposal (Amenity) Act 1978  
Microchipping of Dogs (Scotland) Regulations 2016