



Fife Council Governance Scheme Part 3 List of Officer Powers

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List of Officer Powers

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1.0 Application

1.1 Commencement

This List of Officer Powers shall commence and have effect as from 17 May 2024. It replaces the List of Officer Powers which came into effect on 12 November 2020. It is a summary of the functions, with associated powers, which Fife 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 this document, the words “Act”, “Council” and “Executive Director” shall have the following meanings respectively:-

- “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), (Place), (Finance and Corporate Services); (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, Fife 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, 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. It is important that officers pay due regard to the need for appropriate periodic reporting of delegated decisions to elected members of the Council, both for information purposes and to allow elected members 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 Fife 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 Depute 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 relevant 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; and
- 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 relevant directorate's annual performance monitoring report to committee.

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; and
- meetings of appropriate professional associations

2.3.5 An Executive Director may approve the voluntary redundancy, early retirement or ill health retiral 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; and
- the termination is in accordance with the relevant Council policy. Any such terminations should be reported to the Cabinet Committee as part of the annual review of discretionary exit payments and reported as part of the monitoring report to the Pensions Committee.

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. In advance of submitting a consultation response, the Executive Director should, where practicable within the timescale allowed for the consultation, consult with the Leader of the Council and relevant spokesperson and if relevant committee Convener on the content of the Council's response. Elected members can request that a consultation response is submitted to the relevant committee for approval.

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 and the Budget Transfer Guidance, transfer revenue budget 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 up to and including but not in excess of £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 relevant spokesperson.

2.7.3 An Executive Director may apply for 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. Terms and conditions of grant should be reviewed and accepted by the Head of Finance following financial review. A record will be kept of all such additional funding to enable the grant income to be maximised and also 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 £5,000 and £10,000 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 elected 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, requests for inward and outward visits in connection with existing twinning links.
- 3.1.5 To determine applications by elected members (in consultation with the applicable group leader) to attend training and development events, courses including conferences and seminars and meetings of professional associations, within and outwith the United Kingdom.
- 3.1.6 To agree, on behalf of the Council, local variations to terms and conditions for matters not covered by existing terms and conditions at a national or local level e.g. additional leave for state occasions.

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 elected 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 The Chief Executive may amend the establishment at first tier level, subject to advising the group leaders 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; and
- there is no conflict with other Council policies.

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

3.3.2 The Chief Executive may make a temporary appointment at first tier, subject to advising the group leaders, where:-

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

- 3.3.3 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 Cabinet Committee as soon as practicable.
- 3.3.4 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.
- 3.3.5 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 Sub-Committee.

3.4 **Elections**

- 3.4.1 To act as the Returning Officer and to appoint Depute Returning Officers, as required, with full or limited powers, duties and rights for the administration and delivery of any statutory elections or referenda.
- 3.4.2 To have delegated authority to make any necessary changes to the Council's polling scheme during a statutory election period for the efficient delivery of the poll.

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 or representations 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).
- 4.1.9 To carry out all functions of the Council relating to the Children's Panel in terms of the Children's Hearings (Scotland) Act 2011.
- 4.1.10 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 elected 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 and so on by local authority
 - (j) section 193 - authentication of documents
 - (k) section 197 - inspection and deposit of documents
 - (l) sections 202 and 202B - procedure and so on 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 accepting a notice of resignation by any elected member of a committee.
- 4.2.6 To act as Proper Officer for the purposes of section 113 of the Civic Government (Scotland) Act 1982 (evidence of Management Rules).
- 4.2.7 To act, in the absence of the Chief Executive, as Proper Officer for the nomination of a substitute elected 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.
- 4.2.8 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.
- 4.2.9 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.

4.2.10 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

4.3.1 In paragraphs 4.3.2 – 4.3.9, the term "property" includes land, buildings and all related rights and obligations. The terms "acquire" and "dispose" shall include dealings with all heritable and leasehold Council property including: less than full disposal value, 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, and on all occasions of lease reletting or renewal whether by tacit relocation or otherwise, consultation shall not normally be required.

Reports on the use of delegated powers shall be reported to the next meeting of the appropriate area committee for information. Transactions which relate to assets held on the Housing Revenue Account and Common Good account must follow the required approval process for those assets.

4.3.2 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 Cabinet Committee, the local elected members and the relevant Executive Director responsible for the property.

4.3.3 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 Cabinet Committee, the local elected members and the relevant Executive Director responsible for the property.

4.3.4 To dispose of property by sale or on the first occasion of leasing 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 elected members must be consulted.

4.3.5 (a) The power of disposal shall specifically include disposal in circumstances where the Disposal of Land by Local Authorities (Scotland) Regulations 2010 and/or the Council's Subsidised Leases Policy apply, following consultation with the local elected members where the value of the property, including in the case of leases, the capitalised value of the rent over the term of the lease, or ten years whichever is longer 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.
- 4.3.6 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 Cabinet Committee, the local elected members and the relevant Executive Director responsible for the property.
- 4.3.7 To accept offers received for the purchase of Council property where:-
- (a) the sale of the property has been agreed by the relevant 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.
- 4.3.8 To determine when leases should be renewed, either by tacit relocation or otherwise, where the capitalised market value of the rent over the term of the lease, or over ten years whichever is the longer, is less than £750,000.
- 4.3.9 To undertake, in conjunction with the Head of Property Services, all other necessary actions relating to the Council's estates function, including property management activities, 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) or their nominated officer.
- 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, the CIPFA Treasury Management in Public Service Code of Practice and, if relevant, current professional codes.
- 4.4.13 To ensure that Council assets are adequately insured and to administer claims against the Council.
- 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**

- 4.5.1 Please note - 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 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 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

- 4.5.2 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)

- 5.1 In addition to the delegated authority specified in section 2 above, the Executive Director (Education) is authorised to carry out the functions of the Council relating to education, including (but not limited to) those conferred by the legislation set out at Section 3 of the Appendix to this document and, specifically:-
- 5.2 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.
- 5.3 To appoint persons recommended by an Education Appointment Committee for the posts of headteacher and depute headteacher of a school.
- 5.4 To determine, in the first instance, placing requests under section 28A of the Education (Scotland) Act 1980.
- 5.5 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 powers of the Executive Director (Finance and Corporate Services) to take proceedings in relation to such matters.

6.0 Director of Health and Social Care

- 6.1 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:-
- 6.2.1 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 29 - power of local authority to defray expenses of parents, etc. visiting persons or attending funerals.
- 6.2.2 To carry out the functions of the Council in terms of Section 87 of the Burial and Cremation (Scotland) Act 2016.
- 6.3 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.
- 6.4 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.
- 6.5 To carry out the functions of the Council under sections 1 and 2 of the Chronically Sick and Disabled Persons Act 1970.
- 6.6 To make arrangements for facilities for seriously disabled persons for sheltered employment and training in terms of the Disabled Persons (Employment) Act 1958.
- 6.7 To make arrangements with respect to the prevention of illness, care and aftercare of persons suffering from mental disorder under the Mental Health (Care and Treatment) (Scotland) Act 2003.
- 6.8 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.

- 6.9 Approval of community social inclusion groups subject to provision having been made for any expenditure in the approved estimates of the Council.
- 6.10 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).
- 6.11 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.
- 6.12 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.
- 6.13 In consultation with the elected members on the Board of the Health and Social Care Partnership, to make staff appointments at head of service level within the Health and Social Care Partnership.
- 6.14 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 (Place)

- 7.1 In addition to the delegated authority specified in section 2 above, the Executive Director (Place) 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.

7.2 Roads and Transportation Services

- 7.2.1 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, the Transport (Scotland) Act 2019 and all other relevant legislation, including specifically:-

- (a) 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 and transport.
- (b) To accept tenders in accordance with the powers delegated by the Council's Standing Orders – Scheme of Tender Procedures.
- (c) To implement the functions of the Transport Act 1985 and Transport (Scotland) Act 2001 and Transport (Scotland) Act 2019, in relation to bus services.
- (d) 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.
- (e) To operate the national scheme for Disabled Persons under the Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000.
- (f) 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.
- (g) To exercise the functions of the Council under the Flood Risk Management (Scotland) Act 2009;
 - i. 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.
 - ii. To exercise the functions of the Council under the Harbours, Docks and Piers Clauses Act 1847 and all supplementary and subsequent legislation.

7.3 Property Services (including Bereavement Service)

- 7.3.1 To accept tenders in accordance with the powers delegated by the Council's Standing Orders - Scheme of Tender Procedures.
- 7.3.2 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 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.
- 7.3.3 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.

- 7.3.4 Where necessary, in the interests of public safety, property management, or for other reasons of expediency, to authorise the demolition of any Council building.
- 7.3.5 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 initial duration of which does not exceed one year and the annual rent is £75,000 or less.
- 7.3.6 To advertise any land or property for sale after consultation and agreement with the relevant Executive Director and the local elected members.
- 7.3.7 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 and Cremation (Scotland) Act 2016.

7.4 **Environment and Building Services**

- 7.4.1 To accept tenders in accordance with the powers delegated by the Council's Standing Orders - Scheme of Tender Procedures.
- 7.4.2 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.

7.5 **Protective Services**

Building Standards and Public Safety Team

- 7.5.1 In connection with the enforcement of building standards:-
- (a) to issue any building standards qualifying statement where this is considered appropriate;
 - (b) to serve any notice or certificate relating to works carried out without or in contravention of a building warrant;
 - (c) to require buildings to be brought up to standard;
 - (d) 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
 - (e) 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.
- 7.5.2 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.

- 7.5.3 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.
- 7.5.4 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.
- 7.5.5 To refuse applications for a repairs grant where the owner's proposals are such that, in terms of the Housing (Scotland) Act 2006.
- 7.5.6 To approve extensions to the date by which authorised works should be completed up to a maximum extension of 18 months.
- 7.5.7 To approve applications for discretionary improvement grants including those for the conversion of buildings into houses.
- 7.5.8 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).
- 7.5.9 To approve applications for grants in terms of the Housing (Scotland) Act 1987 insofar as the applications relate to financial assistance in respect of:-
 - (a) the improvement of property; and
 - (b) the repair of property.
- 7.5.10 To determine Housing Improvement Orders and revoke Closing Orders in terms of the Housing (Scotland) Act 1987.
- 7.5.11 To approve and issue caravan site licences in terms of the Caravan Sites and Control of Development Act 1960.
- 7.5.12 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

- 7.5.13 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.
- 7.5.14 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:-

- (a) 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;
- (b) 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;
- (c) 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;
- (d) to designate a sufficient number of persons under the Public Health etc (Scotland) Act 2008 (Local Authority Competent Person);
- (e) to appoint officers to carry out the functions of Licensing Standards Officers;
- (f) to grant certificates relative to food hygiene;
- (g) to agree transfer of responsibility for enforcement in terms of the Health and Safety (Enforcing Authority) Regulations;
- (h) 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;
- (i) to carry out the functions of the Council under the Offices, Shops and Railway Premises Act 1963;
- (j) to issue improvement and prohibition notices and to inspect, detain and seize suspect food under the Food Safety Act 1990;
- (k) to arrange for burials in terms of section 87 of the Burials (Scotland) Act, 2016;
- (l) to determine applications for approval of the height of chimneys in terms of the Clean Air Act 1993;
- (m) to appoint the Council's Public Analyst, Agricultural Analyst and Deputy Agricultural Analyst;
- (n) to serve notices in terms of Parts II, III and IV of the Environmental Protection Act 1990;
- (o) to serve notices in terms of the Council's management rules relating to recycling centres;
- (p) to enforce the provisions contained within the Smoking, Health and Social Care (Scotland) Act 2005; and
- (q) 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).

Trading Standards Team

- 7.5.15 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:-
- (a) 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;
 - (b) to provide facilities to Class F2 standard, or other such approved standard; and
 - (c) to exercise the functions of the Council under the Explosives Act 1875 and Explosives Regulations 2014.
- 7.5.16 To carry out the functions and to designate employees to carry out the functions of the Council in relation to the enforcement of the Ozone-Depleting Substances Regulations 2015 as amended by the Fluorinated Greenhouse Gases (Amendment etc) (EU Exit) Regulations 2019.
- 7.5.17 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 and the Consumers Right Act 2015.
- 7.5.18 To accept on behalf of the Council undertakings in terms of the Enterprise Act 2002.
- 7.5.19 To exercise the licensing powers of the Council under the Fireworks Regulations 2004.
- 7.5.20 To authorise any officers of Trading Standards Scotland to operate in Fife under the Consumer Credit Act 1974 and any other relevant legislation.
- 7.5.21 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.
- 7.5.22 To enforce the provisions contained within the Smoking, Health and Social Care (Scotland) Act 2005.
- 7.5.23 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.

7.6 **Planning Service**

Development Management - Local Developments

Please note: The following paragraph 7.6.1 shall constitute the Council's planning scheme of delegation as required by section.43A of the Act (as defined below).

7.6.1 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" – means the Town and Country Planning (Scotland) Act 1997 (as amended) ;

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

"Local development application" - means 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.

"representation" shall mean correspondence received during the relevant publicity period for the application.

In assessing the number of representations received, where multiple representations have been submitted on behalf of a single person, these shall be counted as a single representation.

The appointed person is authorised to:-.

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

- (a) Applications attracting six or more representations which are contrary to the officer's recommendation.
- (b) Applications which are significantly contrary to the Development Plan and which are recommended for approval.
- (c) Applications attracting objections from statutory consultees, where the officer's recommendation is for approval.
- (d) Applications which the Council considers should be referred to the relevant planning committee for determination in terms of section 43A(6) of the Town and Country Planning, etc. (Scotland) Act 1997.
- (e) Applications requiring an environmental impact assessment.
- (f) 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 the relevant planning committee.
- (h) Section 42 Applications where the application does not relate to a condition specifically added by a planning committee

7.6.3 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.

Development Management - Major Applications

7.6.4 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.

“representation” shall mean correspondence received during the relevant publicity period for the application.

In assessing the number of representations received, where multiple representations have been submitted on behalf of a single person, these shall be counted as a single representation.

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

- (a) any application for approval of Matters Specified in Conditions relating to a major application for planning permission in principle attracting less than 6 representations which are contrary to the officer’s recommendation;
- (b) any application for approval of Matters Specified in Conditions relating to a major application for planning permission in principle where either there is NO objection from a statutory consultee OR there is such an objection but the officer’s recommendation is for refusal;
- (c) major Section 42 Applications where the application does not relate to a condition specifically added by a planning committee; and
- (d) 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.

Development Management -Development Applications and related matters

7.6.5 In this paragraph:

“representation” shall mean correspondence received during the relevant publicity period for the application.

In assessing the number of representations received, where multiple representations have been submitted on behalf of a single person, these shall be counted as a single representation.

- 7.6.6 Subject to 7.4.1 and 7.4.2, the **appointed person** is authorised 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:-
- (a) any application for approval of Matters Specified in Conditions relating to a major application for planning permission in principle attracting 6 or more representations) which are contrary to the officer's recommendation;
 - (b) applications which are submitted by members of staff either directly employed in Planning Services or who regularly provide advice in relation to the assessment of planning applications, elected members and officers of the Council who are senior managers, heads of service, executive directors or the Chief Executive of the Council or any persons who have held any of these posts up to twelve months preceding the date of the application; and
 - (c) applications attracting representations from statutory consultees, which are contrary to the officer's recommendation. 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.
- 7.6.7 In consultation with the Convener and Depute Convener of the relevant planning 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.
- 7.6.8 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.
- 7.6.9 To promote and, in the absence of objections, confirm orders made to stop up roads or footpaths under sections 207 and 208 of the Act.
- 7.6.10 To determine whether to take enforcement action including issuing fixed penalty notices and the service of any other relevant notices, including:
- Enforcement Notice;
 - Planning Contravention Notice;
 - Breach of Conditions Notice;
 - Discontinuance Notice; and
 - High Hedges Notice, Building Repairs Notice or Urgent Repairs Notice.
- 7.6.11 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.

- 7.6.12 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.
- 7.6.13 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.
- 7.6.14 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 section.75A of the Town and Country Planning (Scotland) Act 1997.
- 7.6.15 In relation to all mineral consents, to ensure that appropriate terms, Section 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.
- 7.6.16 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.
- 7.6.17 To approve or refuse, as appropriate, any application for a notice under the High Hedges (Scotland) Act 2013.
- 7.6.18 To grant, subject to such conditions as the Executive Director (Place) may recommend, construction consents under section 21 of the Roads (Scotland) Act 1984 in all cases where less than six representations are received in respect of applications for said consents, or any representations so received are withdrawn.

Development Planning

- 7.6.19 To discharge the functions of the Council in respect of development planning as set out in the Town and Country Planning (Scotland) Act 1997 (as amended) by the Planning (Scotland) Act 2019).

Climate Change Action

- 7.6.20 To carry out the functions of the Council in respect of the Climate Change (Scotland) Act 2009.
- 7.6.21 On an annual basis, produce and update a Public Bodies Duty Report on compliance with climate change duties.
- 7.6.22 To develop the Fife Sustainable Energy and Climate Action Plan (SECAP).

7.7 Business and Employability Services

- 7.7.1 To determine applications for grant assistance under any scheme approved by the Council which is operated by the Executive Director (Place).
- 7.7.2 To incur expenditure on single items up to £100,000 in respect of maintaining and expanding the Council's Business Property Portfolio.
- 7.7.3 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.
- 7.7.4 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.
- 7.7.5 To approve the advance reservation of space of participating in trade exhibitions, missions or events within and outwith the UK.

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, children, families and criminal justice service, 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 service change 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 2 of the Housing (Scotland) Act 2001.
- 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 committee Convener, Depute Convener and the local elected members.
- 8.1.9 To take action on behalf of the Council in accordance with the exercise of its 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 six or more timeous representations in which case the matter will be considered by the relevant committee; and otherwise to act on the Council's behalf in relation to all delegated decision making and other matters relating to the licensing of houses in multiple occupation, including hearings, 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.
- 8.1.18 To determine applications for licences in respect of short term lets in accordance with the terms of the Civic Government (Scotland) Act 1982, as modified by the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022, except where there are six or more timeous representations and/or objections in which case the matter will be considered by the relevant committee; and otherwise to act on the Council's behalf in relation to all delegated decision making including other matters relating to the licensing of short term lets, (including the determination of a national event) and variations and enforcement except where such matters are to be carried out by officers in other directorates with the agreement of the Executive Director (Communities).
- 8.1.19 To provide grant support to tenants, this power to be exercised in consultation with the Executive Director (Finance and Corporate Services).
- 8.1.20 To take action to construct and acquire Council housing and repair, maintain and investment in the upkeep of Council housing.
- 8.1.21 To consult with tenants and ensure their participation in the development of housing policy in line with section 53 of the Housing (Scotland) Act 2001.
- 8.1.22 To develop an understanding of housing needs, demands and conditions and develop a plan for housing improvement in line with section 89 of the Housing (Scotland) Act 2001.
- 8.1.23 To respond to the requirements of the Scottish Housing Regulator set within the Housing (Scotland) Act 2010.

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 alternatives available;
 - for the minimum period possible, and in any event, five days or less.
- 8.2.2 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.

- 8.2.3 In exceptional circumstances, for reasons of damage or health and safety, disposal of museum objects, acting on Fife Cultural Trust's professional curatorial advice. Any actions undertaken using these delegated powers would be reported to elected members through a briefing paper.
- 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 and including £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.
- 8.3.5 To administer, in accordance with agreed policy, payments etc. for any hardship mitigations.

8.4 Policy & Communications

- 8.4.1 To take action on behalf of the Council in accordance with section 4 of the Local Government Act 1986, as amended by section 27 of the Local Government Act 1988 concerning local authority communication addressed to the public at large or a section of the public.
- 8.4.2 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.
- 8.4.3 Exercise oversight of advertising and sponsorship activities.

8.5 Chief Social Work Officer and Head of Service (Children, Families and Justice)

- 8.5.1 To carry out the functions of the Council under section 11 of the Matrimonial Proceedings (Children) Act 1958.
- 8.5.2 To administer the Panel or Panels appointed under the Curators ad litem and Reporting Officers (Panels) (Scotland) Regulations 2001, including arrangements for training of members of said Panel or Panels.
- 8.5.3 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.

- 8.5.4 To operate the scheme for the payment of allowances under section 50 of the Children Act 1975.
- 8.5.5 To carry out the functions of the Council under the Foster Children (Scotland) Act 1984 and the Private Fostering (Scotland) Regulations 1985.
- 8.5.6 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.
- 8.5.7 To consider and dispose of applications made to the Council for licences in respect of children taking part in public performances.
- 8.5.8 Nothing in this paragraph 8 shall be taken to empower the Executive Director (Communities) to carry out any functions which are specifically reserved by law to the Chief Social Work Officer, which remains a separate appointment.

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.
- 9.1.4 With the exception of deeds falling within the scope of paragraph 4.2.1 above and property transactions falling within the scope of paragraph 4.3, to execute contracts and any other legal agreements on behalf of the Council using whatever means they consider appropriate.
- 9.1.5 To receive nominations from religious organisations for religious representation on the relevant statutory committees.

10. Contracts, Authentication of Notices and Execution of Deeds

- 10.1 With respect to proposed contracts for the execution of works, the provision of services, or for the supply of goods or materials, the following provisions shall apply relating to securing competition for such contracts and for regulating the manner in which tenders are invited.

- 10.2 With respect to proposed contracts, the Executive Director (Finance and Corporate Services) shall ensure, in consultation with the Monitoring Officer, that, where applicable, the provisions of all relevant legislation and any orders, regulations or directions made below shall be applied with respect to the securing of competition for such tenders.
- 10.3 Every notice, order, demand, requisition or other such document or its withdrawal by the Council required or authorised by any enactment, statutory order or bye-law shall, except in so far as such enactment or statutory order specifically otherwise provides, be signed by the Proper Officer.
- 10.4 (1) The Common Seal of the Council shall be kept by the Proper Officer who shall be responsible for its safe custody.
- (2) The Common Seal of the Council shall be fixed to any deed or document which requires to be sealed in order to give effect to a decision of the Council.
- (3) All deeds to which the Common Seal of the Council is required to be affixed shall also be signed by the Proper Officer.
- (4) A list of all deeds so executed shall be kept with the Proper Officer and shall be available for inspection by any member of the Council at any time.

11.0 Scheme of Tender Procedures

- 11.1 The Head of Legal and Democratic Services, in consultation with the Executive Director (Finance and Corporate Services), will prepare and submit to full Council a Scheme of Administration on Tender Procedures and such procedures, once approved and adopted by Fife Council, will be observed by all members and officers of the Council. Any revisions or alterations to the Tender Procedures will require to be approved by Fife Council. The procedures shall make provision for all relevant matters including, but not limited to:-
- (i) the invitation of tenders;
 - (ii) the circumstances and financial limits within which competitive tenders are not required;
 - (iii) the selection of lists of contractors;
 - (iv) the situation in which direct services or direct labour organisations are entitled to be the sole contractor;
 - (v) the preparation of contract documents;
 - (vi) the receipt of tenders;
 - (vii) the opening of tenders, including their safe custody;
 - (viii) the circumstances and extent to which the Proper Officer will be entitled to amend the Scheme of Tender Procedures without first obtaining Council approval for the proposed changes;
 - (ix) the formal acceptance of tenders;
 - (x) the appointment of sub-contractors;
 - (xi) payments to contractors (including the monitoring of such payments);
 - (xii) alterations to specification and reporting of increases;
 - (xiii) contract monitoring and reporting;

- (xiv) the determination of contracts;
- (xv) the application of tender procedures to offers to dispose of land, buildings, surplus land and equipment;
- (xvi) the circumstances in which a single supplier may be used;
- (xvii) provision for regular review.

Appendix – List of relevant legislation

Section 1 – Environmental Health

Abandonment of Animals Act 1960
Air Quality (Scotland) Regulations 2000 (as amended)
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
The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021
Antisocial Behaviour etc (Scotland) Act 2004

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 (and regulations and/or orders made thereunder)
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
Dog Fouling (Scotland) Act 2003
Dogs Act 1906

Environment Act 1995
Environmental Protection Act 1990 (and regulations and/or orders made thereunder)
European Union (Withdrawal) Act 2018 (and regulations and/or orders made thereunder)

Fire Safety and Safety of Places of Sports Act 1987
Food and Environment Protection Act 1985 (S.19) (and regulations and/or orders made thereunder)
Food and Feed Safety and Hygiene (EU Exit) (Scotland) (Amendment) Regulations 2019
Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020
Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019
Food Hygiene (Scotland) Regulations 2006 (as amended) and all associated tertiary legislation
Food Information, Labelling and Standards (EU Exit) (Scotland) Regulations 2019
Fishery Products (Official Control Charges) (EU Exit) (Scotland) (Amendment) Regulations 2019
Food Safety Act 1990 (and regulations and/or orders made thereunder)
Food Information (Scotland) Regulations 2014 as amended

Food Information (Scotland) Amendment Regulations 2021
Food (Scotland) Act 2015 (and regulations and/or orders made there under)

Gambling Act 2005
General Food Regulations 2004
Guard Dogs Act 1975

Health and Safety at Work etc. Act 1974 (and regulations and/or orders made thereunder)
Housing (Scotland) Act 1987/88/2001/2006/2014

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
Nutrition (EU Exit) (Scotland) (Amendment) Regulations 2019

Official Feed and Food Controls (Scotland) Regulations 2009 as amended
Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2019 and 2020

Pet Animals Act 1951
Performing Animals (Regulation) Act 1925
Prevention of Damage by Pests Act 1949 as amended
Protection of Animals (Scotland) Act 1912 and 1954
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) 2016/429
Regulation (EU) 2017/625 and Associated Tertiary Legislation
Riding Establishments Act 1964 and 1970
Roads (Scotland) Act 1984

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 Coronavirus (Scotland) Act 2020 (and regulations and/or orders made thereunder)
The Coronavirus (Scotland) (No.2) Act 2020 (and regulations and/or orders made there under)
The Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021
The Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013
The Food (Scotland) Act 2015 (Compliance Notices) Regulations 2023
The Novel Foods (Scotland) Regulations 2017
The Private Water Supplies (Scotland) Regulations 2006
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 (as amended)
The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017
The Working Time Regulations 1998 (as amended)
Theatres Act 1968
Tobacco and Primary Medical Services Act 2010

Water (Scotland) Act 1980

Zoo Licensing Act 1981

Section 2 – Trading Standards

Agriculture Act 1970
Antisocial Behaviour (Scotland) Act 2004, Secs 122 and 123

Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013
Biofuel Labelling Regulations 2004
Business Protection from Misleading Marketing Regulations 2008

Children & Young Persons (Protection from Tobacco) Act 1991
Civic Government (Scotland) Act 1982, Sections 24 to 27 and 94
Clean Air Act 1993
Companies Act 2006
Company and Limited Liability Partnership Businesses (Names and Trading Disclosures) Regulations 2015
Coronavirus Act 2020
Consumer Credit Act 1974 and 2006
Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
Consumer Estate Agents and Redress Act 2007
Consumer Protection Act 1987
Consumer Protection from Unfair Trading Regulations 2008
Consumer Protection (Amendment etc) (EU Exit) Regulations 2018
Consumer Rights Act 2015
Consumer Rights (Payment Surcharges) Regulations 2012
Construction Products Regulations 2013
Copyright Designs & Patents Act 1988
Cosmetic Products Enforcement Regulations 2013
Customs and Excise Management Act 1979

Dangerous Substances and Explosive Atmosphere Regulations 2002
Development of Tourism Act 1969

EC Fertilisers (Scotland) Regulations 2006
Ecodesign for Energy Related Products 2010
Education Reform Act 1988
Electrical Equipment (Safety) Regulations 1994, 2006 & 2016
Electromagnetic Compatibility Regulations 2006
Electronic Commerce (EC Directive) Regulations 2002
Energy Act 1976

Energy Conservation Act 2001
Energy Information Regulations 2011
Energy Performance of Buildings (Scotland) Regulations 2008
Environment Act 1995
Environmental Protection Act 1990
Environmental Protection (Microbeads) (Scotland) Regulations 2018
Enterprise Act 2002 (as amended)
Estate Agents Act 1979
Estate Agents (Provision of Information) Regulations 1991

Explosives Act 1875 & 1923
Explosives Regulations 2014

Fair Trading Act 1973
Fireworks Act 2003
Fireworks (Scotland) Amendment Regulations 2021
Fireworks Regulations (Scotland) 2004
Fireworks & Pyrotechnics Articles (Scotland) Act 2022
Food and Environmental Protection Act 1985
Food Imitations (Safety) Regulations 1989
Furniture and Furnishings (Fire)(safety)Regulations 1988

General Product Safety Regulations 2005

Hallmarking Act 1973
Health (Tobacco, Nicotine etc and Care)(Scotland) Act 2016 Chapter 1&2
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 2006
Intellectual Property Act 2014

Manufacture and Storage of Explosives Regulations 2005
Measuring Instruments Regulations 2016
Medicines Act 1968
Motorcycle Noise Act 1987

Nightwear (Safety) Regulations 1985
Non-automatic Weighing Instruments Regulations 2016

Olympic Symbol etc (Protection) Act 1995

Packaged Travel and Linked Travel Arrangements Regulations 2018
Personal Protective Equipment (Enforcement) Regulations 2018
Petroleum (Consolidation) Regulations 2014
Petroleum (Regulations) Acts 1928 and 1936
Plugs & Sockets etc. (Safety) Regulations 1994
Poisons Act 1972
Pressure Equipment (Safety) Regulations 2016
Prices Acts 1974-75
Price Marking Order 2004

Price Indications (Bureau de Change) (No. 2) Regulations 1992
Product Safety and Metrology Etc (Amendment Etc) (EU Exit) Regulations 2019
Psychoactive Substances Act 2016
Pyrotechnic Articles (Safety) Regulations 2015

Radio Equipment Regulations 2017
REACH Enforcement Regulations 2008
Recreational Crafts Regulations 2017
Road Traffic Act 1988
Registered Designs Act 1949

Sale of Tobacco (Display of Warning Statements) (Scotland) Regulations 2011
Sale of Tobacco (Prescribed Documents) (Scotland) Regulations 2013
Sale of Tobacco (Register of Tobacco Retailers) (Scotland) Amendment Regulations 2017
Sale of Tobacco (Register of Tobacco Retailers) Regulations 2010
Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2011
Sale of Tobacco and Nicotine Vapour Products by Persons Under 18 (Scotland) Regulations 2017
Simple Pressure Vessels (Safety) Regulations 1991 & 2016
Single Use Carrier Bags Charge (Scotland) Regulations 2014
Supply of Machinery (Safety) Regulations 2008
Standardised Packaging of Tobacco Products Regulations 2015

Textile Products (Labelling and Fibre Composition) Regulations 2012
Tobacco Advertising and Promotion Act 2002
Tobacco and Primary Medical Services (Scotland) Act 2010
Tobacco and Related Products Regulations 2016 as amended
Tobacco for Oral Use (Safety) Regulations 1992
Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002
Toys (Safety) Regulations 2011
Trade Descriptions Act 1968
Trade Marks Act 1994
Timeshare, Holiday Products, Resale and Exchange Regulations 2010
Timeshare, Holiday Products, Resale and Exchange Regulations 2010

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 and all Regulations and Orders made thereunder
Weights and Measures (Packaged Goods) Regulations 2006

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
Carers (Scotland) Act 2016
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