



Clackmannanshire Council

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Scheme of Delegation

20 December 2012

SCHEME OF DELEGATION TO COMMITTEES AND OFFICERS: This scheme of delegation forms part of the standing orders approved by us on 1 June 2012, and as amended on 20 December 2012.

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Definitions

At the first stage	The first step in a process where the Head of Service has to approve any request for changing the grade of a post before that request is put to the Senior Support Service Manager.
Chief Social Work Officer	This person is responsible for making sure we are providing all social work services properly. The Joint Head of Social Services is our Chief Social Work Officer.
Contract standing orders	Our set of rules for procuring services and goods, and paying for building work, building maintenance and engineering work.
Delegate	When we delegate duties or responsibilities we are giving someone else the authority to act on our behalf. We can arrange to delegate functions to a committee, subcommittee or council officer.
Development Plan	A plan made up of the Structure Plan and the Local Plan. The Structure Plan sets out our policy and general proposals for how land in Clackmannanshire can be used. The Local Plan sets out in more detail our proposals for developing and using land in Clackmannanshire.
Financial Regulations	Our set of rules to make sure we protect the public money we handle and spend it correctly and responsibly. The Regulations also help and protect staff dealing with financial business.
Head of Paid Service	The most senior council officer is the Chief Executive, who is also the Head of Paid Service. This person is the senior adviser responsible for the smooth running and co-ordination of council services.
Monitoring Officer	Every council has to appoint a Monitoring Officer who will investigate any proposal, decision or failure to act where council, a committee or an officer may have broken an Act of Parliament, a law or any code of practice. The Monitoring Officer may have to prepare a report for us. Our Monitoring Officer is the Governance Manager.
Procuring (procurement)	Buying goods and services, and paying for building work, building maintenance and engineering work. The main steps in procurement include planning, locating, purchasing, ordering, managing suppliers, and using and disposing of the product, service or asset.

Proper officers	Employees we appoint to deal with formal functions we must perform by law.
Ratification	A way of approving, at a higher level, a decision taken earlier if there is some doubt over the authority of the original decision maker.
Scottish Public Services Ombudsman	The Scottish Public Services Ombudsman provides an open, accountable and accessible complaint system. The organisation offers free, independent advice for members of the public making complaints about public services. You can phone them on 0870 011 5378 or send an e-mail to enquiries@scottishombudsman.org.uk .
Standing orders	Our set of rules to make sure that council and committee meetings are conducted properly and that decisions are made in an open and accountable way (that is, in a way we can justify).
Vire	Transferring funds from one budget to another. The limits on the amounts that can be transferred are set out in our financial regulations.
Ward	Part of the local authority area for the purpose of electing councillors. Clackmannanshire is divided into five electoral wards. There are three wards with four councillors and two wards with three councillors (18 councillors in total).

1.0 Introduction

- 1.1 We approved this scheme of delegation on 1 June 2012 to delegate duties and responsibilities to committees, subcommittees and officers (that is, authorise them to act for us) as allowed under section 56 of the Local Government (Scotland) Act 1973. The scheme contains details of duties and responsibilities we have chosen to delegate and provides guidance to committees, subcommittees and officers.
- 1.2 You need to read this scheme of delegation alongside:
- our standing orders (the rules which make sure council meetings and committee meetings are run properly, and decisions are made in an open way);
 - contract standing orders (the rules for buying in goods and services); and
 - our financial regulations (rules to make sure we are honest and open when dealing with public money).
- 1.3 These documents make up the wider framework of governing rule we work within.
- 1.4 We also have 'corporate priorities' (issues which are important to us) which we may change from time to time. Where duties and responsibilities are delegated, this should always be to help us achieve our corporate priorities.
- 1.5 We aim to make sure our services are effective, focused on our customers' needs and co-ordinated across all service areas to reflect our corporate priorities.
- 1.6 This scheme of delegation must keep to not only the terms of our standing orders, contract standing orders and financial regulations, but also all relevant council policies, procedures and guidelines. There are current versions of our main documents on our website at www.clacksweb.org.uk.
- 1.7 Human resources' policies are on our intranet site COIN.
- 1.8 We believe that decisions should be made locally, consistent with the issue involved. For this reason we aim to give each committee the power to deal with all matters relating to their service area, except for matters relating to certain restricted areas. We will clearly specify delegated duties to officers.

2.0 The Council's Duties And Responsibilities

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

3.0 Specific Matters That Must Be Dealt With By The Full Council

- 3.1 By law, only the council can do the following.
- 3.2 Define our values and main objectives and approve our main policies and strategies.
- 3.3 Decide how to share out funding between the different functions and activities of the council to reflect our priorities.
- 3.4 Approve the community plan.
- 3.5 Elect the Leader and Depute Leader of the council, the Provost and the Depute Provost(s).
- 3.6 Appoint committee members, convenors and vice-convenors.
- 3.7 Set up standing committees and 'ad hoc' committees (those set up for a specific purpose).
- 3.8 Make schemes for members' allowances.
- 3.9 Appoint representatives to joint boards.
- 3.10 Designate one of our officers as the 'Head of Paid Service' (the most senior council officer, also known as the Chief Executive, who is the main adviser responsible for the smooth running of council services.).
- 3.11 Designate one of our officers as our monitoring officer (responsible for investigating any matter where we, a committee or an officer may have broken the law or a code of practice).
- 3.12 Approve the main roles and responsibilities of the Chief Executive, directors and heads of service depending on the authority delegated to the Chief Executive as set out in later sections of this Scheme.
- 3.13 Appoint employees to act as the 'proper officers' for the specific duties set out in section 13 of this scheme of delegation.

- 3.14 Respond to the Scottish Public Services Ombudsman's findings of inefficiency or dishonesty.
- 3.15 Consider any report the monitoring officer has prepared after an investigation, and keep to section 5 of the Local Government and Housing Act 1989.
- 3.16 Approve standing orders, financial regulations, contract standing orders and the scheme of delegation.
- 3.17 Agree exceptions to the council's financial regulations or contract standing orders (other than where the powers have been delegated to the Governance Manager, and Director of Finance & Corporate Services, under the exception procedure set out in contract standing orders).
- 3.18 Set the Council Tax and the rent we charge our tenants.
- 3.19 Approve budgets (This does not limit authority delegated to officers to transfer funds between budgets as set out in our financial regulations.).
- 3.20 Spending not budgeted for.
- 3.21 Borrow money.
- 3.22 Make, alter or cancel any scheme introduced by law.
- 3.23 Make, alter or cancel any byelaws.
- 3.24 Decide to issue a compulsory purchase order (where the law or the local authority insists that a property must be sold to them).
- 3.25 Approve the development plan (a document made up of the structure plan, which sets out our policy on and plans for using land in Clackmannanshire, and the local plan, which explains in detail our plans for how we will develop and use land).
- 3.26 Promote or oppose parliamentary bills.

- 3.27 Consider and respond to proposed amendments to our boundaries or the boundaries of electoral wards.

- 3.28 Decisions on planning applications which the Planning Authority is required to make in terms of the Town and Country Planning (Scotland) Act 1997, as amended.

4.0 Duties And Responsibilities Delegated To Committees

- 4.1 Section 3 lists the powers we cannot delegate. All other powers can be delegated to a committee, a subcommittee or a council officer. We may change, withdraw or restrict any delegation, or refer a specific role to any committee or officer.
- 4.2 Each committee or subcommittee will have all powers and duties delegated to it except where the council places any restrictions on a power or duty. When carrying out its duties, the committee or subcommittee must keep to our standing orders and any resolutions or instructions passed by the council. Where appropriate, the committee or subcommittee may decide to refer any matter to the council for a decision, but this is only likely to happen if a committee or a subcommittee is not sure that it has enough authority to decide the matter. Decisions taken by committees and subcommittees will be considered to be the council's decision.
- 4.3 Ad-hoc committees (those set up for a specific purpose when necessary) will act in line with the duties given to them by the council.
- 4.4 A committee cannot alter its principles or membership without permission from the council. Details of proposed changes in membership must be given to the Governance Manager who will arrange for the change to be considered. Changes will not apply until they have been approved by the council.
- 4.5 Committees cannot set up subcommittees without the council's approval. However, they can set up temporary working groups to examine or consider issues and report back to the wider committee.
- 4.6 Committees can only decide matters that are within the authority that has been delegated to them, although they may make recommendations to the council. If it is not clear whether a committee has the authority to decide on a matter, the Governance Manager will make a decision on the matter. If a matter falls within the duties of more than one committee, it will be decided by the council.
- 4.7 The authority to appoint our chief officers (the Chief Executive, directors and heads of service) is delegated to an Appointments Committee which we set up as and when we need it.

5.0 Committee Roles and Remits

5.1 General

Committees shall conduct their business within their terms of reference and, in exercising the authority delegated to them, shall do so always in accordance with the policy of the Council.

The Committee will take all executive decisions which are not reserved to the Council, delegated to another committee of the Council or to officers of the Council.

In relation to any matter not specifically referred to in the remit of the Committee, it shall be competent, for the Committee whose remit the matter most closely resembles to consider such matter and to make any appropriate recommendation to the Council.

5.2 The standing committees of the council have the following remits

5.3 Education, Sport & Leisure Committee

5.4 Remit

(1) To determine policies for the promotion of education, sport and leisure in Clackmannanshire within the strategic policy framework approved by the Council in relation to the following:

- early years education
- primary education
- secondary education
- additional support needs
- adult education
- community learning
- sports development and provision
- leisure development and provision

- (2) With the exception of those matters reserved to Council or delegated to a Committee or an officer, advising the Council on education matters and discharging functions of the Council in relation to education matters
- (3) In consultation with the Housing, Health & Care Committee, the promotion of children's health and welfare (including the preparation, publication and review of a plan for the provision of services for children in Clackmannanshire);
- (4) To set standards for service delivery.
- (5) To secure best value in the provision of services.
- (6) To consider valid petitions submitted which relate to the areas covered by the Committee
- (7) To monitor performance in the delivery of services including consideration of:
 - quarterly service performance reports
 - inspection or other similar reports
 - financial performance
 - reports on the development and implementation of shared services
- (8) To keep under review the impact of the Committee's policies on Clackmannanshire
- (9) To hear representations on petitions which have been accepted by the Director of Finance and Corporate Services as valid in accordance with the council policy and criteria. The Committee shall report on every petition in respect of which it has heard representations to Council with its recommendations on how the petition should be disposed of, which may include a recommendation that no action be taken.

5.5 Enterprise & Environment Committee

5.6 Remit

- (1) To determine policies for the promotion of regeneration and enterprise in Clackmannanshire within the strategic policy framework approved by the Council in relation to the following:
 - roads and transportation
 - regulatory services
 - development planning
 - facilities management
 - economic development
- (2) To develop strategies, plans and projects in those areas and work with officers and partners to implement them.
- (3) With the exception of those matters reserved to Council or delegated to a Committee or an officer, the functions, powers and duties of the Council as planning authority including the preparation of a Development Plan
- (4) To set standards for service delivery.
- (5) To secure best value in the provision of services.
- (6) To consider valid petitions submitted which relate to the areas covered by the Committee
- 7) To monitor performance in the delivery of services including consideration of:
 - quarterly service performance reports
 - inspection or other similar reports
 - financial performance
- (8) To keep under review the impact of the Committee's policies on Clackmannanshire

- (9) To hear representations on petitions which have been accepted by the Director of Finance and Corporate Services as valid in accordance with the council policy and criteria. The Committee shall report on every petition in respect of which it has heard representations to Council with its recommendations on how the petition should be disposed of, which may include a recommendation that no action be taken.

5.7 **Housing, Health & Care Committee**

5.8 Remit

- (1) To determine policies for the promotion of housing, health and care in Clackmannanshire within the strategic policy framework approved by the Council in relation to the following:
- children and families services
 - adult care
 - criminal justice
 - housing provision
 - homelessness
 - community safety
 - antisocial behaviour
 - health improvement
- (2) With the exception of those matters reserved to Council or delegated to a Committee or an officer, advising the Council on social services matters and discharging functions of the Council as social work authority
- (3) With the exception of those matters reserved to Council or delegated to a Committee or an officer, advising the Council on housing matters and discharging functions of the Council as local housing authority
- (4) In consultation with the Education, Sport & Leisure Committee, the promotion of children's health and welfare (including the preparation, publication and review of a plan for the provision of services for children in Clackmannanshire);

- (5) To set standards for service delivery.
- (6) To secure best value in the provision of services.
- (7) To consider valid petitions submitted which relate to the areas covered by the Committee
- (8) To monitor performance in the delivery of services including consideration of:
 - quarterly service performance reports
 - inspection or other similar reports
 - financial performance
 - reports on the development and implementation of shared services
 - joint working with health services
- (9) To keep under review the impact of the Committee's policies on Clackmannanshire
- (10) To hear representations on petitions which have been accepted by the Director of Finance and Corporate Services as valid in accordance with the council policy and criteria. The Committee shall report on every petition in respect of which it has heard representations to Council with its recommendations on how the petition should be disposed of, which may include a recommendation that no action be taken.

5.9 Resources & Audit Committee

5.10 Remit

Resources

- scrutiny of corporate budgets, financial performance and asset management
- scrutiny of decision-making of other Standing Committees and the Council, with the ability to call in decisions (inc Council)
- initiate or undertake scrutiny reviews
- monitor the performance of the organisation against agreed outcomes, standards and targets
- scrutiny of community planning and its effectiveness
- monitoring of service and financial performance of Finance & Corporate Services
- oversee the development and implementation of frameworks for managing Council resources and the development and application of the Council's governance framework
- ensure systematic appraisal of the Council's control environment and framework of internal control, particularly via monitoring and review of the Annual Governance Statement

Audit

Receive the following reports and accompanying analysis:

- external audit reports and action plans resulting from such
- internal audit update reports and action plans resulting from such
- internal audit results of investigations
- Annual Statement of Accounts

Consider and monitor the operational and strategic internal audit plans and reviewing internal audit performance.

Monitor and review actions taken on internal and external audit recommendations.

Promote internal control by the systematic appraisal of risk management processes, including corporate risk strategy and risk management procedure.

5.11 Attendance Committee

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

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

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

5.15 Complaints Review Committee (Social Services)

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

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

5.18 Education Appeals Committee

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

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

5.21 This committee does not have the authority to change or make council policies.

5.22 Planning Committee

5.23 Subject to Paragraphs 3.28 and 11.4, taking decisions on planning applications and enforcing planning laws.

5.24 Carrying out the local authority's functions in relation to street naming under section 97 of the Civic Government (Scotland Act) 1982.

5.25 Dealing with regulatory and enforcement issues arising from matters delegated to or delivered by Community and Regulatory Services related to Building Standards.

5.26 Regulatory Committee

5.26A Determining applications for the grant or renewal of any licences to be issued under the Civic Government (Scotland) Act 1982, including the imposition of conditions on any licence granted.

5.26B Determining whether to suspend or alter any licence issued under the Civic Government (Scotland) Act 1982.

5.26C Determining whether to recall a suspension made pursuant to the terms of the Civic Government (Scotland) Act 1982.

5.26D Setting, approving and reviewing any policies in respect of the operation of the licensing regime under the Civic Government (Scotland) Act 1982.

5.26E Discharging the Council's statutory licensing function in respect of all legislation that imposes the duty on the Council as the appropriate authority to determine applications or to grant regulatory consents in respect of any licensable activities prescribed by statute.

5.26F Holding hearings and determining HMO Licence applications in terms of Schedule 4 of the Housing (Scotland) Act 2006.

5.26G Dealing with regulatory and enforcement issues arising from matters delegated to or delivered by Community and Regulatory Services related to Environmental Health,

Licensing (other than alcohol licensing) and Trading Standards.

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

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

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

5.30 Workforce Committee

5.31 Hearing appeals by our employees and disputes raised by recognised trade unions, in line with Human Resources' policies and procedures. This committee does not have authority to change or make council policies.

5.32 Local Review Body

5.33 Considering and determining applications for review of decisions made by officers under delegated powers in respect of planning applications for local development, in accordance with the Town and Country Planning (Scotland) Act 1997, as amended.

6.0 Duties And Responsibilities Delegated To Officers

6.1 We are committed to setting the highest standards of decision-making. To achieve this we have chosen to exercise our right (under section 56 of the Local Government (Scotland) Act 1973) to delegate certain duties and responsibilities to committees, subcommittees or council officers.

6.2 If we or a committee has delegated authority to an officer, the officer acting on that authority must keep to any relevant, approved policies and procedures without referring the matter back to us or the committee (unless acting on the delegated authority would bring the officer into conflict with any other approved policy or procedure or would be against the law).

- 6.3 These policies and procedures include the following.
- Standing orders
 - Contract standing orders
 - Financial regulations
 - The council's human resource policies and procedures, including those relevant to devolved management of schools (where the management has been transferred to schools.)
 - Relevant plans and policies adopted by the council
 - Approved budgets
 - National code of local government conduct
 - The Scottish Joint Committee's/Councils, Terms and Conditions for all employees working for local Councils
- 6.4 When acting on the authority delegated to them, officers must make sure that they consult the Chief Executive, the appropriate director, the Governance Manager and the Senior Support Services Manager (as appropriate) about all sensitive or complex matters, or if they need advice or guidance. In particular, officers must get technical, construction and procurement advice.
- 6.5 Officers must make sure they consult local councillors if it appears that a proposed decision or action could directly affect a particular ward. This does not apply if the decision or action has a general effect on all wards.
- 6.6 Further delegation
- 6.7 If duties and responsibilities have been delegated to an officer under this scheme, that officer may authorise any member of his or her staff to act for them.
- 6.8 Officers delegating powers must consider the role of the officer they intend to delegate those powers to and whether the officer has appropriate qualifications and experience. Any officer using delegated powers will be responsible to us for their actions. However, if an officer delegates their powers to another officer, this will not relieve the delegating officer of his or her responsibility for the duties they have delegated. Proper officers should make sure any delegation of statutory powers and duties is recorded.

6.9 Limits on delegated powers

6.10 Our scheme does not allow the following matters to be delegated to officers.

6.11 Matters that must be considered by the full council or a committee or sub-committee

6.12 Matters not covered by this scheme of delegation.

6.13 Matters which, by law, cannot be delegated to an officer.

6.14 Conflict Of Interest

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

6.16 Job Applications

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

7.0 Specific Duties And Responsibilities Delegated To The Chief Executive

- 7.1 The Chief Executive has overall authority over all other officers and has the powers he or she needs to do the following:
- 7.2 Efficiently manage the council's responsibilities and performance in carrying out its roles.
- 7.3 Set up proper decision-making and consultative forums for senior officers.
- 7.4 Give professional advice in the decision-making process.
- 7.5 Take the action considered necessary to meet any of our objectives (within the limitations of this scheme of delegation).
- 7.6 Review the chief officer organisational structure, in consultation with the Senior Support Services Manager, and recommend any changes to the council.
- 7.7 Review the council's administration and management arrangements and, where allowed and in consultation with the Senior Support Services Manager, make any changes necessary to improve how we provide services.
- 7.8 Maintain good working relationships within the council and promote good relations with organisations outside the council.
- 7.9 Maintain a corporate plan and make sure all services keep to its requirements.
- 7.10 Have overall responsibility for carrying out the council's role relating to emergency planning.
- 7.11 Authorise action, and agree spending in emergencies or disasters.

7.12 Workforce Issues

7.13 The Chief Executive is also authorised to do the following.

7.14 Set the grade of posts, placement of employees and date of any changes (at any level below director) as a result of a review approved by the Senior Support Services Manager.

7.15 Amend service structures within the limits of existing budgets, after consulting the Senior Support Services Manager

7.16 Decide on the number of posts, including altering the number of posts we have, after consulting with the Senior Support Services Manager.

7.18 Authorise responsibilities being transferred among directors or heads of service, but only in consultation with the Senior Support Services Manager, and then only if the action does not have a significant effect on the amount of responsibility held by any director or head of service (if the Chief Executive and the Senior Support Services Manager disagree on this point, the decision must be referred to the full council.)

7.19 Strategic Management

7.20 The Chief Executive will make proper arrangements for the strategic management (the overall management of council activities) of the council, particularly the following.

7.21 Making sure council policies are put into practice.

7.22 Making sure all parts of the council follow policies in a consistent way.

7.23 Reviewing how efficient and effective our management and administrative systems are.

7.24 Managing and developing the workforce.

8.0 General Duties Delegated To Directors

- 8.1 For the purposes of this section, the term 'director' includes the Chief Executive.
- 8.2 Directors can delegate duties to heads of service within their directorates, depending on the particular head's suitability, qualifications and experience. The authority delegated to each head of service will be defined by a job profile approved by the Chief Executive, within the limits on the Chief Executive's authority set out in section 7 of this scheme of delegation. The appointments set out in section 13 of this Scheme of Delegation must have specific approval from the council.
- 8.3 The Chief Executive and directors have overall responsibility for the following.
- 8.4 Using approved resources as they think fit for carrying out their duties.
- 8.5 Co-ordinating and managing their services.
- 8.6 Appointing all staff below head of service level, in line with procedures set by us.
- 8.7 Reviewing the performance of services and developing services.
- 8.8 Delegating duties under the standing orders, relating to contracts entered into, and issuing orders for providing goods and services.
- 8.9 Transferring amounts between budgets in their control.
- 8.10 Delegating duties as set out in our financial regulations, for normal working practices.
- 8.11 Authorising the payment of bills for goods and services we have received.
- 8.12 Advising the Director of Finance & Corporate Services about any unusual financial obligations that will affect us.
- 8.13 Making sure the services keep to EU and UK statutory or legal requirements.
- 8.14 Responding to consultation documents within the set time limit.

- 8.15 Organising safe working procedures and processes within the current health and safety policies.
- 8.16 Maintaining proper security for staff, buildings, stocks, stores, furniture, equipment and similar items (if special arrangements are needed there should be consultation with the Director of Finance & Corporate Services and the Head of Facilities Management).
- 8.17 Making decisions on complaints made under our complaints procedure.
- 8.18 Reviewing our actions and decisions and dealing with requests for information under the Freedom of Information (Scotland) Act 2002.
- 8.19 Making sure council policies and procedures are consistent and are followed.

9.0 General Delegations To Heads Of Service

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

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

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

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

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

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

9.6 Heads of service have delegated responsibility for the following.

- Putting individual business plans into place and providing services set out in this Scheme of Delegation.
- Spending the approved budget appropriate to the post.

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

10.0 Specific Duties And Responsibilities Delegated To Directors & Heads Of Service - Finance & Corporate Services

10.1 The Director of Finance & Corporate Services is accountable for the services set out below. He or she will delegate specific responsibilities to Heads of Service. The responsibilities delegated to Heads of Service are set out in their job descriptions.

10.2 The Director has overall responsibility for the following services.

- Strategy and Customer Services
- Support Services

10.3 Specific responsibilities delegated to the heads of service in Finance & Corporate Services

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

10.5 Acting as a clerk to the council.

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

10.7 Organising and running civic ceremonies.

10.8 Providing support services for councillors.

10.9 Providing legal services to the council and council services.

10.10 Running the Children's Panel Advisory Committee and providing support services to the Children's Panel and the Panel of Safeguarders.

10.11 Providing legal advice to the Joint Valuation Board.

10.12 Making sure we keep to the Data Protection, Freedom of Information and Regulation of Investigatory Powers (Scotland) Act 2000.

- 10.13 Making arrangements for receiving and holding tenders, in line with our contract standing orders.
- 10.14 Registering births, deaths and marriages.
- 10.15 Delivering, managing and promoting library, community and museum services
- 10.16 Charging fees for providing library services in line with our policies
- 10.17 Managing public trusts (financial arrangements).
- 10.18 Providing policy support to the council and its services.
- 10.19 Community planning.
- 10.20 Providing a research and information service to the council and its services.
- 10.21 Managing regeneration programmes.
- 10.22 Managing the Clacks 1000 Citizens' Panel, Clacks Business Panel and coordinating local forums.
- 10.23 Managing, developing and promoting arts programmes.
- 10.24 Running a system for charging people to take part in arts and community programmes ` and for helping to fund these, in line with our policies.
- 10.25 Encouraging the development of training opportunities in the community.
- 10.26 Liaising and co-operating with institutions of further and higher education, voluntary organisations, enterprise companies and other appropriate agencies to develop training and adult education.
- 10.27 Setting appropriate charges for adult education classes.
- 10.28 Deciding on the level of grants to individuals and organisations within the community, up

to a maximum decided by us.

- 10.29 Running the corporate complaints procedures.
- 10.30 Providing communication services (including managing and developing 'Clacksweb') and dealing with the media.
- 10.31 Collecting Council Tax and National Non-Domestic Rates.
- 10.32 Authorising warrants and charges for unpaid Council Tax and National Non-Domestic Rates.
- 10.33 Processing applications for Housing Benefit and Council Tax Benefit.
- 10.34 Providing for doubtful debt (debt that we may not be able to collect).
- 10.35 Accounting and budgeting.
- 10.36 Revenues (all sources of income).
- 10.37 Paying invoices.
- 10.38 Payroll (systems to make sure our employees are paid correctly and we provide accurate returns to HM Revenue & Customs).
- 10.39 Managing the loans fund.
- 10.40 Managing finance and operating leases (legal agreements).
- 10.41 Borrowing and lending funds to meet the council's needs.
- 10.42 Arranging the insurance we need.
- 10.43 Maintaining complete and wide-ranging HR management policies and procedures.
- 10.44 Promoting equal opportunities.

- 10.45 Providing advice on corporate and organisational development.
- 10.46 Keeping to health and safety laws and following good practice.
- 10.47 Setting up and maintaining the council's systems for planning services and managing performance.
- 10.48 Maintaining electronic records and exchanging information with partners we work with outside the council.
- 10.49 Improving customer service.
- 10.50 Introducing and maintaining procurement policies and procedures.
- 10.51 Managing information technology services provided to the council.
- 10.52 Providing an internal audit of our services.
- 10.53 Investigating fraud.

11.0 Specific Duties And Responsibilities Delegated To Directors & Heads Of Service - Services To Communities

11.1 The Director of Services to Communities is accountable for the services set out below. He or she will delegate specific responsibilities to Heads of Service. The responsibilities delegated to Heads of Service are set out in their job descriptions.

11.2 The director has overall responsibility for the following services:

- Community & Regulatory
- Facilities Management

11.3 Specific responsibilities delegated to the heads of service

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

As appointed persons for the purposes of Section 43A(1) of the Town and Country Planning (Scotland) Act 1997 as amended, the Director of Services to Communities, Development Service Manager, and Development Management Team Leader are authorised to make decisions on all applications made under the planning and related Acts other than where:-

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

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

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

11.7 Monitoring planning permission and other permissions, and taking enforcement action

under Part V1 and V11 of the 1997 Act, including serving notices, taking direct action and prosecuting people for not keeping to such notices

11.8 Carrying out our duties under the terms of the Building (Scotland) Acts and related laws.

11.9 Managing the powers we have under the following sections of the Civic Government (Scotland) Act 1982, Chapter 45

- Section 87 - Buildings in need of repair
- Section 89 - Safety of platforms
- Section 90 - Lighting of common stairs
- Section 96(b) - Powers of entry to carry out work on statues and monuments
- Section 97 - Naming or altering street names and house numbers
- Section 99 - Powers of entry to private property to execute work and recover expenses
- Section 100 - Entitlement to recover expenses and charge reasonable interest from the date of the demand for payment
- Section 101 - Reporting of offences relating to powers of entry and carrying out of works
- Section 106 - The right of appeal against a notice served under the Civic Government (Scotland) Act 1982

11.10 Carrying out our duties under the Safety of Sports Grounds Act 1975.

11.11 Carrying out our duties to protect public health, safety and welfare, as set out in the Public Health Act 1897, the Health and Safety at Work Act 1974, the Water (Scotland) Act 1980, the Food Safety Act 1990, the Food Standards Act 1999, the Pest Control Act 1949, the Clean Air Act 1956, the Environmental Protection Act 1990, the Environment Act 1995 (and any new laws or amendments that come into force).

11.12 Licensing 'Houses in Multiple Occupation' (properties that more than one household live in) and registering private landlords under section 84 of the Anti-Social Behaviour Act 2004.

11.13 Carrying out our duties as a waste authority under the Environmental Protection Act and

any regulations or orders made under it, including the following:-

- Sections 87 and 88 – Fixed Penalty Notices
- Section 33 – Illicit dumping
- Section 59 – Notice to remove waste
- Section 34B – Duty of care to furnish documents
- Section 46 – Service of notice for providing and using waste receptacles

11.14 Carrying out our duties under the Burial Grounds (Scotland) Act 1855 to provide and manage burial grounds.

11.15 Carrying out duties and exercising powers under The Land Reform (Scotland) Act 2003.

11.16 Carrying out our duties under trading standards and consumer protection laws (for example, the Consumer Protection Act 1987, Fair Trading Act 1973, Petroleum (Consolidation) Act 1928, Trades Description Act 1968, and the Weights and Measures Acts 1979 and 1985) and any new laws or amendments that come into force.

11.17 Manage our roles and responsibilities relating to the following

- Land services
- Public conveniences and amenity services
- Public transport
- Street lighting and street care
- Transport and fleet management
- Other responsibilities we have in relation to environmental services

11.18 Carrying out our duties as a roads authority.

11.19 Running the concessionary-fares scheme for public transport.

11.20 Carry out our duties relating to public health and related matters.

11.21 Agreeing terms for getting the heritable property (land and buildings) we need for any of our duties if the cost before fees is no more than £150,000 for each property, and where this action is within the approved capital programme.

- 11.22 Agreeing settlements for compensation claims under the Land Compensation (Scotland) Acts and related laws when the amount of compensation, not including fees and costs, is no more than £150,000 for each property or the total cost is within the amount approved by us for such claims.
- 11.23 Settling claims for professional fees and costs in connection with buying and selling land, and compensation claims of up to £15,000.
- 11.24 Agreeing terms for granting or taking 'minutes of waiver', and for granting or taking 'wayleaves' or 'servitude rights', as long as the amount involved, not including fees and costs, is no more than:
- £20,000 in the case of a one-off payments; or
 - £5,000 in the case of a yearly payment.
- 11.25 Agreeing terms for granting, taking or renewing leases and tenancies of land or buildings, within the limits of the relevant budget.
- 11.26 Agreeing all matters arising from leasing a property, including reviewing rents and granting permission for transferring leases, sublettings, change of use and alterations, ending leases, evicting tenants from our properties, and recovering overdue rent and other charges.
- 11.27 Agreeing terms for disposing of heritable property or grant wayleaves and servitude rights up to a value of £25,000 (not including costs).
- 11.28 Agreeing terms to dispose of property with an estimated value of more than £25,000 (If the sale is at less than market value or the highest offer is not to be accepted, the matter is referred to the full council).
- 11.29 Managing and supervising performance of services relating to environment and engineering contracts.
- 11.30 Managing and supervising our Property Contracts Unit.

11.31 Managing and supervising building, cleaning and catering services.

11.32 Providing the following services:-

- Architecture and Design
- Mechanical and Electrical Engineering
- Property Maintenance and Energy Services

11.33 Managing leisure centres, sports facilities, community centres and museums.

11.34 Carrying out the Council's obligations as licensing authority under the Civic Government (Scotland) Act 1982, including the grant and renewal of licences (including the imposition of conditions) except where there have been objections or representations received in respect of an application.

11.34A Ordering the interim suspensions of any licence issued by the licensing authority in terms of the Civic Government (Scotland) Act 1982.

11.35 Providing Clackmannanshire Licensing Board with such services as are required for carrying out their alcohol and gambling licensing functions under the Licensing (Scotland) Act 2005 and Gambling Act 2005 with the exception of the role of the Clerk.

11.36 Managing the HRA budget portfolio and identified properties from the Housing General Fund

11.37 Introducing and delivering the HRA Financial Plan which supports the policy on our housing, as agreed by tenants and us.

11.38 Meeting the Scottish Housing Quality Standard by 2015 for all of our housing.

11.39 Managing housing services for council tenants in line with housing laws and council policies.

11.40 Letting council houses.

- 11.41 Assessing homelessness and managing the assessment process.
- 11.42 Managing temporary tenancies
- 11.43 Arranging property provided to homeless clients on a temporary basis, arranging support services, furnishings and transfers to permanent accommodation.
- 11.44 Providing a Homelessness Strategy aimed at preventing and ending homelessness in a way which forms a clear partnership with related services.
- 11.45 Taking assessed referrals of vulnerable homeless people and in conjunction with Social Services providing support services for vulnerable homeless people to standards set by the Scottish Commission for the Regulation of Care.
- 11.46 Making sure that Homeless Services meet the standards laid down by the Scottish Government.
- 11.47 Developing the common housing register.
- 11.48 Carrying out a range of duties and responding to homelessness and antisocial behaviour, out of office hours.
- 11.49 Authorising expenses, under the Housing Act 1994, to people who are old, disabled or in poor health.
- 11.50 Making sure local housing support services meet the standards set locally and by the Scottish Commission for the Regulation of Care.
- 11.51 In conjunction with Social Services , putting in place the parts of the Community Planning framework aimed at regeneration providing housing solutions in those areas and supporting work between partners.
- 11.52 Providing a strategy for matters relating to energy efficiency.
- 11.53 Supporting and arranging a Care and Repair Programme in conjunction with Social Services.

- 11.54 Addressing the demand for 'Housing Renewal Areas', the Tolerable Standard, the Scottish Housing Quality Standard, repairing standards, repairing standards maintenance and repairing orders, conversions and improvements.
- 11.55 Leading and developing the strategy for housing in the area and monitoring and assessing the outcome.
- 11.56 Providing a central contact for the Scottish Government to assess housing needs, plan for providing affordable housing, and set targets in the 'Local Housing Strategy'.
- 11.57 Processing tenants' applications to buy their home under the 'Right to Buy' scheme.
- 11.58 Working with other services and agencies to carry out our duties under the Antisocial Behaviour (Scotland) Act 2004.
- 11.59 Providing the Money Advice Service which gives advice on money and welfare benefits and making the most of an income
- 11.60 Carrying out our duties under the following :-
- Housing Associations Act 1985
 - Housing (Scotland) Act 1987
 - Housing (Scotland) Act 1988
 - Asylum and Immigration Act 1996
 - Housing (Scotland) Act 2001
 - Homelessness etc (Scotland) Act 2003
 - Antisocial Behaviour etc. (Scotland) Act 2004
- 11.61 Giving the council and its services advice on European funding and policies.
- 11.62 Delivering leisure services.
- 11.63 Running a system for charging people to take part in leisure and environmental programmes and for helping to fund these, in line with our policies.

12.0 Education and Social Services - Scheme of Delegation In Respect of Jointly Managed Services with Stirling Council

- 12.1 Clackmannanshire Council and Stirling Council have resolved to discharge their functions as Education Authority and as Social Work Authority jointly in terms of the Local Government (Scotland) Act 1973 section 56(5).
- 12.2 Clackmannanshire Council is the lead authority for Social Services and has appointed a Joint Head of Social Services and Chief Social Worker accountable to both Councils in accordance with each Council's existing governance arrangements except in so far as varied by the Scheme of Delegation in Respect of Jointly Managed Services referred to in 12.4 below.
- 12.3 Stirling Council is the lead authority for Education Services and has appointed a Joint Head of Education accountable to both Councils in accordance with each Council's existing governance arrangements except in so far as varied by the Scheme of Delegation in Respect of Jointly Managed Services referred to in 12.4 below.
- 12.4 A separate Scheme of Delegation in Respect of Jointly Managed Services setting out the powers which the respective Councils delegate to the Joint Heads of Service as authorised by the Local Government (Scotland) Act 1973 sections 56 (1) and 65 (2), the conditions which they must observe when exercising those powers and the extent to which they can further delegate the powers to other officers has been prepared and is appended to this Scheme.

13.0 Statutory Appointments Of Officers

13.1 Under various laws we must appoint officers for a variety of purposes. Officers appointed to perform these roles are authorised to take the actions that are an essential part of their roles. The 'statutory appointments' that we have made are set out in this section.

Relevant law	Role	Proper officer
Social Work (Scotland) Act 1968		
Section 3	Chief Social Work Officer	Joint Head of Social Services
Local Government (Scotland) Act 1973		
Section 33a	Proper officer for receiving councillors' declarations that they accept their role (declaration of acceptance of office)	Chief Executive Director of Finance and Corporate Services
Section 33a(3)	Officer the declaration of acceptance of office can be made to	Chief Executive Director of Finance and Corporate Services
Section 34	Proper officer for receiving councillors' resignations	Chief Executive
Section 40	Proper officer for receiving general notices from councillors about any financial interest in a matter, and for recording the councillors' interests	Director of Finance and Corporate Services
Section 43 and paragraph 1 (4) of schedule 7	Proper officer for receiving requests for special council meetings	Governance Manager
Section 43 and paragraph 2 (1) of schedule 7	Proper officer for signing summonses to special council meetings	Governance Manager
Section 43 and paragraph 2 (2) of schedule 7	Proper officer for receiving a councillor's notice of an alternative address	Director of Finance and Corporate Services
Section 50b	Proper officer for preventing reports containing sensitive information from being available to the public.	Governance Manager
Section 50b	Proper officer for providing documents to the press.	Head of Strategy & Customer Services

Section 50c	Proper officer for providing a written summary when the minutes of a meeting cannot be made available to the public	Director of Finance and Corporate Services
Section 50f	Proper officer for deciding which documents are not open to inspection	Governance Manager
Section 92	Proper officer for transferring securities	Director of Finance & Corporate Services
Section 95	Proper officer for managing our financial affairs	Director of Finance & Corporate Services
Section 145	Proper officer for asking Ordnance Survey for information	Director of Services to Communities
Section 190	Proper officer for serving notices on the council and starting legal proceedings	Chief Executive Chief Officers
Section 191	Proper officer for signing any claim on behalf of the council in any sequestration (property taken from the owner to cover a debt or to keep to a court order), liquidations (where assets are sold off to help repay debts) and similar proceedings where we are entitled to make a claim	Chief Executive/Director of Finance & Corporate Services in consultation with Governance Manager
Section 193	Proper officer for signing notices, orders and so on	The Director responsible for the service the notice, order and so on relates to in consultation with Governance Manager
Section 194	Proper officer for signing deeds and using the council's seal	Governance Manager
Section 197	Proper officer for arranging for documents to be inspected and filed	Head of Strategy & Customer Services
Section 202	Proper officer for confirming that byelaws are valid and for sending copies to other relevant authorities	Governance Manager
Section 202B	Proper officer for putting valid byelaws in the register of byelaws	Governance Manager

Section 204	Proper officer for providing certificates as evidence of byelaws	Governance Manager
Section 206	Proper officer for keeping a register of people who are made 'freemen' of the area	Head of Strategy & Customer Services
Section 231	Proper officer for asking the Sheriff about matters arising from the Local Government (Scotland) Act 1973	Chief Executive/Director in consultation with Governance Manager
Licensing (Scotland) Act 2005		
Paragraph 8(1)(a) of Schedule 1	Clerk to the Licensing Board	Governance Manager
Civic Government (Scotland) Act 1982		
Section 113	Proper officer for keeping evidence of management rules	Governance Manager
Ethical Standards in Public Life Etc (Scotland) Act 2000 (Register of Interests) Regulations 2003		
Section 7(1)	Proper officer for setting up and keeping the register of councillors' business, personal and financial interests, and making these available to the public	Head of Strategy & Customer Services
Representation of the People Act 1983		
Section 41	Returning Officer	The person appointed by us, presently postholder of Chief Executive
Weights and Measures Act 1985		
Section 72(1)(a)	Chief inspector of weights and measures	Regulation Manager
Local Government and Housing Act 1989		
Section 2	Proper officer for keeping lists of posts that are politically restricted (limited activities)	Senior Support Services Manager
Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Governance Manager
Section 19	Proper officer for receiving notices of councillors' business, personal and financial interests and keeping records of them	Head of Strategy & Customer Services

Environmental Protection Act 1990 Section 149(1)	Officer appointed to carry out our role of dealing with stray dogs in the area	Regulation Manager
Local Authorities (Contracts) (Scotland) Regulations 1997, Regulation 4	Proper officer for certification purposes (powers to enter into a contract or other matters)	Governance Manager
The Scottish Local Government Elections Order 2007 Rule 57	Proper officer for receiving all election-related documents after an election	Chief Executive
The Regulation of Investigatory Powers (Scotland) Act 2002 Section 6	Authorising Officer Directed Surveillance	Chief Executive Director (may not be delegated further)
Section 7	Authorising Officer Covert Human Intelligence Sources	Chief Executive Director (may not be delegated further)

13.2 The proper officers appointed for the roles set out in part 3h cannot delegate their duties to other officers. However, if they cannot carry out their delegated duties because they are not available, the following officers will carry out their duties :-

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

If the Chief Executive is not available for election purposes

If the Governance Manager is not available to act as the monitoring officer

If a director is not available to act as an officer

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

If the Governance Manager is not available to act as the proper officer for certification purposes

If the Chief Social Work Officer is not available

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

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

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

- Director of Finance and Corporate Services

- Legal Services Team Leader

- The relevant head of service

- Solicitor

- Legal Services Team Leader

- Assistant Head of Social Services

- Finance Service Manager

- Director as agreed



Clackmannanshire
Council



CLACKMANNANSHIRE COUNCIL
STIRLING COUNCIL

SCHEME OF DELEGATION

IN RESPECT OF JOINTLY MANAGED SERVICES

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**Clackmannanshire
Council**



1.0 Introduction

- 1.1 Clackmannanshire Council and Stirling Council have resolved to discharge their functions as Education Authority and as Social Work Authority jointly in terms of the Local Government (Scotland) Act 1973 section 56(5).
- 1.2 Clackmannanshire Council is the lead authority for Social Services and has appointed a Joint Head of Social Services and Chief Social Worker accountable to both Councils in accordance with each Council's existing governance arrangements except in so far as varied in this Scheme of Delegation.
- 1.3 Stirling Council is the lead authority for Education Services and has appointed a Joint Head of Education accountable to both Councils in accordance with each Council's existing governance arrangements except in so far as varied by this Scheme of Delegation.
- 1.4 This Scheme of Delegation sets out the powers which the respective Councils delegate to the Joint Heads of Service as authorised by the Local Government (Scotland) Act 1973 sections 56 (1) and 65 (2), the conditions which they must observe when exercising those powers and the extent to which they can further delegate the powers to other officers.
- 1.5 Delegations to Joint Heads of Services are a combination of general delegations (that is, each of the Joint Heads of Service is similarly empowered) and specific delegations (that is, the delegations are specific to individual Joint Heads of Service).
- 1.6 When exercising any delegated authority, Joint Heads of Service must have regard to each Council's -
 - guidance and codes of practice;
 - procedural rules relevant to the service;
 - Governance Documents as hereinafter defined;
 - human resources policies and procedures;
 - relevant plans and policies which have been adopted;
 - all other approved codes and procedures;
 - approved budget;
 - approved business plan; and
 - rules on access to information, data protection and freedom of information.
- 1.7 The Joint Heads of Service shall exercise their delegated authority in accordance with relevant laws.
- 1.8 Details of the rules that apply in exercising these delegated powers are contained in Appendix 1. Details of general and specific delegations to Joint Heads of Service are contained in Appendix 2 and Appendix 3 respectively.

2.0 Sub-Delegation

- 2.1 Joint Heads of Service with delegated powers can delegate to other officers of either Council but this does not release them from the responsibility arising from the exercise of the authority that has been delegated to them in this Scheme. When Joint Heads of Service further delegate their powers, they have to record this in writing.
- 2.2 Where a responsibility has been further delegated, there is nothing to prevent the person who was originally given delegated powers under this Scheme from dealing with the responsibility personally or from withdrawing or amending the delegation.

3.0 Review of this Scheme of Delegation

- 3.1 This Scheme of Delegation will be kept under review and amended as necessary, any such amendments to be approved by both Councils.

4.0 Definitions and Interpretation

- 4.1 "Governance Documents" means all and any of each Council's Standing Orders, Scheme of Delegation, Financial Regulations and Contract Standing Orders.
- 4.2 Any reference to a specific statute includes any statutory extension amendment modification or re-enactment of such statute and any regulations or orders made thereunder.
- 4.3 Any reference to "the Council" includes either or both Councils as the context admits.
- 4.4 The paragraph headings do not form part of this Scheme of Delegation and shall not be taken into account in its construction or interpretation.

APPENDIX 1 RULES GOVERNING THE EXERCISE OF POWERS BY JOINT HEADS OF SERVICE

- 1 Before exercising any authority Joint Heads of Service must satisfy themselves that:
 - (a) they have necessary delegated powers as specified in this Scheme either generally or individually; and
 - (b) that any power expressed in this Scheme has not been modified by a more recent decision by either Council.
- 2 In exercising the authority delegated to them, Joint Heads of Service must consult:
 - (a) as appropriate, the Chief Executive(s), Chief Financial Officer(s), Chief Legal Officer(s) and Monitoring Officer(s) in respect of matters which are sensitive or complex, or where legal, administrative, financial or other advice or guidance is necessary;
 - (b) local Members whenever a decision or action is likely to have a direct effect on the constituency interests of one or more local Members (but this will not be necessary where the proposed decision or action will have general effect throughout the area of either Council)
- 3 Where an applicant for a service provided by the Council (except one which is available to the general public for a set fee) is a Member of the Council or an employee, the Joint Head of Service within whose delegated authority it is to determine the application will, before exercising that authority, give consideration to the need to consult with the relevant Chief Executive who may require the Head of Service to refer the application to the appropriate Committee or Panel, as appropriate, for determination.
- 4 Where an applicant for employment with the Council is related to a Member of the Council, or to an employee, the Joint Head of Service within whose delegated authority it is to make the appointment to the post in question will, before exercising that authority, consult with the relevant senior HR officer who may require the Joint Head of Service to refer the appointment to the relevant Chief Executive for decision.
- 5 Joint Heads of Service must record, notify the Monitoring Officer of each Council and publish, if required, details of arrangements made by them for the exercise on their behalf of delegated powers granted to them.

APPENDIX 2 GENERAL DELEGATIONS TO JOINT HEADS OF SERVICE

1.0 Introduction

- 1.1 The Joint Head of Education and Joint Head of Social Services shall have the following general powers delegated to them which they may exercise only in connection with the services for which they are responsible.

2.0 General management and operational functions

- 2.1 To manage their respective services in accordance with the policies agreed by each Council and generally to co-ordinate and manage their respective services.
- 2.2 To manage employee and employment issues including appointments, discipline and termination of employment in accordance with each Council's respective HR policies and procedures.
- 2.3 To take such operational management decisions as are necessary for the routine planning, organisation, operation and provision of Council services and facilities.
- 2.4 To authorise other Officers to exercise any delegated powers which have been granted, unless prohibited from doing so by the law, or by the Council.
- 2.5 To carry out investigations and research and enter into discussions with a view to proposing new or revised strategies, policies or procedures.
- 2.6 Subject to any limitations set out in Governance Documents, the Joint Heads of Service shall have power to serve or issue notices and to sign, on behalf of the Council, contracts and agreements.

3.0 Data Protection, Freedom of Information, Regulation of Investigatory Powers

- 3.1 To comply with the requirements of the Data Protection Act 1998, the Freedom of Information (Scotland) Act 2002 and the Regulation of Investigatory Powers (Scotland) Act 2000.

4.0 Recess powers

- 4.1 Where urgent matters arise during periods when the Council(s) is/are in recess which involve new policy or a change to existing policy or which involve expenditure not already provided, to determine these following consultation with the Chief Executive(s) who in turn will consult (as appropriate) the Provost(s), the relevant Convenor(s) and Portfolio Holder(s) and the Leader(s) of the Council(s).

5.0 Contracts

- 5.1 To procure such supplies and services as are required to enable the provision of the Services for which each Joint Head of Service is responsible.

6.0 Finance/Budgets

6.1 Capital Programme and Revenue Budget Virement

6.2 To exercise virement in accordance with each Council's respective Financial Regulations.

6.3 Financial Instructions

6.4 To issue financial instructions relative to the functions of their Service, which the Head of Finance & Corporate Services has approved.

6.5 Grants and Donations

6.6 To determine grants of financial assistance in accordance with any policy directions given by the relevant Council.

6.7 Issue Sundry Debtor Accounts

6.8 To render accounts for all work done, goods supplied, services provided, and all other amounts due in accordance with each Council's Financial Regulations.

6.9 Special Payments made from Imprest Accounts

6.10 To determine arrangements to enable minor items of expenditure to be paid from Imprest accounts in accordance with each Council's Financial Regulations.

APPENDIX 3 SPECIFIC DELEGATIONS TO JOINT HEADS OF SERVICE

Particular delegated powers, have been granted to Joint Heads of Education as follows:

Joint Head of Education

The Joint Head of Education has overall responsibility for the management of the Education Services provided by Clackmannanshire Council and by Stirling Council.

The Joint Head of Education shall, subject to the limitations imposed in terms of each Council's Governance Documents, have authority to carry out all duties which need to be performed to fulfil the requirements of the post including, without prejudice to the foregoing generality, power to -

- Provide guidelines and existing/current policies in response to Scottish Government and other consultations on the curriculum, develop the curriculum, and carry out associated work.
- Administer appropriate charges as set by the respective Councils for music lessons and similar services.
- Make arrangements for placing children with extra support needs in schools (including , where appropriate, residential schools) not managed by either Council.
- Approve co-ordinated support plans for individual pupils.
- Provide an educational psychology service.
- Make arrangements for entering pupils for public examinations.
- Pay fees and other costs (as necessary) in connection with public examinations.
- Carry out the Councils' legal duties relating to pre-school children with extra support needs.
- Offer places, in line with criteria agreed by each Council, in nurseries and family centres managed by each Council.
- Provide for, in accordance with resources available to each Council, out of school care and similar services.
- Set appropriate charges for pre-school services in each Council area.
- Decide how educational trusts run by either Council will distribute their funds in line with the relevant trust schemes.
- Carry out the Councils' duties relating to managing, assessing and awarding higher school bursaries.
- Make arrangements for school catchment areas to be agreed and pupils to be transferred from primary school to secondary school.
- Approve the involvement of teaching staff in recognised programmes outwith the UK.

- Approve applications (from headteachers or suitably qualified youth workers employed by either Council) for permission for staff to accompany groups of school pupils or other young people on recognised exchanges or excursions outwith the UK.

The Joint Head of Education shall be responsible for carrying out the duties of both Councils imposed by statute pertaining to their areas of responsibility or the subject of specific delegations of authority by both Councils including, without prejudice to the foregoing generality, under the following legislation :

- Children (Performances) Regulations 1968
- Education (Additional Support for Learning) (Scotland) Acts 2004
- Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002
- Education (Scotland) Act 1980
- Pupils' Educational Records (Scotland) Regulations 2003
- School Pupil Records (Scotland) Regulations 1990
- Schools (Consultation) (Scotland) Act 2010
- Schools General (Scotland) Regulations 1975
- Scottish Schools (Parental Involvement) Act 2006
- Standards in Scotland's Schools etc Act 2000

APPENDIX 3 SPECIFIC DELEGATIONS TO JOINT HEADS OF SERVICE

Particular delegated powers, have been granted to Joint Heads of Social Services as follows:

Joint Head of Social Services

The Joint Head of Social Services has overall responsibility for the management of the Social Services provided by Clackmannanshire Council and by Stirling Council and has been appointed Chief Social Worker for the purposes of section 3 of the Social Work (Scotland) Act 1968 in respect of both Clackmannanshire Council and Stirling Council.

The Joint Head of Social Services shall, subject to the limitations imposed in terms of each Council's Governance Documents, have authority to carry out all duties which need to be performed to fulfil the requirements of the post including, without prejudice to the foregoing generality, power to -

- Enter into contracts with private and voluntary agencies for carrying out the respective Council's duties under the National Health Service and Community Care Act 1990.
- Make decisions, in consultation with each Council's Section 95 officer, on applications for changing maintenance rates for private or voluntary homes not covered by the National Health Service and Community Care Act 1990.
- Take responsibility for the provision of Children and Families and Early Years services
- Set fees for curators ad litem, safeguarders, foster parents and community carers.
- In line with government guidelines, maintain the Child Protection Register of children most in need of protection from abuse.
- Make decisions on formal complaints.
- Take responsibility for providing Community Care Services including assessments of needs and the care to meet these assessed needs.
- Maintain and take responsibility for appropriate standards of care
- Take responsibility for arrangements for Community Care Services.
- Co-operate with the local Community Justice Authorities to promote best practice in providing Criminal Justice Services.
- Get appropriate resources from the Criminal Justice Authorities in connection with providing Criminal Justice Services.
- Work with the Community Justice Authority partners to pool resources and work together in the best interests of the respective Councils' Criminal Justice Services.

The Joint Head of Social Services shall be responsible for carrying out the duties of both Councils imposed by statute pertaining to their areas of responsibility or the subject of specific delegations of authority by both Councils including, without prejudice to the foregoing generality, under the following legislation :

- Adoption Agencies (Scotland) Regulations 2009

- Adoption and Children (Scotland) Act 2007
- Adoption and Children Act 2002
- Adult Support and Protection (Scotland) Act 2007
- Adults with Incapacity (Scotland) Act 2000
- Children (Scotland) Act 1995
- Children Act 1989
- Chronically Sick and Disabled Persons Acts 1970 & 1972
- Community Care (Direct Payments) Act 1996
- Community Care and Health (Scotland) Act 2002
- Criminal Procedure (Scotland) Act 1995
- Disabled Persons (Employment) Act 1958
- Disabled Persons (Services, Consultation and Representation) Act 1986
- Health and Social Services and Social Security Adjudications Act 1983
- Immigration and Asylum Act 1999
- Looked After Children (Scotland) Regulations 2009/1999
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Mental Health (Patients in the Community) Act 1995
- National Assistance Act 1948
- National Health Service and Community Care Act 1990
- Regulation of Care (Scotland) Act 2001
- Residential Establishments (Child Care) (Scotland) Regulations 1996
- Social Work (Provision of Social Work Services in the Scottish Health Service) (Scotland) Regulations 1991
- Social Work (Representations Procedure) (Scotland) Order 1996
- Social Work (Scotland) Act 1968:
- Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003