

Agenda Item	17
Report No	HC/50/13

24 October 2013

## SCHEME OF DELEGATION AND ADMINISTRATION TO COMMITTEES AND SUB COMMITTEES AND TO OFFICERS – FURTHER AMENDMENTS

Report by the Assistant Chief Executive

### Summary

This report outlines further amendments which have been received since the last meeting in regard to the Scheme of Delegation and Administration to Committees and Sub Committees and to Officers.

### 1. Main Amendments

1.1 The further changes to the Scheme – which are highlighted below – are in relation to:

- Part 1 – Powers Reserved to the Highland Council  
(<http://www.highland.gov.uk/yourcouncil/committees/committeeinformation/schemeofdelegation/sd-part-1.htm>)
- Part II – Terms of Reference of Headquarters Committees  
(<http://www.highland.gov.uk/yourcouncil/committees/committeeinformation/schemeofdelegation/sd-part-2.htm>)
- Part III – Functions Referred/Powers Duties Delegated  
(<http://www.highland.gov.uk/yourcouncil/committees/committeeinformation/schemeofdelegation/sd-part-3.htm>)
- Part IV – Powers Delegated to Officers  
(<http://www.highland.gov.uk/yourcouncil/committees/committeeinformation/schemeofdelegation/sd-part-iv.htm>)

### 2. Part I – Powers Reserved to the Highland Council

2.1 Current Version – to approve the Council's Corporate Plan and Community Plan.

*Proposed Version – to approve the Council's Corporate Plan and the Council's approach to community planning, including its contribution to the Single Outcome Agreement.*

*Include the following additional section – to approve the Local Police Plan and Local Fire and Rescue Plan and ensure their alignment with the Single Outcome Agreement (from the recommendations of the Adult and Children's Services Committee and the Community Safety, Public Engagement and Equalities Committee).*

### 3. Part II – Terms of Reference of Headquarters Committees

#### 3.1 Adult and Children's Services Committee

*Include the following – to secure the process for Community Learning and Development by publishing a 3 year plan setting out how provision will be co-*

*ordinated with other bodies, what will be provided directly and how needs for Community Learning and Development will be assessed.*

*Include the following – to engage with the national Police Service and the national Fire and Rescue Service on the development of their Local Plans for the Highlands for the following policy areas: youth justice, alcohol and drugs, adult protection, child protection, and offending and re-offending.*

*To recommend to the Council the agreement of these aspects of the Local Police and Fire and Rescue Plans to ensure alignment with the Single Outcome Agreement.*

### **3.2 Transport, Environmental and Community Services Committee**

Roads - delete the following (now delegated to City/Area Committees) –

Para 2.1.3 – the deletion of roads from the list of public roads and the adoption of roads which are not constructed under the Road Construction Consent procedure onto the list of public roads.

Traffic Management/Transportation – delete the following (now delegated to City/Area Committees) –

Para 2.2.2 – to promote Road Traffic Orders where there are statutory objections where not otherwise dealt with by City/Area Committees.

Administration of the List of Reservoirs – delete the following (now transferred to SEPA) –

Para 2.5.2 – to approve the Council's annual report under the Reservoirs Act.

### **3.3 Community Safety, Public Engagement and Equalities Committee**

General

Current Version – To trial arrangements for enable the local scrutiny by, and engagement of, Members with Police and Fire and Rescue Services in advance of the new national Police and national Fire and Rescue Services expected to be in place for 1.4.13.

Proposed Version - *To enable the local scrutiny by Members of, and the engagement of Members with, national Police and Fire and Rescue Services.*

Current Version - To work in partnership and to engage with stakeholders in the Highlands to strengthen community planning and achieve a co-ordinated approach to the provision of services and the delivery of local solutions for local problems.

Proposed version – *To work in partnership and to engage with stakeholders in the Highlands to strengthen community planning in relation to community safety, sharing good practice in public engagement methods, fulfilling equalities duties and reducing inequalities and poverty.*

Include the following – *To ensure the Council adopts approaches to reduce inequality and poverty through the services it provides and in working with others.*

Include the following - *To engage with, and implement the findings of, any external*

*audits and inspections affecting the general and specific tasks of the Committee.*

### Specific – Community Safety

Current Version – To scrutinise the evidence base for setting Police, Fire and Rescue, Public Protection and Community Safety priorities (the Strategic Assessment) for the Highlands and to agree the priorities for the Highlands.

To scrutinise the development of relevant plan(s) for local Policing, local Fire and Rescue services, Public Protection and Community Safety and ensure their fit with the Single Outcome Agreement.

*Proposed version - To engage with the national Police Service and the national Fire and Rescue Service on the development of their Local Plans for the Highlands for the following policy areas: an overview of crime and community perceptions of crime, fire safety, road safety, anti-social behaviour, hate incidents, violence against women, environmental safety and crimes, door stop crime, cold calling and scams and regulating the supply and storage of hazardous goods.*

*To recommend to the Council the agreement of these aspects of the Local Police and Fire and Rescue Plans to ensure alignment with the Single Outcome Agreement.*

Current Version - To monitor and scrutinise the delivery of the agreed Plans and performance for the Highlands provided by the local Police, the local Fire and Rescue Service to support Member engagement and scrutiny of performance. This will take into account national performance frameworks and locally agreed priorities.

*Proposed Version - To monitor and scrutinise the delivery of the agreed Plans and performance for the Highlands provided by the local Police, the local Fire and Rescue Service and any other agencies with a public protection remit, including the Scottish Ambulance Service. This will take into account national performance frameworks and locally agreed priorities.*

Current Version - To take part in the national pathfinder local scrutiny and engagement project. This means sharing the learning to support effective implementation of the Police and Fire Reform (Scotland) Act and reviewing the operation of the Committee for 2013 onwards. [Following Committee meetings in 2012-13, Members will evaluate the effectiveness of the Committee in supporting their engagement and scrutiny of Police and Fire and Rescue Services and the achievement of community safety outcomes for the policy areas set out below].

*Proposed Version - To continue to learn from and share good practice with other Councils and partnerships in engaging with the national services for Police and Fire and other Public Protection bodies.*

Current version - To provide clear strategic direction in the determination and implementation of the Council's policies to achieve outcomes for: road safety; antisocial behaviour, noise nuisance and vandalism; hate crimes including gender-based violence; emergency planning; and any issues arising from doorstep crime, cold calling and scams; and regulating the supply of goods (aerosol paints, knives, fireworks & other pyrotechnics, hazardous chemicals, tobacco products, cigarette lighter refills, unsafe consumer products) and storage of petrol and explosives.

Proposed Version - To provide clear strategic direction in the determination and implementation of the Council's policies to achieve joint outcomes for: road safety; antisocial behaviour, noise nuisance and vandalism; hate crimes including gender-based violence; and any issues arising from doorstep crime, cold calling and scams; and regulating the supply of goods (aerosol paints, knives, fireworks & other pyrotechnics, hazardous chemicals, tobacco products, cigarette lighter refills, unsafe consumer products) and storage of petrol and explosives.

Include the following – To consider annual reports on emergency planning and business continuity arrangements for Members' reassurance.

Delete the following – The Scottish Ambulance Service will be invited to attend the Committee to present its plans for services and to report on its performance.

#### Specific – Public Engagement

Current Version: To agree the approach to any Council wide statutory and non-statutory consultations and scrutinise the methods of engagement used in Council services. (Specific service consultations will be considered in Strategic Committees).

Proposed Version: To agree the approach to any Council wide statutory and non-statutory consultations on public engagement and scrutinise the methods of engagement used in Council services. (Specific service consultations will be considered in Strategic Committees).

Current Version – To ensure Community Councils are supported to be effective.

Proposed Version – To consider issues in relation to matters for Community Councils.

Current Version – To identify how to improve public engagement in the democratic process and in the work of the Highland Council, including turn-out at elections.

Proposed Version – To identify how to improve public engagement in the democratic process and in the work of the Highland Council, including turn-out at elections and within the statutory framework for elections.

Current Version – Designing the process for handling petitions to be heard in Strategic Committees and monitoring their outcomes annually.

Proposed Version – To monitor the process for handling petitions and their outcomes annually.

Delete the following – To consider the outcome of the national review of Community Planning and Single Outcome Agreements and to agree the Council's response and implementation of the findings.

Delete the following – To agree any corporate response to community consultations conducted by other organisations which the Council needs to co-ordinate (excluding any consultations that can be considered in Strategic Committees).

Delete the following – To oversee the Council's contribution to a partnership approach for supporting volunteering and community development in the Highlands.

#### Specific – Equalities

Current Version - To consider the further evidence from equalities groups and individuals on what it means and feels like to live in the Highlands with a protected characteristic.

Proposed Version - *For the Committee to meet informally with groups to hear evidence from equalities groups and individuals on what it means and feels like to live in the Highlands with a protected characteristic.*

Current Version - Agree by April 2013 the equality outcomes to be published following further engagement with equality groups.

Proposed Version - *Agree the equality outcomes to be published and report on them as required.*

Include the following - *By annual report, to scrutinise the approaches used in Services and in working with others to reduce inequality and poverty.*

#### **4. Part III – Functions Referred/Powers and Duties Delegated**

##### **4.1 City/Area Committees**

Current Version – To approve the deletion of roads from the list of public roads and the adoption of roads (that are not constructed under the Road Construction Consent procedure) onto the list of public roads.

Proposed Version – *To approve the stopping up of roads and private means of access and the deletion of roads from the list of public roads and the adoption of roads (that are not constructed under the Road Construction Consent procedure) onto the list of public roads.*

#### **5. Part IV - Powers Delegated to Officers**

##### **5.1 Transport, Environmental and Community Services**

Delegation Banding Code B - Function Manager – Roads and Community Works

Include Senior Engineer Asset Management.

Delegation Banding C – Operations and Technical Officers – Roads and Community Works

Delete Assistant Community Works Officer and Performance Inspection Officers.

Include Performance Inspection Co-ordinator and Contract Supervisor.

Delegation Banding D – Roads and Community Works

Include Parking Attendants.

Roads (Scotland) Act 1984

Section 21 - addition of roads constructed under this Section of the Act to the Statutory List of Roads maintained under Section 1 of the Act

Current Version – delegated to Director.

Proposed Version - delegated to those Officers within Delegation Banding B.

#### Road Traffic Regulation Act 1984

##### Section 1 – General Provisions for Traffic Regulation outside Greater London

Current Version – delegated to Officers within Delegation Banding A.

Proposed Version – delegated to Officers within Delegation Banding A where there is no objection to the proposed Order.

Include Sections 107-112 and 115-120 – enforcement of excess parking charges – delegated to Officers at Banding level D.

#### New Roads and Street Works Act 1991

##### Section 154a – Power to issue Fixed Penalty Notices

Current Version – delegated to Officers within Delegation Banding B.

Proposed Version – delegated to Officers within Delegation Banding C.

##### Section 157A – Power to settle disputes

Current Version – delegated to Officers within Delegation Banding B.

Proposed Version - delegated to Officers within Delegation Banding A.

#### Environmental Protection

It is proposed that the current section on Environmental Protection - contained on Page 85 of the Scheme – should be replaced by a new section which has been attached as *Appendix 1* to this report.

#### Environmental Health

It is proposed that the current section on Environmental Health – contained on Pages 88-92 of the Scheme – should be replaced by a new section which has been attached as *Appendix 2* to this report.

## **6. Implications Arising from the Report**

- 6.1 The new tasks included in the changes proposed for Strategic Committees will be contained within current Service budgets. The changes reflect changing statutory duties on the Council. By amending the terms of reference the risk of non-compliance with new statutory duties are reduced.

There are no negative Climate Change/Carbon Clever implications, although there may be some reduction in emissions from travel associated with the former Boards for Police and Fire services in the Highlands and Islands. Equalities implications are covered in the remit of the Community Safety, Public Engagement and Equalities Committee, with changes reflecting the informal meetings Members have with Equalities Groups following Committee meetings.

## **7. Recommendation**

7.1 The Council is asked to agree the further amendments to the Scheme of Delegation as detailed.

Designation: Assistant Chief Executive

Date: 8 October 2013

**Transport Environmental and Community(TEC) Services: Statutory Powers and Duties of the Council which are Exercisable by Officers of the Authority**

Key :-           Staff: Environmental Health  
                       Waste Management  
                       Housing & Property

<b>Delegation Banding Codes</b>	<b>Service Section</b>	<b>Description and indicative posts</b>
<b>1</b>		-----
<b>2</b>		Waste Management Officer (Operations), Community Warden, Education & Enforcement Officer, Pest Control Officer / Dog Warden, Waste Awareness Officer, Foreperson, Environmental Health Technical officer
<b>3</b>		Waste Management Officer (Strategy), Environmental Health Officer
<b>4</b>		Principal Waste Management Officer, Principal Environmental Health Officer, Area Environmental Health Manager, Head of Waste Management, Environmental Health Manager

<b>Statute</b>	<b>Description of Power or Duty</b>	<b>Title of Officer/Level of Post to which delegated (See key)</b>



Statute	Description of Power or Duty	Title of Officer/Level of Post to which delegated (See key)
<b>Environmental Protection</b>		
Anti-Social Behaviour <i>etc.</i> (Scotland) Act 2004	s.58 – power to issue and enforce the provisions of graffiti removal notice.	2
	s. 60 Graffiti removal notice: content and service	2
Civic Government (Scotland) Act 1982	s.99 – power to enter, execute works and recover expenses in relation to buildings (Part VIII of the Act)	2
Control of Dogs (Scotland) Act 2010	s.1 – power to issue dog control notice	2
	s.4 – duty to monitor effectiveness and of, and enforce, dog control notice.	2
	s.6 – power to discharge or vary dog control notice.	3
	s.5 – power to issue fixed penalty notices	2
Environment Act 1995	s.108 – power to authorise in writing persons to gain entry in respect of certain pollution offences.	4
	s.108 – power to act in accordance with written authorisation issued under s.108	2
Environmental Protection Act 1990	s.33 – (as amended by s.55 of the Anti-Social Behaviour <i>etc.</i> (Scotland) Act 2004) – power to enforce provisions concerning the unauthorised deposit, storage, treatment and/or disposal of controlled waste.	3
	s33A – power to issue fixed penalty notices in respect of offence under s33(1)(a) and (c).	3
	s.34 – power to enforce the provisions concerning the duty of care as respects waste.	2
	s.46 – power to serve notice imposing requirements regarding household waste.	2
	s.47 – power to serve notice imposing requirements regarding commercial / industrial waste.	2
	s.59 – power to serve and to enforce provisions of notice requiring removal of waste from land	3
	s. 60 Interference with waste sites and receptacles for waste	3
	s80 – service of abatement notice in respect of statutory nuisance	3
	s.87 – power to enforce provisions concerning the offence of leaving litter.	2

<b>Statute</b>	<b>Description of Power or Duty</b>	<b>Title of Officer/Level of Post to which delegated (See key)</b>
	s.88 – Nominate officer to issue litter/fixed penalty notices	4
	s.88 – power to issue fixed penalty notices in respect of the offence of leaving litter.	2
	s. 90 Litter control areas	3
	s. 92 Summary proceedings by litter authorities	3
	ss.93 & 94 – power to issue and to enforce the provisions of street litter control notices	3
	s.99 Power in relation to abandoned trolleys.	3
	s.149 Seizure of stray dogs.	2
Prevention of Damage by Pests Act 1949	s2 – duties of local authorities in respect of rats and / or mice.	4
	s4 – power to serve notice requiring action in respect of rats and / or mice.	2
	s5 – remedies for failure to comply with notice under s4.	3
	s6 – additional powers of local authorities in relation to groups of premises	3
	s7 – recovery of expenses	3
	s9 – power to require information as to interests in land	3
	s22 – powers of entry for the purposes of Part I of the Act.	2
Refuse Disposal Amenity Act 1978	s.2 – power to enforce provisions concerning abandonment of a motor vehicle or any other thing in the open air without lawful authority	2
	ss.3 & 4 – power to remove and dispose of abandoned vehicles	2
	s5 – recovery of expenses connected with removed vehicles	2
	s.6 – power to remove and dispose of other refuse	2
Control of Pollution Amendment Act 1989	s.5 Duty to produce authority to transport controlled waste	2
Environmental Protection (Duty of Care) Regulations 1991 (as amended by the Environmental Protection (Duty of Care) (Scotland) (Amendment) Regulations 2003	R4 – power to serve notice requiring furnishing of documents	2

<b>Statute</b>	<b>Description of Power or Duty</b>	<b>Title of Officer/Level of Post to which delegated</b> (See key)
Town and Country Planning (Scotland) Act 1997; Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (as amended)	R24 – power to serve an enforcement notice in respect of an advertisement displayed without a consent / failure to comply with a condition or limitation on the display of an advertisement	3

**Transport Environmental and Community(TEC) Services: Statutory Powers and Duties of the Council which are Exercisable by Officers of the Authority**

**ENVIRONMENTAL HEALTH**

The following delegations are subject to any limitations in the Environmental Health Scheme of Authorisation

<b><u>Statute</u></b>	<b><u>Description of power or duty</u></b>	<b><u>Title of officer/level of post to which delegated</u></b>
<p>Animal Boarding Establishments Act 1963  Breeding of Dogs Act 1973  Breeding of Dogs Act 1991  Caravan Sites and Control of Development Act 1960  Cinemas Act 1985  Dangerous Wild Animals Act 1976  Deer (Scotland) Act 1959  Game Licenses Act 1860  Guard Dogs Act 2975  Performing Animals (Regulations) Act 1925  Pet Animals Act 1951  Riding Establishments Acts 1964/70  Theatres Act 1968  Zoo Licensing Act 1981</p>	<p>To grant, but not refuse, applications, renewals or transfers of licences, registrations, approvals and other permissions sought (including variation thereof), where:-</p> <p>a) the application has attracted no relevant objection or relevant adverse representation;</p> <p>b) no member of the Council has requested that the application be decided by a Committee; and</p> <p>c) the application is one which the officer concerned considers should be granted, either without conditions or with conditions which are of a straightforward nature.</p>	<p>Principal Environmental Health Officer and Area Environmental Health Manager</p>
<p>Animal Boarding Establishments Act 1963  Breeding of Dogs Act 1973  Breeding of Dogs Act 1991  Caravan Sites and Control of Development Act 1960  Cinemas Act 1985  Dangerous Wild Animals Act 1976  Deer (Scotland) Act 1959  Game Licenses Act 1860  Guard Dogs Act 2975</p>	<p>To exercise the appropriate duties of office under the relevant provisions of the listed legislation, including any related orders, regulations, or other instruments:-</p> <p>a) made thereunder, or</p> <p>b) having effect by virtue</p>	<p>Technical Officer  Animal Health &amp; Welfare Officer</p>

**ENVIRONMENTAL HEALTH**

The following delegations are subject to any limitations in the Environmental Health Scheme of Authorisation

<b><u>Statute</u></b>	<b><u>Description of power or duty</u></b>	<b><u>Title of officer/level of post to which delegated</u></b>
Performing Animals (Regulations) Act 1925 Pet Animals Act 1951 Riding Establishments Acts 1964/70 Theatres Act 1968 Civic Government (Scotland) Act 1982, Sections 87, 90, 92 and 97  Health and Safety at Work etc. Act 1974 Environmental Protection Act 1990 Food Safety Act 1990 Prevention of Damage by Pests Act 1949 Public Health (Scotland) Act 1897 Water (Scotland) Act 1980 Refuse Disposal (Amenity) Act 1978 Noise and Statutory Nuisance Act 1993 Pesticides (Fees and Enforcement) Act 1989 Radioactive Substances Act 1993 Food Safety Act 1990 Water (Scotland) Act 1980 Water Act 1989 Local Government in Scotland Act 2003 Prevention of Damage by Pests Act 1949  Animal Health Act 1981 Animal Health and Welfare Act 1984 Animal Health and Welfare (Scotland) Act 2006  Control of Pollution Act 1974 Control of Pollution (Amendment) Act 1989 Environment Act 1995 Refuse Disposal (Amenity) Act 1978 Noise and Statutory Nuisance Act 1993 Sewerage (Scotland) Act 1968 Water Services etc. (Scotland) Act 2005 Clean Air Act 1993  Public Health (Scotland) Act 1897	of the European Communities Act 1972, or  c) any modification or re-enactment of the foregoing	

**ENVIRONMENTAL HEALTH**

The following delegations are subject to any limitations in the Environmental Health Scheme of Authorisation

<b><u>Statute</u></b>	<b><u>Description of power or duty</u></b>	<b><u>Title of officer/level of post to which delegated</u></b>
Public Health (Scotland) Act 1945 Health Services and Public Health Act 1968 National Assistance Act 1948 International Health Regulations 1969 Public Health (Ships)(Scotland) Regulations 1971, 1974 & 1978 Public Health (Aircraft)(Scotland) Regulations 1971, 1974 & 1978  Smoking, Health and Social Care (Scotland) Act 2005  Food and Environmental Protection Act 1985  Public Health etc (Scotland) Act 2008		
Environmental Protection Act 1990 Part IIA Environment Act 1995 Contaminated Land (Scotland) Regulations 2000 Contaminated Land (Scotland) Regulations 2005	To exercise the appropriate duties of office under the relevant provisions of the listed legislation, including any related orders, regulations, or other instruments:-  a) made thereunder, or  b) having effect by virtue of the European Communities Act 1972; or  c) any modification or re-enactment of the foregoing	Scientific Officer
Health and Safety at Work, etc Act 1974	Section 20(2)(c)(i) – to authorise persons to accompany inspectors Section 19 – to appoint inspectors for the purposes of Sections 20, 21, 22 and 25.	Area Environmental Health Manager/ Principal Environmental Health Officer

**ENVIRONMENTAL HEALTH**

The following delegations are subject to any limitations in the Environmental Health Scheme of Authorisation

<b><u>Statute</u></b>	<b><u>Description of power or duty</u></b>	<b><u>Title of officer/level of post to which delegated</u></b>
Health and Safety (Enforcing Authority) Regulations	To agree transfers of responsibility for enforcement.	Area Environmental Health Manager/ Principal Environmental Health Officer
Food Safety Act 1990 including any related orders, regulations, or other instruments:- (a) made thereunder, or (b) having effect by virtue of the European Communities Act 1972, or (c) any modification or re-enactment of the foregoing	Power to grant, suspend, or withdraw, the approval or conditional approval of a food establishment subject to approval under food safety legislation	Area Environmental Health Manager/ Principal Environmental Health Officer
Housing Scotland Act 1987 and Housing Scotland Act 2006	To exercise the functions of authorised officers under Housing legislation in relation to housing grants, houses falling below the tolerable standard, houses in disrepair, closing, demolition, improvement and repairs notices or orders, overcrowding, houses in multiple occupation.	Technical Officer
Housing Scotland Act 1987 and Housing Scotland Act 2006	To approve applications for grants, insofar as the applications relate to financial assistance in respect of the improvement of property or the repair of property;  to determine housing improvement orders and revoke closing orders.	Area Environmental Health Manager/ Principal Environmental Health Officer
Safety of Sports Grounds Act 1975	Section 10 – to issue Prohibition Notices, after consultation with the Chief Constable and the Chief	Area Environmental Health Manager/ Principal Environmental

**ENVIRONMENTAL HEALTH**

The following delegations are subject to any limitations in the Environmental Health Scheme of Authorisation

<b><u>Statute</u></b>	<b><u>Description of power or duty</u></b>	<b><u>Title of officer/level of post to which delegated</u></b>
	Fire Officer Section 10A – to arrange periodic inspection of designated sports grounds.	Health Officer
Fire Safety and Safety of Places of Sport Act 1987	Sections 26, 28, 29, 34 and 35 – to determine whether a stand is a regulated stand, and to issue safety certificates; associated procedures in respect of safety certificates; enforcement, including inspections, and authorisation of entry.	Area Environmental Health Manager/Principal Environmental Health Officer
Regulation of Investigatory Powers (Scotland) Act 2000	To authorise action to undertake directed surveillance or the use of covert human intelligence sources.	Area Environmental Health Manager/ Principal Environmental Health Officer
Building (Scotland) Act 2003 (Section 28)	To serve notice and take all necessary action in respect of defective buildings.	Technical Officer
Various Acts	To increase fees and charges as follows:-  Increases to be reported to Members annually:-  a) fees and charges payable under the Miscellaneous Licensing legislation to be increased annually by factor agreed by Council,  b) fees and charges for other services to be increased annually by	Environmental Health Manager



**ENVIRONMENTAL HEALTH**

The following delegations are subject to any limitations in the Environmental Health Scheme of Authorisation

<b><u>Statute</u></b>	<b><u>Description of power or duty</u></b>	<b><u>Title of officer/level of post to which delegated</u></b>
	factor agreed by Council or by other agreed national scheme.	