

Agenda Item	17
Report No	HC/24/16

12 May 2016

SCHEME OF DELEGATION AND ADMINISTRATION TO COMMITTEES AND SUB COMMITTEES AND TO OFFICERS

Report by the Depute Chief Executive/Director of Corporate Development

Summary

This report outlines proposals for amendment to the Council's Scheme of Delegation and Administration to Committees and Sub Committees and to Officers following changes in management structures and to accord with outcome of the Surveillance Commissioner's last inspection.

1. Main Amendments

The main amendment to the Scheme of Delegation is one which is required to support the transfer in responsibility for the Trading Standards function from the Development and Infrastructure Service to the Corporate Development Service. Accordingly it is proposed that changes are made in

Part II – Terms of Reference of Headquarters Committees (and Sub Committees Acting with Full Delegated Powers)

Part IV – Powers Delegated to Officers

1.1 Part II – Terms of Reference of Headquarters Committees (and Sub Committees Acting with Full Delegated Powers)

Resources Committee

Amend wording as follows – **Section 1 General**

Current Version – All matters relating to the:

- management and arrangement of the financial affairs of the Council;
- management of arrangements for corporate development including business change to support corporate improvement and efficiency;
- management of arrangements for ICT Services and partnerships supporting the delivery of effective and efficient service delivery;
- management of arrangements for Customer Services including the Service Point Network, Service Centre and digital service delivery through the Council website and other channels;
- management of policy relating to the management, engagement, development and health, safety and wellbeing of employees;

- management arrangements for Corporate Performance reporting and self-assessment;
- management of legal and democratic services to support effective corporate governance;
- consideration of corporate policies not listed within the remit of the Council or other Committees; and
- other general business relating to the effective operation of the Council and not covered by other committees.

Proposed Version – All matters relating to the:

- management and arrangement of the financial affairs of the Council;
- management of arrangements for corporate development including business change to support corporate improvement and efficiency;
- management of arrangements for ICT Services and partnerships supporting the delivery of effective and efficient service delivery;
- management of arrangements for Customer Services including the Service Point Network, Service Centre and digital service delivery through the Council website and other channels;
- management of policy relating to the management, engagement, development and health, safety and wellbeing of employees;
- management arrangements for Corporate Performance reporting and self-assessment;
- management of legal and democratic services to support effective corporate governance;
 - *to carry out the functions of the Council as the statutory authority in relation to Weights and Measures and Consumer Safety*
 - *to carry out the functions of the Council in delivering services relating to Trading Standards, Consumer Protection and Consumer Advice.*
- consideration of corporate policies not listed within the remit of the Council or other Committees; and
- other general business relating to the effective operation of the Council and not covered by other committees.

and in **Section 3 Corporate Development**

Amend wording as follows –

Current Version –

3.1 To consider and approve policies relating to the management, engagement, development and wellbeing of employees, including equal opportunities in

employment, employee learning and development, human resource management, and the health, safety and well-being of employees.

3.2 To review and approve policies relating to effective performance management and self-assessment.

3.3 To monitor the establishment of all employees (other than Directors) who come within the scope of the Scottish Joint Council for Local Government Employees and the Scottish Joint Negotiating Committee for Craft Operatives.

3.4 To review and monitor the arrangements for customer service, including through the Service Point Network, Service Centre, Website and other channels being developed to support efficient and effective access to the Council and services.

3.5 To review and monitor the arrangements for the delivery of efficiency and service improvements through the Corporate Improvement Programme and other corporate initiatives to improve the effectiveness and efficiency of the Council and its services.

3.6 To agree, review and monitor the arrangements for ICT Services (corporate and curriculum) including services delivered in-house and those delivered in partnership and through contractual arrangements with external organisations.

3.7 To approve and monitor implementation of the Council's policies in relation to mitigating against and adapting to climate change, including the Carbon Clever Initiative and Carbon Management Plan.

3.8 To agree, review and monitor policies for improving employee engagement and partnership working. To ensure the fostering of good industrial relations through effective consultation and communication in partnership with the trade unions.

3.9 To ensure the provision of support to Lieutenancies within the area of the Council.

3.10 To oversee the effective administration of, and to ensure appropriate resources for the licensing function, including the Highland Licensing Committee and Board.

3.11 To oversee the management of the functions of the Council as Registration Authority for the purposes of the Registration of Births, Deaths and Marriages Act 1965 and for the licensing of approved places for civil marriages under the Marriage (Approved Places) (Scotland) Regulations 2002.

3.12 To appoint the Committees/Sub-Committee with the remits detailed below, acting with full delegated powers, to deal with Appeals, Disputes and Early Retirement **

Proposed Version –

3.1 To consider and approve policies relating to the management, engagement, development and wellbeing of employees, including equal opportunities in employment, employee learning and development, human resource management, and the health, safety and well-being of employees.

3.2 To review and approve policies relating to effective performance management and self-assessment.

3.3 To monitor the establishment of all employees (other than Directors) who come within the scope of the Scottish Joint Council for Local Government Employees and the Scottish Joint Negotiating Committee for Craft Operatives.

3.4 To review and monitor the arrangements for customer service, including through the Service Point Network, Service Centre, Website and other channels being developed to support efficient and effective access to the Council and services.

3.5 To review and monitor the arrangements for the delivery of efficiency and service improvements through the Corporate Improvement Programme and other corporate initiatives to improve the effectiveness and efficiency of the Council and its services.

3.6 To agree, review and monitor the arrangements for ICT Services (corporate and curriculum) including services delivered in-house and those delivered in partnership and through contractual arrangements with external organisations.

3.7 To approve and monitor implementation of the Council's policies in relation to mitigating against and adapting to climate change, including the Carbon Clever Initiative and Carbon Management Plan.

3.8 To agree, review and monitor policies for improving employee engagement and partnership working. To ensure the fostering of good industrial relations through effective consultation and communication in partnership with the trade unions.

3.9 To ensure the provision of support to Lieutenancies within the area of the Council.

3.10 To oversee the effective administration of, and to ensure appropriate resources for the licensing function, including the Highland Licensing Committee and Board.

3.11 To oversee the management of the functions of the Council as Registration Authority for the purposes of the Registration of Births, Deaths and Marriages Act 1965 and for the licensing of approved places for civil marriages under the Marriage (Approved Places) (Scotland) Regulations 2002.

3.12 *To promote and approve policies in relation to consumer protection, including:*

- *Trading Standards*
- *Consumer Advice*
- *Business Advice*
- *Enforcement of Civic Government Licensing*

3.13 *To set policy and procedures for all permissioning processes relating to:*

a) The storage of petrol and explosives. (Ref Health and Safety at Work Act 1974/ Petroleum (Consolidation) Regulations 2014& Explosives Regulations 2014 respectively).

b) The all year round supply of fireworks (Ref. Fireworks Regulations 2004 made under the Fireworks Act 2003 and by sections 11(3) and 27(2) of the Consumer Protection Act 1987)

3.14 *To approve the fees and charges for testing and stamping weights and measures equipment, miscellaneous weights and measures charges and licensing and registration under the relevant statutory provisions of the Health and Safety at Work Act 1974 relating to the storage of petroleum and explosives, Poisons Act 1982*

and Fireworks Regulations 2004

3.15 To appoint the Committees/Sub-Committee with the remits detailed below, acting with full delegated powers, to deal with Appeals, Disputes and Early Retirement **

and **amend** the Terms of Reference of the Planning, Development and Infrastructure Committee in reciprocal manner to remove reference to Trading Standards functions.

1.2 Part IV – Powers Delegated to Officers

Corporate Development

Include the wording attached as Appendix One to this report and to make a reciprocal amendment to remove reference to Trading Standards functions from the Development and Infrastructure section.

It is also proposed that the following changes are made to this part of the Scheme –

Include wording as follows -

Licensing (Scotland) Act 2005, Sections 14 and 15 – to issue notices and make review applications under Section 14 and to exercise the powers of entry and inspection of licensed premises conferred by Section 15 – delegated to Licensing Standards Officers.

Smoking, Health and Social Care (Scotland) Act 2005, Section 7 – to exercise the powers of entry and search of no-smoking premises and the power to require identification conferred by Section 7 - delegated to Licensing Standards Officers.

Gambling Act 2005, Part 15 – by virtue of authorisation to exercise statutory functions under Section 7 of the Smoking, Health and Social Care (Scotland) Act 2005 to exercise the powers of an authorised person under Part 15 of the Gambling Act 2005 - delegated to Licensing Standards Officers.

2. Other Changes – Regulation of Investigatory Powers (Scotland) Act 2000

2.1 Currently the Scheme of Delegation allows a number of individual officers to authorise action to undertake directed surveillance or the use of covert human intelligence sources. At the time of the last inspection the Office of the Surveillance Commissioners commented upon the number of officers ostensibly authorised by the Scheme of Delegation and recommended that the number be reduced, noting that no more than four may be required.

2.2 It is proposed to **amend**

Part IV – Powers Delegated to Officers by

Deletion of the reference to

Regulation of Investigatory Powers (Scotland) Act 2000 : To authorise action to undertake directed surveillance or the use of covert human intelligence sources

where these sections appear within the Finance Service, Care and Learning, Health

and Social Care, Community Services, Environmental Health, Development and Infrastructure and Trading Standards sections of Part IV and

Insert in the Chief Executive's Office section

Regulation of Investigatory Powers (Scotland) Act 2000 ; to designate and authorise officers to authorise action to undertake directed surveillance or the use of covert human intelligence sources.

3. Implications Arising from the Report

3.1 There are no resource, legal, climate change/carbon clever, equalities, Gaelic or rural risk implications arising from these proposals.

4. Recommendation

4.1 The Council is asked to approve the proposed amendments to the Scheme of Delegation and Administration to Committees and Sub Committees and to Officers as detailed and to note that an updated copy will be circulated to all Members following the meeting.

Designation: Depute Chief Executive/Director of Corporate Development

Date: 3rd May 2016

APPENDIX ONE

Statute	Description of Power or Duty	Title of Officer to whom/level of post to which delegated
<u>Trading Standards</u>		
<p>Agricultural Produce (Grading and Marking) Acts 1928 – 1931; Agriculture Act 1970; Antisocial Behavior etc (Scotland) Act 2004 [Part 10 Sale of Spray Paint to Children]; The Biocidal Products Regulations 2001; Children and Young Persons (Protection from Tobacco) Act 1991; Civic Government (Scotland) Act 1982; Clean Air Act 1993; Consumer Credit Act 1974; Consumer Credit Act 2006; Consumer Protection Act 1987; Consumer Protection (Distance Selling) Regulations 2000; Consumer Protection from Unfair Trading Regulations 2008; Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013; Control of Pollution Act 1974; Copyright, Designs and Patents Act 1988; Development of Tourism Act 1969; Education Reform Act 1988; The Electromagnetic Compatibility Regulations 2006; Energy Act 1976; Energy Conservation Act 1981; Enterprise Act 2002; Estate Agents Act 1979; European Communities Act 1972; Explosives Acts 1875 & 1923; Fair Trading Act 1973;</p>	<p>Subject to any restriction set out below, to carry out the functions of the Council, as Local Weights and Measures Authority; Local (Consumer Safety) Authority; Enforcement Authority and otherwise, including (without prejudice to the foregoing generality) to exercise the enforcement powers referred to in the Regulations and Acts listed, and any other Regulations made thereunder.</p>	<p>Enforcement Officer (Trading Standards); Assistant Trading Standards Officer</p>

<p>Fireworks Act 2003; Food & Environment Protection Act 1985; Hallmarking Act 1973; Health & Safety At Work Etc. Act 1974; Housing Scotland Act 2006; Medicines Act 1968; Motor Cycle Noise Act 1987; Pesticides (Fees and Enforcement) Act 1989; Petroleum (Regulation) Acts 1928-36; Poisons Act 1972; Prices Acts 1974 and 1975; Property Misdescriptions Act 1991; Road Traffic Act 1988; Road Traffic Offenders Act 1988; Telecommunications Act 1984; Timeshare Act 1992; Tobacco Advertising & Promotion Act 2002; Tobacco and Primary Medical Services (Scotland) Act 2010; Trade Descriptions Act 1968; Trade Marks Act 1994; Video Recordings Acts 1984 and 1993;</p>		
General Product Safety Regulations 2005	Regulations 21 to 23 - Test purchases; Powers of entry and search etc.	Enforcement Officer (Trading Standards)
General Product Safety Regulations 2005	Regulation 11- Issue of Suspension Notice	Trading Standards Officer
General Product Safety Regulations 2005	Regulation 12, 13 and 14 – Issue of Notice to Mark, to Warn and to Withdraw	Trading Standards Team Leader
General product Safety Regulations 2005	Regulation 15 - Issue of Recall Notice and all other enforcement duties and responsibilities assigned by the regulations to the council as the enforcement authority	Trading Standards Manager
Weights and Measures Act 1985	Those responsibilities, duties and powers assigned by the act to an Inspector	Trading Standards Officer
Weights and Measures Act 1985	Those responsibilities, duties and powers assigned by the act to the Chief Inspector	Trading Standards Manager
Tobacco and Primary Medical Services (Scotland) Act 2010;	Schedule 1 Paragraph 8 – Authority to withdraw a Fixed Penalty Notice	Trading Standards Manager
Farm & Garden Chemicals Act 1967; Offensive Weapons Act 1996	Legislation which the Council has no statutory duty to enforce but which is associated with the Trading Standards function and which Committee (Council) has agreed should be included in list of legislation to be enforced. This legislation does not include any provisions for powers of officers enforcing the legislation	Enforcement Officer (Trading Standards)

Civic Government (Scotland) Act 1982	Section 94 and 99 – to serve notices on occupiers or owners of premises or land on which disused petrol tanks are situated.	Enforcement Officer (Trading Standards)
Various Acts	<p>To increase fees and charges as follows:-</p> <ul style="list-style-type: none"> a) fees payable under the Health & Safety at Work Etc Act 1974 in relation to the storage of Explosives and keeping of Petrol to the statutory maximum, set out in the current version of the Health and Safety (Fees) Regulations b) fees and charges payable under the Poisons Act 1972 and Weights and Measures Act 1985, according to the Council's Charging Policy. 	Trading Standards Manager
<p>Manufacture and Storage of Explosives Regulations 2005; Explosives Regulations 2014; Petroleum (Regulation) Acts 1928 and 1936; Petroleum (Consolidation) Regulations 2014; Poisons Act 1972; Fireworks Regulations 2004</p>	To grant, but not refuse, applications, renewals or transfers of licences, registrations, approvals and other permissions sought (including variation thereof).	Trading Standards Manager