

The Highland Council

29th June 2016

Agenda Item	16
Report No	HC/31/16

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

Report by the Director of Community Services

Summary

This report outlines proposals for amendment to the Council's Scheme of Delegation for powers delegated to officers.

1. Proposed amendments - Part IV: Powers Delegated to Officers

- 1.1 Environmental Health has amended the 'powers delegated to officers' to update and amend following a team restructure. The proposed update is shown in Appendix 1 with changes indicated by italics. Changes include:
- Removing references to 'Area Environmental Health manager' and adding 'Senior Environmental Health Officer';
 - Adding enforcement powers related to Microchipping of Dogs.
- 1.2 The Microchipping of Dogs (Scotland) Regulations 2016 makes it compulsory for all dogs over 8 weeks old in Scotland to be microchipped. This includes dogs being implanted with a microchip and having their details registered on a compliant database.

2. Implications

- 2.1 There are no Legal, Equalities, Climate Change/Carbon Clever, Risk, Gaelic or Rural implications arising from this report.

3. Recommendation

The Council is asked to approve the proposed amendments to the Scheme of Delegation.

Designation: Director of Community Services

Date:

Author: Alan Yates, Environmental Health manager, 01463 228728

Appendix 1

Community Services: Statutory Powers and Duties of the Council which are Exercisable by Officers of the Authority

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

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

Statute	Description of Power or Duty	Title of Officer/Level of Post to which delegated (See key)
Environmental Protection		
Anti-Social Behaviour etc. (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 to s.109 Powers of entry, execution of works, etc	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
Dog Fouling (Scotland) Act 2003	s.5 – power to issue fixed penalty notices	2
<i>Microchipping of Dogs (Scotland) Regulations 2016</i>	<i>Reg 12. Powers of an authorised person</i>	2
Environment Act 1995	s.108 – power to authorise in writing persons to gain entry in respect of certain pollution offences.	4

Statute	Description of Power or Duty	Title of Officer/Level of Post to which delegated (See key)
	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 etc. (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
	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	3

Statute	Description of Power or Duty	Title of Officer/Level of Post to which delegated (See key)
	notice under s4.	
	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
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

ENVIRONMENTAL HEALTH

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

<u>Statute</u>	<u>Description of power or duty</u>	<u>Title of officer/level of post to which delegated</u>
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	To grant, but not refuse, applications, renewals or transfers of licences, registrations, approvals and other permissions sought (including variation thereof),	<i>Senior Environmental Health Officer</i>

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Dangerous Wild Animals Act 1976 Deer (Scotland) Act 1996 Guard Dogs Act 1975 Performing Animals (Regulations) Act 1925 Pet Animals Act 1951 Riding Establishments Acts 1964/70 Theatres Act 1968 Zoo Licensing Act 1981	where:- a) the application has attracted no relevant objection or relevant adverse representation; b) no member of the Council has requested that the application be decided by a Committee; and 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.	
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 1996 Guard Dogs Act 1975 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 Zoo Licensing Act 1981	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	Technical Officer Animal Health & Welfare Officer
Health and Safety at Work etc. Act 1974 Environmental Protection Act 1990 Mines and Quarries Act 1954 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	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	Technical Officer

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<u>Statute</u>	<u>Description of power or duty</u>	<u>Title of officer/level of post to which delegated</u>
<p>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</p> <p>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</p> <p><i>The Bathing Water Regulations 2008</i> <i>The Bathing Waters (Scotland) Amendment Regulations 2012</i></p>	<p>of the European Communities Act 1972, or</p> <p>c) any modification or re-enactment of the foregoing</p>	
<p>Public Health (Scotland) Act 1897 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</p> <p>Smoking, Health and Social Care (Scotland) Act 2005</p> <p>Food and Environmental Protection Act 1985</p> <p>Public Health etc (Scotland) Act 2008</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 b) having effect by virtue of the European Communities Act 1972; or c) any modification or re-enactment of the foregoing</p>	<p>Technical Officer</p>
<p>Animal Health Act 1981 Animal Health and Welfare Act 1984 Animal Health and Welfare (Scotland) Act 2006</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 relating to</p>	<p>Technical Officer Animal Health & Welfare Officer</p>

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	Animals or Animal Health:- 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	
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
Environment Act 1995	s.108 – power to act in accordance with written authorisation issued under s.108	Scientific Officer, Environmental Health Information Officer
Climate Change (Scotland) Act 2009 Sections 88, 89, 90 The Single Use Carrier Bags Charge (Scotland) Regulations 2014	Powers to enforce regulations	Technical 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.	<i>Senior Environmental Health Officer</i>
Health and Safety (Enforcing Authority) Regulations	To agree transfers of responsibility for enforcement.	<i>Senior Environmental Health Officer</i>

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<u>Statute</u>	<u>Description of power or duty</u>	<u>Title of officer/level of post to which delegated</u>
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	<i>Senior Environmental Health Officer</i>
Housing Scotland Act 1987, Housing Scotland Act 2006 and Housing (Scotland) Act 2014	To exercise the functions of authorised officers under Housing legislation in relation to housing grants, houses falling below the tolerable standard, houses in disrepair, <i>repairing standard</i> , 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.	<i>Senior Environmental Health Officer</i>
Safety of Sports Grounds Act 1975	Section 10 – to issue Prohibition Notices, after consultation with the Chief Constable and the Chief Fire Officer Section 10A – to arrange periodic inspection of designated sports grounds.	<i>Senior Environmental Health Officer</i>
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;	<i>Senior Environmental Health Officer</i>

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<u>Statute</u>	<u>Description of power or duty</u>	<u>Title of officer/level of post to which delegated</u>
	enforcement, including inspections, and authorisation of entry.	
Regulation of Investigatory Powers (Scotland) Act 2000	To authorise action to undertake directed surveillance or the use of covert human intelligence sources.	<i>Senior Environmental Health Officer</i>
Building (Scotland) Act 2003 (Section 28)	To serve notice and take all necessary action in respect of defective buildings.	Environmental Health Officer
Civic Government (Scotland) Act 1982	s.87(3) in the interests of health or safety or to prevent damage to any property powers to repair immediately a building s.87(4) powers to recover expenses s.99 to s.109 Powers of entry, execution of works, etc	Environmental Health 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 factor agreed by Council or by other agreed national scheme.	Environmental Health Manager