

# **FALKIRK COUNCIL**

## **STANDING ORDERS**

**The Standing Orders of the Council consist of the Standing Orders Relating to Meetings and the Scheme of Delegation to Committees and Officers.**

**The Standing Orders apply and have effect from 8 May 2019 subject to such amendments as may from time to time be made by Council.**

# STANDING ORDERS

## Index

<u>Para</u>	<u>Subject</u>	
<b>Section 1 - Preliminary Matters</b>		
1.	Application of Interpretation Act 1978	4
2.	Definitions	4 – 6
3.	General Principles	7
<b>Section 2 - Meetings of the Council</b>		
4.	Meetings	8
5.	Statutory Meeting	8 – 9
6.	Ordinary Meetings	9
7.	Special Meetings	10
8.	Notice of Meeting	10 – 11
9.	The Agenda	11 – 14
10.	Public Access to Meetings	14 – 15
11.	Non-Attendance of Members	15
12.	Not used	15
13.	Quorum	16
<b>Section 3 - Order and Conduct of Business at Meetings of the Council</b>		
14.	Order of Business	17
15.	Minutes	18
16.	Powers and Duties of the Provost	18 – 19
17.	Councillors' Conduct at meetings	19 – 20
18.	Points of Order	20
19.	Personal Explanations	20
20.	Motions and Amendments	21 – 22
21.	Speeches	22 – 23
22.	Voting	23 – 24
23.	Voting on Appointments of Members	24
24.	Third Party Interests	24
25.	Motions and Amendments which may be Moved Without Notice	25
26.	Motions which may be Moved During Debate and Closure Motions	25 – 26
27.	Misconduct	26 – 27
28.	Protests or Expressions of Dissent	27
29.	Motions - General	27 – 28
30.	Motions – Budget	28 – 29
31.	Motions that Stand Referred	29
32.	Questions	29 – 30
33.	Deputations	31
34.	Close of Business	31 - 32
35.	Revocation of Previous Decision	32
36.	Standing Orders	33

<b><u>Para</u></b>	<b><u>Subject</u></b>	
	<b>Section 4 - Constitution, Meetings and Proceedings of Committees</b>	
37.	Committees	34 – 36
38.	Conduct of Meetings at Committees	37 – 38
39.	Special Provisions in the Event of the Use of the Convener's Dispensing Power	38
	<b>Section 5 - Miscellaneous Matters</b>	
40.	Disclosure of Information	39
41.	Appointment of Staff (General)	39
42.	Appointments Made by Committee	39
43.	Execution of Deeds and Common Seal	40
44.	Contract Standing Orders and Financial Regulations	40
	<b>Section 6 – Scheme of Delegation to Committees</b>	
45.	Introduction	41
46.	Extent of Delegation	41
47.	Council	42 – 43
48.	The Executive	44 – 45
49.	Education, Children and Young People Executive	45
50.	Scrutiny Committee/ Scrutiny Committee (External)	46 – 47
51.	Planning Committee	48 – 50
52.	Planning Review Committee	51
53.	Civic Licensing Committee	52
54.	Pensions Committee	52 – 53
55.	Appeals Committee	53
56.	Appointments Committee	54
57.	Audit Committee	54 – 56
58.	Common Good Fund Committees	56
59.	Emergency Committee	57
59A.	Community Empowerment Review Committee	57
	Schedule – Portfolio Holders	58 – 62
	<b>Section 7 – Scheme of Delegation to Officers</b>	
60.	The Scheme of Delegation to Officers	63 – 73

## **STANDING ORDERS RELATING TO MEETINGS**

### **SECTION 1**

#### **PRELIMINARY MATTERS**

#### **1. APPLICATION OF INTERPRETATION ACT 1978**

- 1.1 The Interpretation Act 1978 will apply to the interpretation of these Standing Orders as it applies to the interpretation of an Act of Parliament.

#### **2. DEFINITIONS**

- 2.1 In the Standing Orders, unless the context otherwise demands, the following terms will have the undernoted meanings:-

<b>Term</b>	<b>Meaning</b>
The 1973 Act	The Local Government (Scotland) Act 1973
The 1989 Act	The Local Government and Housing Act 1989
The 1992 Act	The Local Government Finance Act 1992
The 1994 Act	The Local Government etc. (Scotland) Act 1994
Administration	The group or groups of councillors (including any individual councillor or councillors not part of any group) which the Leader of the Council has given written notice to the Chief Executive forms the Administration subject to the proviso that the notice will be signed by the leaders of all groups and by all councillors not part of any group, forming the Administration.
Budget	The budgets approved by Council each year consisting of the Revenue Budget, the General Services Capital Programme, the Housing Revenue Account and Council House Rents and the Housing Investment Programme.
Chief Officer	The Chief Executive, the Directors of Services, the Chief Officer of the Integration Joint Board and other officers holding posts recognised by the Council as having chief officer status including Heads of Service.

Clear days	When referring to service of Notices, the term “clear days” refers to weekdays, excluding weekends, Bank Holidays, local or national holidays, the day the Notice is posted and the day on which the meeting is held.
Clerk	The person attending a meeting to act as clerk to the Council, or any of its committees.
Committee	A committee of the Council.
Community Planning Partnership	The partnership of public bodies within the council area maintained by the Council in pursuance of Part 2 of the Local Government in Scotland Act 2003.
Convener	The person presiding at a committee duly appointed by the Council or by that committee where these Standing Orders so provide.
The Council	Falkirk Council constituted by virtue of and incorporated under the 1994 Act.
Councillor	A member of the Council duly elected at an election or by-election, and who has made and delivered to the Proper Officer of the Council a Declaration of Acceptance of Office in accordance with section 33A of the 1973 Act.
Corporate Plans	The Strategic Community Plan, the Corporate Plan and the Local Development Plan.
Depute Convener	The person presiding at a committee in the absence of the convener, duly appointed by the Council or by that committee where these Standing Orders so provide.
The Depute Provost	The Depute Convener of the Council duly appointed as such by a full meeting of the Council in terms of section 4(2) of the 1994 Act.
Falkirk Community Trust	A charitable company established to provide cultural, leisure, sport, recreational and library services for the Falkirk Council area.
Head of Paid Service	The person designated as such by the Council under section 4 of the 1989 Act. In Falkirk Council, that person is the Chief Executive.

Integration Joint Board	The body established under the Public Bodies (Joint Working) (Scotland) Act 2014 to deliver health and social care services.
Joint Board	The Central Scotland Valuation Joint Board
Leader of the Council	The councillor designated as Leader for the purposes of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007.
Leader of the Opposition	The Leader of the largest Opposition Group on the Council.
Main Opposition Groups	The political groups represented on the Council which do not form part of the Administration and whose members constitute at least 10% of the Council.
Monitoring Officer	The person designated as such by the Council under section 5 of the 1989 Act or, if that person is unable to act owing to absence or illness, the person nominated by them as their deputy under sub-section (7) of that section. In Falkirk Council, the Monitoring Officer is the Chief Governance Officer.
Opposition	Those Councillors who are not members of the administration.
Portfolio Holder	A councillor appointed by the Leader of the Council to perform the role set out in the schedule to the Scheme of Delegation to committees.
Proper Officer	The persons designated as such by the Council to undertake specific duties, as detailed in a list kept for public inspection within the head office of the Council which is situated at Municipal Buildings, Falkirk.
The Provost	The convener of the Council duly appointed as such by a full meeting of the Council in terms of section 4(1) of the 1994 Act.
Regulatory Committees	The Planning Committee, the Planning Review Committee, the Civic Licensing Committee and any other committee established by the Council to discharge any other similar regulatory function.
Substitute	A member nominated by the appointed member to represent them.

### **3. GENERAL PRINCIPLES**

3.1 The following general principles will be given effect to in the application of the Standing Orders Relating to Meetings:-

- (i) The role of the Chair is to permit fair and responsible debate and to ensure that the business of the meeting is properly dealt with and clear decisions are reached;
- (ii) The chair has a responsibility to ensure that the views and opinions of other participants (including the advice of officers where this is necessary to inform the decision) are allowed to be expressed. This requires a balanced approach to ensure fairness while at the same time dealing firmly with any attempt to disrupt or unnecessarily delay the meeting;
- (iii) Meetings are conducted in a proper and timely manner with all members sharing the responsibility for the proper and expeditious discharge of business;
- (iv) Meetings are conducted in compliance with these Standing Orders and that the role of that the Chair in reaching decisions on their application is respected and supported; and
- (v) All councillors will show respect for one another and for employees of the Council.

## **SECTION 2**

### **MEETINGS OF THE COUNCIL**

#### **4. MEETINGS**

4.1 All Council meetings will take place in accordance with legal requirements. There are 3 forms of Council meeting:-

- (i) The Statutory Meeting
- (ii) Ordinary Meetings
- (iii) Special Meetings

#### **5. STATUTORY MEETING**

5.1 The Statutory Meeting of the Council in the year of an election must be held within 21 days from the date of the election.

5.2 The Returning Officer for that election or, failing them, such councillor as may be selected by the meeting, will preside at the meeting until the Provost is elected following which the Provost will take the Chair.

5.3 The following business will normally be transacted at the Statutory Meeting:-

- (i) elect the Provost of the Council;
- (ii) if it is resolved to do so, elect one or more Depute Provost of the Council;
- (iii) elect the Leader of the Council;
- (iv) if it is resolved to do so, elect one or more Depute Leader;
- (v) if it is resolved to do so, appoint one or more Baillies to deputise for the Provost;
- (vi) appoint the conveners and members of committees unless otherwise provided for in Standing Orders and where a convener is to be appointed to the Executives, the Scrutiny Committee or the Scrutiny Committee (External) the appointment will give effect to requirement that those appoints will be shared among the three main political groups;
- (vii) appoint the members of the Licensing Board;
- (viii) make appointments to external bodies or organisations on which the Council is required by statute to be represented; and
- (ix) subject to the terms of these Standing Orders and of any statutory provision, deal with any urgent competent business.



The Council will decide the political balance on the Executive and other committees before appointing individual members.

5.4 With the exception of items (i) and (ii) above, the order of business may be varied:-

- (i) by the Chief Governance Officer in advance of the meeting;
- (ii) by the Provost at their discretion, or
- (iii) by a motion put forward, seconded and carried without discussion, by a majority of the members at the meeting. No written notice of the motion is required.

5.5 The Provost, and any person appointed under Standing Order 5.3, will hold office until the date of the next election of councillors unless:-

- (i) otherwise decided by the Council by resolution following a Notice of Motion in terms of Standing Order 29,
- (ii) the Provost, or any of these persons referred to above, delivers to the Chief Executive a letter of resignation specifying the date on which the resignation will take effect.

## **6. ORDINARY MEETINGS**

6.1 Meetings will normally be held in the Municipal Buildings, Falkirk at the time and on the day which is approved by the Council and in accordance with the programme circulated by the Chief Governance Officer, unless determined otherwise by:-

- (i) the Council; or
- (ii) the Provost and Depute Provost; or
- (iii) the Provost or Depute Provost, acting together with the Leader of the Council,

with due notice being given of any alteration to the ordinary meeting place or time in compliance with the provisions of the 1973 Act.

6.2 In extreme circumstances (for example severe weather conditions preventing councillors and the public from travelling safely to the meeting place) meetings may be cancelled or postponed by the Chief Executive or Chief Governance Officer in consultation with the Provost.

## **7. SPECIAL MEETINGS**

7.1 A Special Meeting of the Council may be called at any time:-

- (i) by the Provost; or
- (ii) in the absence of the Provost, by the Depute Provost; or
- (iii) on a requisition in writing specifying the business proposed to be transacted and signed by at least one-quarter of the whole number of members of the Council. The Chief Governance Officer in consultation with the Provost will arrange for the meeting to be held within fourteen days of receipt of the requisition.

## **8. NOTICE OF MEETING**

8.1 Public Notification: The Chief Governance Officer will notify the public of a meeting by publishing a Notice at the Council's headquarters at least five clear days before the meeting or, if the meeting is convened at shorter notice, at the time the meeting is actually convened and will comprise:-

- (i) the date, time and place of the meeting;
- (ii) the list of items of business to be transacted at the meeting; and
- (iii) if it is likely that the public is to be excluded during the whole or part of the meeting, notification of that fact.

8.2 Notice to councillors: The Chief Governance Officer will give notice of meetings to all councillors by leaving or sending a notice to them at their usual place of residence or such other address as any councillor may have notified to the Chief Governance Officer. The notice will be given at least five clear days before the meeting, or if the meeting is convened at shorter notice, at the time the meeting is actually convened and will comprise:-

- (i) the date, time and place of the meeting;
- (ii) the list of items of business to be transacted at the meeting; and
- (iii) copies of reports associated with every agenda item.

8.3 Want of service of a notice on any councillor will not affect the validity of a meeting.

8.4 Notice to the Press and Public: The Chief Governance Officer will give notice of meetings to the press and to the public by posting or delivering copies of the items specified in Standing Orders 8.1 and 8.2 to the Head Office of local newspapers and to public outlets owned by the Council:-

- (i) at least five clear days before the meeting, or
- (ii) if the meeting is convened at shorter notice, at the time the meeting is actually convened.

However, no report containing confidential or exempt information as defined in Standing Orders 9.5 and 9.6 will be made available for public inspection.

## **9. THE AGENDA**

9.1 Each item of business to be transacted at a meeting will be noted on the agenda. No other item of business will be considered at the meeting unless, by reason of special circumstances, the Provost is of the opinion that the item should be considered as a matter of urgency. The nature of the special circumstances will be recorded in the minute of the meeting.

9.2 Each agenda item will be accompanied by a report, unless special circumstances exist for non-availability of any report.

9.3 Copies of the agenda and accompanying reports will be open for inspection by members of the public at the Headquarters of the Council at least five clear days before the meeting, except:-

- (i) where the meeting is convened at shorter notice, in which case the agenda and reports will be available for public inspection from the time the meeting is convened;
- (ii) where an item is added to an agenda, copies of which are open for inspection by the public, copies of the item (or of the revised agenda), and copies of any report for the meeting relating to the item, will be open for inspection from the time the item is added to the agenda;
- (iii) there may be excluded from the copies of reports the whole or part of any report which relates only to items during consideration of which, in the opinion of the Chief Governance Officer, the meeting is likely not to be open to the public; and
- (iv) the whole or part of any report which discloses confidential information will be excluded from publication.

9.4 The agenda will be divided into the following parts:-

PART I Unrestricted Items: permitting full public inspection.

PART II Exempt Items: see Standing Order 9.5.

PART III Confidential Items: see Standing Order 9.6.

9.5 What is meant by “exempt information” is set out in section 50J and Schedule 7A to the 1973 Act. The following categories of information are defined as being “exempt”:-

- (i) Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office holder, former office holder or applicant to become an office holder under, the Council;
- (ii) Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority;
- (iii) Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the Council;
- (iv) Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the Council;
- (v) Information relating to the adoption, care, fostering or education of any particular child or relating to the supervision or residence of any particular child in accordance with a supervision requirement of that child made under the Children (Scotland) Act 1995;
- (vi) Information relating to the financial or business affairs of any particular person (other than the Council);
- (vii) Information relating to anything done or to be done in respect of any particular person for the purposes of any matter referred to in section 27(1) of the Social Work (Scotland) Act 1968 (providing reports on and supervision of certain persons);
- (viii) The amount of any expenditure proposed to be incurred by the Council under any particular contract for the acquisition of property or the supply of goods or services;
- (ix) Any terms proposed, or to be proposed by or to the Council, in the course of negotiations for a contract for the acquisition or disposal of any property or the supply of goods or services;

- (x) The identity of the Council (as well as any other person, by virtue of item (vi) above) as the person offering any particular tender for a contract for the supply of goods or services;
- (xi) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Council;
- (xii) Any instructions to Counsel and any opinion of Counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:-
  - (a) any legal proceedings by or against the Council, or
  - (b) the determination of any matter affecting the Council, (whether, in either case, proceedings have been commenced or are in contemplation);
- (xiii) Information which, if disclosed to the public, would reveal that the Council proposes:-
  - (a) to give under any enactment a notice under, or by virtue of, which requirements are imposed on a person, or
  - (b) to make an order or direction under any enactment;
- (xiv) Any action taken, or to be taken in connection, with the prevention, investigation or prosecution of crime;
- (xv) The identity of a protected informant.

9.6 What is meant by “confidential information” is set out in section 50A(3) of the 1973 Act. The following categories of information are defined as being “confidential”:-

- (i) Information furnished to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public, and
- (ii) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

- 9.7 Every report which includes confidential or exempt information will be marked, respectively:-
- (i) “Not for publication by virtue of the confidential nature of the information as defined in section 50A(3) of the Local Government (Scotland) Act 1973”,

or

  - (ii) “Not for publication by virtue of the exempt nature of the information as defined in paragraph ..... of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973”.
- 9.8. The Provost will meet the Leader of the Council and the Leader of the Main Opposition Groups (or their substitutes) in advance of every meeting of Council (except where a Special meeting is called at short notice and it is impracticable to hold a business meeting) with a view to facilitating the business on the agenda and ensuring, as far as possible, that it will be concluded within the allotted timescale. This meeting will also provide an opportunity for consultation on motions submitted to Council in line with Standing Orders 31.1(i) and 47.1(4).

## **10. PUBLIC ACCESS TO MEETINGS**

- 10.1 All meetings of the Council will be open to the public, except in the circumstances detailed below:-
- (i) whenever it is likely at any meeting, in view of the nature of the business to be transacted or the nature of the proceedings, that there will be a disclosure of exempt information (see Standing Order 9.5), the public may be excluded from the meeting while the particular matter is being considered;
  - (ii) whenever it is likely at any meeting, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information (see Standing Order 9.6) will be disclosed in breach of the obligation of confidence, the public will be excluded while the particular matter is being considered;
  - (iii) the Provost has power to exclude any member of the public from a meeting in order to suppress or prevent disorderly conduct or other misbehaviour which is impeding or likely to impede the work or proceedings of the Council;
  - (iv) if a member of the public interrupts the proceedings at any meeting, the Provost will give a warning. If the interruption continues, the Provost will order the removal of the person from the meeting place. In the case of general disturbance in any part of the meeting place open to the public, the Provost may order that part to be cleared.

- 10.2 No member of the public will be permitted to speak or to take any other part in the proceedings of a meeting of the Council except when addressing the meeting as a member of a deputation under Standing Order 33.
- 10.3 The right of public access to meetings does not include a right to photograph, record or broadcast the proceedings at the meeting. The Council may permit such photography, recording or broadcasting. A request for such permission should be made to the Council by close of business on the clear day prior to the date of the meeting and will be considered as part of the business of the meeting.
- 10.4 Within 3 clear days of each meeting of Council, an audio recording of it will be made available on the Council website with the exception of those parts of the meeting dealing with items containing exempt or confidential information as defined in Standing Orders 9.5 and 9.6.

## **11. NON-ATTENDANCE OF MEMBERS**

- 11.1 Should a member of the Council be unable to attend a meeting for whatever reason, they may tender their apologies either by intimating them to the Chief Governance Officer in advance of the meeting or by another councillor doing so at the commencement of business, and these apologies only will be incorporated in the minute of the meeting.
- 11.2 Subject to the provisions of the 1973 Act, if a councillor fails throughout a period of six consecutive months to attend any meeting of the Council, they will, unless the failure to attend was due to some reason approved by the Council, cease to be a member of the Council.
- 11.3 Subject to the provisions of the 1973 Act, the Council may grant a leave of absence to any councillor who, for a reason approved by Council, is unable to attend any meeting of the Council for a continuous period of six months.
- 11.4 Attendance at any committee of the Council or any joint committee, joint board or other body to which any function of the Council has been delegated, or any meeting of any body of persons at which the councillor is authorised to represent the Council is deemed to be attendance at a meeting of the Council for the purposes of this Standing Order.

## **12. Not Used**

### **13. QUORUM**

- 13.1 At all meetings of the Council, one quarter of the membership will form a quorum and if, within fifteen minutes after the time appointed for the meeting, a quorum is not present, the meeting will stand adjourned to such date and time as may be fixed, and the minute of the meeting will disclose this fact.
- 13.2 If, at any time after a meeting has commenced, the number of members present falls below the quorum, the Provost will suspend the proceedings.
- 13.3 If, after the lapse of five minutes, the Provost finds that the quorum has not been achieved, they will adjourn the meeting to such other date and time as may be fixed, and the minute of the meeting will disclose this fact.



### **SECTION 3**

#### **ORDER AND CONDUCT OF BUSINESS AT MEETINGS OF THE COUNCIL**

#### **14. ORDER OF BUSINESS**

14.1 The business of the Council at Ordinary Meetings will proceed in the following order, subject to its division into Parts I, II and III as referred to in Standing Order 9.4:-

- (i) The sederunt;
- (ii) Declarations of interest;
- (iii) The minutes of the last ordinary meeting and of any special meeting of the Council since held;
- (iv) The Information Bulletin and Volume of Minutes;
- (v) The Rolling Action Log showing progress on any outstanding actions from the previous meeting;
- (vi) Questions submitted in accordance with Standing Order 32;
- (vii) Public announcements by the Provost regarding matters of immediate local concern;
- (viii) Recommendations from committees;
- (vix) New business;
- (ix) Urgent items added to the agenda under Standing Order 9.1;
- (xi) Motions of which notice has previously been given in accordance with Standing Order 29;

14.2 The order of business in items (i) (ii) and (iii) of Standing Order 14.1 may not be changed. The order of any other business may be varied:-

- (i) by the Provost at their discretion either at or before the meeting; or
- (ii) by a motion put forward, seconded, and carried without discussion, by a majority of members at the meeting. No written notice of motion is required.

## **15. MINUTES**

- 15.1 Minutes of Council meetings will be compiled and kept by the Chief Governance Officer and will be signed at the next Ordinary Council Meeting by the Provost.
- 15.2 The Provost will move that the minutes of the meeting of the Council held on the ..... day of ..... are a true record.
- 15.3 There will be no discussion of the minutes except on their accuracy. Any question of accuracy must be raised by amendment to the Provost's motion and voted on without discussion. No written notice of motion is required. The Provost will sign the minutes once they are deemed accurate.
- 15.4 A Council meeting which has had its minutes properly signed will be deemed to have been held, and all councillors present at the meeting will be deemed to have been duly qualified, until the contrary is proved.

## **16. POWERS AND DUTIES OF THE PROVOST**

- 16.1 The Provost will preside at all meetings of the Council. In the absence of the Provost, the Depute Provost will preside and, in the absence of both, the clerk will preside over the meeting until the Council appoints a convener for that meeting.
- 16.2 The Provost shall have the duty:-
- (i) to ensure that Standing Orders are followed;
  - (ii) to ensure that councillors are treated equally and that they are given a fair opportunity to express their views on any item of business while having regard to the terms of Standing Order 17.6 on the requirement to ensure the proper and expeditious discharge of business; and
  - (iii) to preserve order within the meeting.
- 16.3 Without prejudice to any other provision of these Standing Orders, the Provost shall have power:-
- (i) to decide on all matters of decorum, order, competency and relevancy, having sought advice from relevant officers where appropriate;
  - (ii) to determine all matters of procedure for which no provision is made in these Standing Orders;
  - (iii) to determine the order in which councillors may speak;

- (iv) in ruling that certain language is unacceptable, to seek withdrawal of a remark, an apology or any other action required, in the Provost's opinion, to allow the meeting to proceed properly;
  - (v) to rule on the acceptability of behaviour during the course of the meeting;
  - (vi) in the event of disorder arising, to adjourn the meeting to a time and date as the Provost shall fix then or later, and the Provost leaving the Chair in such circumstances shall, without further procedure, have the effect of a formal adjournment of the meeting;
  - (vii) to order the exclusion of any members of the public in the event of disorderly conduct or other misbehaviour;
  - (viii) to exercise both a deliberative and a casting vote unless otherwise provided by statute;
  - (ix) to exercise the powers set out in Standing Order 27, and
- 16.4 The decision of the Provost on all matters within their powers shall be final and shall not be open to question or discussion. If asked, however, the Provost will state a reason for any decision they make which will be recorded in the minutes of the meeting.

## **17. COUNCILLORS' CONDUCT AT MEETINGS**

- 17.1 All councillors must comply with the requirements of the Councillors' Code of Conduct and associated guidance as issued by the Standards Commission for Scotland from time to time.
- 17.2 Deference shall at all times be paid to the authority of the Provost. When the Provost rises or begins to speak, any councillor addressing the meeting shall give way. The Provost shall be heard without interruption.
- 17.3 Normally, unless the Provost states otherwise, councillors should stand when addressing the Provost. When a councillor is speaking, all other councillors should remain seated, unless rising to a point of order. When the Provost rises, any councillor then standing will sit.
- 17.4 All councillors must respect the Provost, colleagues, Council employees and any members of the public present during meetings or other formal proceedings of the Council.
- 17.5 Councillors are accountable for their own conduct in meetings in terms of the Code of Conduct of the Council irrespective of the conduct of others. Abusive or offensive language is not acceptable.

- 17.6 All councillors must comply with rulings from the Provost in the conduct of business of the Council. This includes rulings on the proper and timely conduct of meetings, the acceptability of language used and the fairness and sufficiency of debate. Councillors present at the meeting share responsibility for the proper and expeditious discharge of business.
- 17.7 No behaviour disruptive of the meeting shall be acceptable and, where appropriate, the sanctions specified in Standing Order 27 will be applied.
- 17.8 Councillors shall ensure that all mobile phones, handheld devices and pagers are turned off or are switched to silent mode during meetings.

## **18. POINTS OF ORDER**

- 18.1 A councillor may raise a point of order at any time during a meeting. In doing so, the councillor must refer to the particular Standing Order that they consider is being infringed and must limit their intervention strictly to that point. The councillor then speaking will give way to enable the Provost to rule on the point. No other councillor may speak on it. The Provost will decide on the point.

## **19. PERSONAL EXPLANATIONS**

- 19.1 If a councillor considers that they have been:
- (i) abused, or
  - (ii) unfairly accused of a misdemeanour, or,
  - (iii) having previously spoken on an item of business, that some part of their speech has been misinterpreted or misunderstood in the debate, or
  - (iv) some statement or act has been wrongly attributed to them,
- the councillor may, with the consent of the Provost and subject to the terms of Standing Order 21.6, give a personal explanation but, in doing so, shall not interrupt any councillor then speaking but shall rise only when the previous speaker has concluded their or her speech.
- 19.2 Where any councillor seeks to speak in explanation under the preceding Standing Order, they must confine their remarks wholly and strictly to the point and must not refer to other matters nor endeavour to elaborate a former speech by new arguments or reply to other councillors.
- 19.3 In the event of the Provost ruling against the admissibility of a point of order or a personal explanation, they will, if asked, give a reason for the ruling.

## **20. MOTIONS AND AMENDMENTS**

- 20.1 A motion or amendment will not be discussed or put to the meeting unless it has been moved and seconded.
- 20.2 Without prejudice to Standing Orders 20.11 and 20.12, a motion to which no amendment is moved will be declared carried and will not be the subject of debate unless the Provost, at their sole discretion, allows the mover and seconder of the motion to speak in explanation if the subject matter is considered by the Provost to be of special interest to the meeting. No other speeches will be allowed.
- 20.3 Should any councillor wish to ask a question or to seek clarification in order to determine whether they support the motion or an amendment, the consent of the Provost should be sought to do so whenever the motion or amendment has been moved and seconded.
- 20.4 Motions or amendments made, but not seconded, will not be discussed or recorded in the minutes. When a motion or amendment has been moved but not seconded, the mover may require their dissent in respect of a decision taken on the item of business to which the motion or amendment relates, to be entered in the minute.
- 20.5 Only one amendment may be moved and discussed at a time and no further amendment may be moved (although notice of it should be given) until the amendment under discussion has been dealt with. No member may move more than one amendment to a motion.
- 20.6 If an amendment is lost, other amendments may be moved on the original motion but only where notice has been given. If an amendment is carried, the amended motion replaces the original motion and becomes the substantive motion upon which any further amendment may be moved.
- 20.7 A councillor may only alter the text of their motion or amendment with the consent of the Provost on cause shown. The alteration must amend the motion or amendment and not be an entirely new motion or amendment. If the motion or amendment has been moved and seconded, the seconder must also give consent to the alteration.
- 20.8 A motion or amendment once made and seconded may only be withdrawn with the unanimous consent of those present at the meeting. No councillor may speak on the motion or the amendment after the mover has asked permission for its withdrawal, unless permission has been refused.

20.9 An amendment must be relevant to the motion and will be either:-

- (i) to refer a subject of debate to a committee for consideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others, or
- (iv) to insert or add words,

but such omission, insertion or addition of words must not have the effect of introducing new subject matter into or negating the motion before Council.

20.10 Except where the Provost notes that those councillors at the meeting are in general agreement with regard to any unopposed motion, each motion will be put to the vote.

20.11 Certain limited categories of report submitted to Council may be open for discussion notwithstanding that there appears to be general agreement on them. This will include those reports submitted periodically from persons who are under an obligation to report to Council on their actions, for example the annual report from the Chief Social Work Officer or from the Convener of the Audit Committee. These reports will be identified on the agenda.

## **21. SPEECHES**

21.1 Each councillor will introduce their speech by indicating whether they are speaking in support of the motion, the amendment or introducing.

21.2 Except with the consent of the Provost, a speech must not exceed eight minutes, when a councillor is moving an original motion or an amendment and four minutes in any other case.

21.3 A councillor must direct their speech to the question under discussion, a personal explanation or a point of order.

21.4 A councillor may only speak once during the debate on any motion or amendment, to either move a motion or an amendment or second or speak to a motion or an amendment moved by another member. A councillor who moves or seconds a motion or amendment may do so formally, reserving their entitlement to speak on the matter to a later stage in the debate provided that where moving a motion or amendment consists of the recommendations in the report.

21.5 The exceptions are:-

- (i) to ask questions;
- (ii) to exercise a right of reply;
- (iii) on a point of order; and
- (iv) by way of personal explanation.

21.6 The mover of a motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote. No councillor shall speak after the mover of the motion has exercised their right of reply. The mover of an amendment has no right of reply to the debate on that amendment.

## **22. VOTING**

22.1 Unless dispensed with by the Provost, the clerk will read out to the meeting the terms of the motion and the amendment. Thereafter where the vote is being taken in public, the clerk will call over the names of all the councillors and will record in the minutes of the meeting the names of those:-

- (i) voting for or against the motion or amendment; or
- (ii) abstaining from voting; or
- (iii) absent from the meeting when the vote was taken.

22.2 For items where the public has been excluded, voting will be by show of hands except in the following circumstances:-

- (i) if not less than one-quarter of the Council present and voting so request, the vote will be taken by roll call in the manner set out in Standing Order 22.1.
- (ii) on a motion put forward, seconded, and carried without discussion by a majority of members at the meeting, voting will be by ballot which will be undertaken by the clerk to ensure the secrecy of the vote. No written notice of motion is required.

22.3 Where a vote is taken by a show of hands and, immediately after a vote is taken, a councillor requests their vote to be recorded, there will be noted in a minute of the meeting whether the councillor:-

- (i) cast their vote for or against the question, or
- (ii) abstained from voting.

- 22.4 The clerk will then announce the result of the vote on the basis of a simple majority of those voting.
- 22.5 After the clerk has announced the issue on which a vote is to be taken and has started to take the vote, no councillor will be permitted to offer an opinion, ask a question or otherwise interrupt the proceedings, until the result of the vote is declared.
- 22.6 In the case of an equality of votes, the Provost will have a second or casting vote and may exercise it at their discretion except when voting on appointments as detailed in Standing Order 23.

### **23. VOTING ON APPOINTMENTS OF MEMBERS**

- 23.1 Where only one vacancy requires to be filled and two or more persons are nominated, a vote shall be taken between all the candidates, each councillor being entitled to one vote only. When any candidate obtains an absolute majority of those voting they shall be duly appointed. If no candidate obtains an absolute majority, the name of the candidate obtaining the least number of votes shall be struck out and a new vote taken of the remaining candidates and so on until a candidate obtains an absolute majority.
- 23.2 Where more than one vacancy requires to be filled and the number of persons nominated exceeds the number of vacancies, a vote shall be taken between all the candidates, each councillor being entitled to vote for as many candidates as there are vacancies. Candidates who receive an absolute majority shall be duly appointed. If all the vacancies are not filled on the first vote, the name of the candidate obtaining the least number of votes shall be struck out and a new vote taken of the remaining candidates who have not already been duly appointed by the first vote, and so on until all the vacancies have been filled.
- 23.3 In the event of an equality of votes that cannot be resolved by a further voting stage, the candidate to be elected will be decided by lot, which will be conducted by the clerk.

### **24. THIRD PARTY INTERESTS**

- 24.1 Where voting takes place on an agenda item where third party interests are directly affected, e.g. where a planning application is being considered only those councillors who have been present during the whole of the discussion will be entitled to participate in the vote, save where as otherwise provided within these Standing Orders.
- 24.2 Absences for brief periods during consideration of business will be disregarded in these situations. In all other cases, only those councillors who have been in attendance during the whole or part of the discussion on the agenda item giving rise to the vote will be entitled to participate in that vote.



## **25. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

25.1 The following motions and amendments may be moved without notice to:-

- (i) appoint a Chair of the meeting;
- (ii) question the accuracy of the minute;
- (iii) move that an item of business on the agenda takes precedence;
- (iv) give leave to withdraw a motion;
- (v) move that “the question be now put”;
- (vi) move that “the debate be now adjourned”;
- (vii) move that “the Council proceed to the next business”;
- (viii) move that “the Council do now adjourn”;
- (ix) move that “the vote be taken by ballot”;
- (x) move that “the time for the meeting be extended”;
- (xi) exclude or re-admit the press and public under section 50A(4) of the 1973 Act;
- (xii) move that a member is not further heard or is required to leave the meeting in terms of Standing Orders 26 or 27;
- (xiii) give consent of the Council where consent is required by these Standing Orders; and
- (xiv) grant urgent action powers.

## **26. MOTIONS WHICH MAY BE MOVED DURING DEBATE AND CLOSURE MOTIONS**

26.1 When a motion is under debate no other motion may be moved except:-

- (i) to amend the motion;
- (ii) motions moved by the Provost or another member that a member:-
  - (a) “be not further heard”;
  - (b) “must leave the meeting”;
- (iii) motions to exclude the press and public; and

(iv) closure motions under the following paragraph:-

26.2 The following closure motions will be permitted during discussion of another motion. They will be moved, seconded and put to a simple vote without discussion. The Provost will proceed as follows:-

(i) on a motion to “proceed to the next business”:-

Unless, in the Provost’s opinion, the matter before the meeting has not been discussed sufficiently, the Provost will first give the mover of the original motion a right of reply and then put to the vote the motion to proceed to the next business; if that motion is carried, the original motion will lapse and the Council will proceed to the next business.

(ii) on a motion that “the question be now put”:-

Unless, in the Provost’s opinion, the matter has been discussed insufficiently, the Provost will first put to the vote the motion that the question be now put and if it is carried, then give the mover of the original motion a right of reply before putting the original motion to the vote.

(iii) on a motion to adjourn the meeting or debate:-

If the Provost is of the opinion that the matter has not been discussed sufficiently and cannot reasonably be discussed sufficiently on that occasion, the adjournment motion will be put to the vote without giving the mover of the original motion a right of reply on that occasion; if the adjournment motion is carried, the original motion, and/or any remaining business, will then stand over as uncompleted business until the next ordinary meeting of the Council.

26.3 If a closure motion is not carried, a similar motion may be made after every three additional councillors have spoken.

## **27. MISCONDUCT**

27.1 The Provost may check a councillor for irrelevance, tedious repetition, failure to address the Chair, unbecoming language, reflections of a personal character on another member or any breach of order and may direct such councillor speaking to discontinue their speech.

27.2 In the event of persistent misconduct of a councillor by disregarding the ruling of the Provost, or behaving improperly or offensively, or using racist or sexist or unbecoming language, or wilfully obstructing the business of the meeting, the Provost may take any of the following courses of action either separately or in sequence:-

(i) direct the councillor to refrain from speaking during the remainder of the debate on the matter under discussion;

- (ii) move “that the councillor be not further heard” which motion will not require to be seconded, will be put to a simple vote without discussion and, if carried, the councillor named must not speak further at that meeting. If the councillor named continues the misconduct, after a motion under the foregoing paragraph has been carried, and does not heed a further warning from the Provost, the Provost is empowered to require the councillor to leave the meeting. The Council Officer will act on such order as they may receive from the Provost in pursuance of such action;
- (iii) adjourn the meeting for such period as seems expedient to the Provost;
- (iv) in the event of general disturbance, which in the opinion of the Provost renders the due and orderly despatch of business impossible, the Provost may, in addition to any other power vested in them, without the question being put, suspend the meeting for such period of time that they consider expedient.

## **28. PROTESTS OR EXPRESSIONS OF DISSENT**

- 28.1 Without prejudice to Standing Order 20.5, no protest or expression of dissent made by any councillor or councillors will be entered in the minute of the Council.

## **29. MOTIONS - GENERAL**

- 29.1 Every notice of motion must be in writing, signed by the councillor giving the notice. Every motion must be relevant to some matter in relation to which the Council has powers or duties or which affects the area of the Council.
- 29.2 Notices of motion must be delivered to the Chief Governance Officer at their office not later than 12 noon at least nine clear days before the date of the next meeting of the Council. Motions of which notice has been received after that time will neither appear on the agenda nor be moved at the meeting unless the Provost decides, in terms of section 50B(4)(b) of the 1973 Act, that the matter is one of urgency.
- 29.3 The motion may be delivered by hand, post or e-mail. Motions delivered by email will be treated as being signed if they are sent from a councillor’s email ending “@falkirk.gov.uk”.
- 29.4 The Chief Governance Officer has power to refuse to accept any notice of motion which, by reason of any enactment, or other rule of law, or any provision in these Standing Orders, could not be considered at the meeting for which it is given. In the event of such power being exercised, the Chief Governance Officer will give written reasons to the member submitting the motion within five clear days following delivery of the notice of motion in terms of Standing Order 29.2 above.

- 29.5 If the Chief Governance Officer has any doubts about any motion for reasons of propriety, they may refer it to the Provost.
- 29.6 If the Provost considers the motion to be vexatious, irrelevant or otherwise improper, the Chief Governance Officer will return it to the member who submitted it by noon of the third clear day after submission and will explain to the member in writing why it will not be included on the agenda. The motion will only be included on the agenda if it is resubmitted by noon on the third clear day before the date of the next meeting of the Council and is signed by at least one quarter of the members of the Council.
- 29.7 All motions considered valid by the Chief Governance Officer, and of which notice has been duly given, will be included in the agenda for the next meeting in the order in which they were received by the Chief Governance Officer.
- 29.8 If more than one such motion, in the opinion of the Chief Governance Officer, having consulted with the Provost, deals with the same subject matter, only the motion first lodged will be considered.
- 29.9 If a motion, notice of which is specified in the agenda, is not moved either by the councillor who has given the notice or by some other councillor on their behalf when it arises on the agenda, it will, unless postponed by leave of the meeting, be considered as dropped and may not be moved without fresh notice.
- 29.10 At the meeting, the Provost will, if need be, give a ruling as to whether the motion is relevant and/or competent.

### **30. MOTIONS – BUDGETS**

- 30.1 Any motion or amendment which seeks to add to, take from or otherwise alter or amend the annual budgets submitted to Council shall require to take the form of an alternative budget which shall detail the cost of the proposal(s) being advanced or the savings proposed to be achieved and the consequential impact of that cost or those savings on the annual budget. Any such amendment must be submitted to the Chief Finance Officer by noon on the second last clear day before the meeting takes place to enable the Chief Finance Officer to consider the financial implications thereof.
- 30.2 Motions or amendments which, if approved, would involve the Council incurring revenue or capital expenditure must:-
- (i) contain information regarding the full amount of such expenditure; and
  - (ii) state whether the expenditure is recurring or one-off.

30.3 The Chief Finance Officer shall advise, where possible, on the financial implications of such motion or amendment. In the event that the Chief Finance Officer is unable to give advice on the matter at the meeting, the matter will not be determined until such time as they have had the opportunity to consider the implications and give advice on them.

### **31. MOTIONS THAT STAND REFERRED**

31.1 Motions submitted to Council that refer to matters within the remit of the Executive or Education, Children and Young People Executive will stand referred to the next available Executive or Education, Children and Young People Executive, as the case may be, and there shall be no discussion on them at the Council meeting unless:-

- (i) special circumstances exist which, in the opinion of the Provost, having consulted with the councillor who submitted the motion, the Council Leader and the Leaders of the Main Opposition Groups, requires an exception to be made to the general rule, or
- (ii) two thirds of the members present at the meeting vote in favour of the matter being discussed

31.2 Where a motion to Council stands referred to the Executive or the Education, Children and Young People Executive, the councillor who submitted the motion, if they are not a member of the Executive or the Education, Children and Young People Executive, will be entitled to attend the Executive or the Education, Children and Young People Executive meeting at which the motion is to be considered and to be heard on it before it is considered or debated for a period not exceeding five minutes.

**31.3 Not used.**

### **32. QUESTIONS**

32.1 At each ordinary meeting of Council, any councillor may put questions to the Leader of the Council or to the relevant portfolio holder on any matters relating to business transacted at any meeting of the Executive or Education, Children and Young People Executive where the minute of that meeting is to be in the minute volume for that meeting of Council. Written notice of the question(s) must be given to the Chief Governance Officer not later than 12 noon at least seven clear days before the meeting takes place. In the event that any minute to be considered at Council has not been published, the question may be submitted no later than two clear days after the minute has been made available to members of the Council.

32.2 Questions may also be put to the Provost on civic and related matters. Written notice of the question(s) must be given to the Chief Governance Officer not later than 12 noon at least seven clear days before the meeting takes place.

- 32.3 The Provost, having consulted with the Council leader, Leader of the Main Opposition Groups and the member submitting the question, will determine whether a question is of a factual nature and could reasonably be answered by an officer. If the Provost so determines, the question will not be considered as a question for the purposes of this Standing Order
- 32.4 The question will be put at the meeting by the councillor who lodged it. If that councillor is absent, another councillor may put the question on their behalf provided the original questioner has given their consent.
- 32.5 Questions will be answered by the Provost, Council Leader or the appropriate portfolio holder. The Provost will determine the order in which the questions will be answered and, in doing so, will endeavour to ensure a fair allocation of questions among portfolio holders. An answer may take the form of:-
- (i) a direct oral answer at Council; or
  - (ii) where the reply cannot conveniently be given orally, a written answer will be provided and circulated at the Council meeting.
- 32.6 The councillor who submitted the question may ask one supplementary question of the councillor who answered the question. The supplemental question must arise directly out of the original question or reply.
- 32.7 The Provost may disallow any supplementary question if they are not satisfied that it meets the requirements of Standing Order 32.6. If asked, the Provost will explain the reason for the ruling.
- 32.8 The period set aside for questions and answers will not exceed one hour, unless, in exceptional circumstances, the Provost determines otherwise. Any questions not answered within that period will receive a written response from the Council Leader, portfolio holder or Provost within seven clear days of the meeting.
- 32.9 The minute of the meeting shall record that a formal question was asked and answered, and by whom, and (if appropriate) that a supplementary question was asked and shall refer to the subject matter of the questions and answers.
- 32.10 The foregoing Standing Order is without prejudice to the right of any councillor present at a meeting to obtain at such meeting and without prior notice such factual information as may then be available concerning any matter appearing on the agenda, subject to the reservation that the person addressed may postpone their reply to the next ordinary meeting should the information requested not be available.
- 32.11 If the Provost is of the opinion that a question is out of order the question will not be answered.

### **33. DEPUTATIONS**

- 33.1 The Council can hear deputations on any matter that is included within its remit.
- 33.2 Every application for admission to the meeting as a deputation must be submitted in writing to the Chief Governance Officer setting out the matters on which the deputation wishes to be heard.
- 33.3 Where the application relates to a matter included on the agenda for a meeting, it must be submitted not later than noon on the second last clear day before the meeting.
- 33.4 Where the application relates to a matter that will not otherwise appear on the agenda, it must be submitted at least 10 clear days before the meeting.
- 33.5 In all cases the Council shall decide whether to hear the deputation (voting on it if necessary) and no discussion of the merits of the case will take place before that decision has been taken.
- 33.6 Each deputation will not usually exceed five persons and will have ten minutes to present its case. If the meeting decides to hear more than one deputation on the same subject, they will be heard together. The Provost will decide how much time to allow.
- 33.7 Any member can put a question to the deputation that is relevant to the subject matter. The total time for such questions will not usually exceed 10 minutes. The merits of the case must not be discussed by members until the deputation has withdrawn.

### **34. CLOSE OF BUSINESS**

- 34.1 Meetings of Council will generally start at 9.30a.m. (unless the Provost specifies an earlier or later time) and will last for no longer than three hours unless there is general agreement to continue, failing which a motion to continue the meeting has been moved, seconded and voted upon without discussion. No meeting will continue beyond 5p.m. on that same day (subject to the terms of Standing Order 34.2 below) unless there is general agreement to do so, failing which a motion to continue the meeting beyond 5pm must be moved, seconded and voted upon without discussion.
- 34.2 If, at 5 p.m. (or if, in the case of a meeting having started later than 9.30 a.m. after three hours have passed) or such later time as Council shall have agreed, business remains on the agenda to be transacted, it shall be dealt with in the following manner:-
- (i) It will be held over as uncompleted business to a future meeting of Council, the date and time to be determined by the Provost, on a motion to that effect being moved, seconded and voted on without discussion, which failing;

- (ii) Any motion or amendment which has been formally moved and seconded will be put to the vote by the Provost.
- (iii) Any reports or motions then remaining on the agenda will be considered by the Provost in order. It will be available for a motion and amendment to be moved and seconded on each item but without discussion (provided that the Provost may allow discussion on such an item where in their view such discussion is necessary for the proper consideration of the item). Each item will then be put to the vote by the Provost. Items not moved and seconded will fall from the agenda.
- (iv) There will be no right of reply available to the mover of any motion under this Standing Order.

34.3 Nothing in this Standing Order will prejudice the power of the Provost, at their discretion, to adjourn temporarily any meeting for a brief period. The time elapsed during any such adjournment will be disregarded for the purpose of calculating the period of three hours referred to in Standing Order 34.1 but will not have the effect of extending the 5 p.m. closure term specified therein (unless in the case of a meeting having started later than 9.30 a.m., in which case the meeting shall not extend beyond three hours without the agreement of Council).

## **35. REVOCATION OF PREVIOUS DECISION**

- 35.1 A decision of Council cannot be reconsidered or changed within six months of being made unless:-
- (i) it is required by statute, or
  - (ii) the Provost rules that there has been a material change in circumstances since the decision was made, or
  - (iii) two thirds of the members present at the meeting agree otherwise; and
  - (iv) in each of the cases (i) to (iii) above, notice has been given of the proposed change in the Notice for the meeting.



## **36. STANDING ORDERS**

- 36.1 The ruling of the Provost concerning the interpretation or application of these Standing Orders shall not be challenged at any meeting of the Council.
- 36.2 The ruling of any person presiding at a meeting of any Council body shall not be challenged on the interpretation of Standing Orders relating to the meeting.
- 36.3 The Council at any of its meetings may suspend any Standing Order provided that:-
- (i) either due notice has been given, or Council agrees that it is a case of urgency; and
  - (ii) the motion to suspend a Standing Order is moved, seconded and carried without discussion by at least two-thirds of the councillors present and voting at the meeting and an absolute majority of the whole Council.
- 36.4 A meeting of the Council may only consider changes to these Standing Orders if notice of the intention is included in the Notice for the meeting.
- 36.5 Standing Orders 35 and 36 are not capable of suspension.

## SECTION 4

### CONSTITUTION, MEETINGS AND PROCEEDINGS OF COMMITTEES

#### 37. COMMITTEES

37.1 The number of members on each committee and the quorum for each will be as set out below:-

<b>Committee</b>	<b>Membership</b>	<b>Quorum</b>
Executive	12	4
Education, Children and Young People Executive	12 plus 3 representatives of denominational bodies as required by section 124 of the 1973 Act; 2 non-voting teachers nominated from the serving staff of schools, 2 non-voting parental representatives nominated by the Parents' Forum and 2 non-voting young people to be appointed by such process as approved by the Education, Children and Young People Executive and 1 non-voting care experienced young person.	4 elected members
Scrutiny Committee	8	3
Scrutiny Committee (External)	8	3
Planning Committee	12 except when conducting a pre-determination hearing required by s 38A of the Town and Country Planning (Scotland) Act 1997 when the membership will comprise all elected members of Council.	4 except when conducting a pre-determination hearing required by s 38A of the Town and Country Planning (Scotland) Act 1997 when the quorum will be quarter of the membership.

Planning Review Committee	5 the convener and depute convener of the Planning Committee, ex officio, with 3 others drawn from the remaining members of the Planning Committee on a rota basis	3
Civic Licensing Committee	10	4
Audit Committee	7 6 elected members and 1 lay member	4
Appeals Committee	8	3
Pensions Committee	6 elected members and 3 lay members	4
Appointments Committee	6 plus the relevant portfolio holder. Where there is more than one relevant portfolio holder, the portfolio holders should agree amongst themselves which member will attend.	3
Emergency Committee	The members of the Executive	4
Bo'ness Common Good Fund Committee	The Provost, Depute Provost and members of the former Burghal area	3
Denny and Dunipace Common Good Fund Committee	The Provost, Depute Provost and members of the former Burghal area	3
Falkirk Common Good Fund Committee	The Provost, Depute Provost and members of the former Burghal area	3
Grangemouth Common Good Fund Committee	The Provost, Depute Provost and members of the former Burghal area	3
Community Empowerment Review Committee	5 consisting of the Provost and Depute Provost and 3 other members, on a rota basis, all not being members of the relevant Executive	<u>3</u>

- 37.2 (i) The Convener of the Executive will be the convener of the Emergency Committee.
- (ii) The Convener and Depute Convener of the Planning Committee will be the Convener and Depute Convener of the Planning Review Committee.
- 37.3 The Council may appoint special committees for such purposes as it may from time to time consider expedient.
- 37.4 With the exception of the Good Fund Committees and from time to time the Planning Review Committee, membership of all committees will, as far as reasonable, reflect the political balance of the Council.
- 37.5 The Chief Governance Officer is authorised to appoint, nominate and convene committees, boards and panels for specific statutory purposes. These include:-
- (i) Education Appeals Committee;
- (ii) Appointments Committee (Education);
- (iii) Attendance Committee (Education);
- (iv) Planning Review Committee; and
- (v) Community Empowerment Review Committee
- 37.6 These bodies will follow the procedure that is suitable to the subject matter being considered and will not otherwise be bound by the procedures for meetings set out in these Standing Orders. They will usually be required to observe the principles of natural justice and to follow a set procedure.
- 37.7 Not used.**
- 37.8 The Convener of the Audit Committee shall be a lay person appointed following a public recruitment exercise and will hold office for a period to be agreed by Council.
- 37.9 Standing Committees will meet in accordance with the programme based on a cycle approved by the Council, such programme to be drawn up by the Chief Governance Officer and intimated to all councillors and Chief Officers.

### 38. CONDUCT OF MEETINGS AT COMMITTEES

38.1 Meetings of committees will be conducted in accordance with Standing Orders 3, 6 to 13, 15 to 30 (excluding 17.3) and 33 to 36, subject to the following amendments:-

- (i) all references to “Provost” and “Depute Provost” will be read as “Convener” and “Depute Convener” respectively;
- (ii) the quorum for any meeting will be as set out in Standing Order 37.1;
- (iii) Standing Order 7.1(iii) shall not apply to meetings of committees;
- (iv) Standing Orders 20.2 and 20.3 shall apply only to the Executive and the Education, Children and Young People Executive;
- (v) Standing Order 29 shall apply only to the Executive, the Education, Children and Young People Executive and the Scrutiny Committees;
- (vi) **Not used;**
- (vii) the time limit for meetings will not apply to the Appeals Committee, the Appointments Committee, Planning Committee or any of the bodies referred to in Standing Order 37.5
- (viii) the Conveners of the Civic Licensing, Planning and Scrutiny Committees may, in the interests of securing open debate, dispense in regard to any item on the agenda with the requirements respecting rules of debate, procedural motions and points of order. This power shall assume to be exercised unless the Convener states otherwise and may be recalled by the Convener should the requirements of good order and expeditious dispatch of business require it. The aim is for the Convener to conduct the meeting in a manner which will encourage interest and participation and without unnecessary formality such as would inhibit or discourage involvement.
- (ix) a councillor may attend any committee even when they are not appointed to them, but they cannot vote. They may attend all parts of the meeting, whether or not the committee has excluded the press and public, with the following exceptions:-
  - (a) councillors who are not appointed members of the Appeals Committee, or the Appointments Committee may not attend any part of these meetings;
  - (b) councillors who are not appointed members of any of the bodies referred to in Standing Order 37.5 other than the Planning Review Committee may not attend any part of these meetings;

- (c) councillors who are not appointed members of Civic Licensing Committee may not attend any part or parts of a meeting of the committee where the committee has excluded the press and public; and
  - (d) where the councillor is not a member of the committee, they should sit in the public gallery so that it is clear to the public that the member is not part of the body taking the decisions.
- (x) Where a councillor has a right to attend a committee under Standing Order 38.1(ix), they may speak at a meeting subject to:-
- (a) giving notice to the convener of the meeting of the matters the councillor wishes to speak about, at least 24 hours before the start of the meeting; and
  - (b) the Convener giving their consent.

### **39. SPECIAL PROVISIONS IN THE EVENT OF THE USE OF THE CONVENER'S DISPENSING POWER**

39.1 Where the dispensing power has been deemed to have been applied in terms of Standing Order 38.1(viii), the following provisions will apply (but only for as long as the dispensation remains unrecalled):-

- (i) No motions or amendments will be tabled or discussed (save those in respect of which prior notice has been given);
- (ii) No procedural motions will be moved, except to shorten or curtail business;
- (iii) No question will be asked of the Convener except:-
  - (a) those of which prior written notice has been given, and
  - (b) those relevant to the business before the meeting, the matter of relevancy being one for the convener in their sole discretion to decide; and
- (iv) No point of order will be raised.

## **SECTION 5**

### **MISCELLANEOUS MATTERS**

#### **40. DISCLOSURE OF INFORMATION**

- 40.1 Information, whether contained in a document or otherwise, which is confidential information within the meaning of section 50A(2) of the 1973 Act, must not be disclosed to any person by any member or officer.
- 40.2 The full or any part of a document marked “Not for Publication by virtue of the appropriate Paragraph of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973” must not be disclosed to any person unless or until the document has been made available to the public or the press consistent with the 1973 Act.
- 40.3 Any information regarding proceedings of the Council or a committee from which the public has been excluded must not be disclosed to any person unless and until such disclosure has been authorised by the Council or committee or the information has been made available to the public or the press consistent with the 1973 Act.
- 40.4 Without prejudice to the Councillors’ Code of Conduct and to Paragraphs (2) and (3) of these Standing Orders, no councillor shall use or disclose to any person any and/or exempt confidential information coming to their knowledge by virtue of their office as a councillor where such disclosure would be to the advantage of the councillor or of anyone known to them, or which would be to the disadvantage or discredit of the Council or anyone else.

#### **41. APPOINTMENT OF STAFF (GENERAL)**

- 41.1 In accordance with the provisions of section 7 of the 1989 Act, all appointments of staff will be made on merit, subject, however, to the provisions of those Acts specifically mentioned in section 7(2) of the 1989 Act.
- 41.2 The Council will comply with any Regulations made by the Scottish Ministers imposing a duty to adopt Standing Orders with respect to staff as contained in section 8 of the 1989 Act.

#### **42. APPOINTMENTS MADE BY COMMITTEE**

- 42.1 The appointment of the Council’s Chief Officers will be undertaken by the Appointments Committee.

#### **43. EXECUTION OF DEEDS AND COMMON SEAL**

- 43.1 Except where statute expressly requires otherwise, deeds requiring to be sealed by the Council will be sealed with the Common Seal of the Council and signed on its behalf by the Chief Executive, the Chief Governance Officer or the Legal Manager(s).
- 43.2 The Common Seal of the Council will be kept by the Chief Governance Officer who will be responsible for its safe custody and use.
- 43.3 An entry of the sealing of every deed and other document to which the Common Seal has been affixed will be made by the Chief Governance Officer in a register kept for this purpose.
- 43.4 The Chief Executive, the Chief Governance Officer and the Legal Manager(s) will have authority to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.

#### **44. CONTRACT STANDING ORDERS AND FINANCIAL REGULATIONS**

- 44.1 The Council will make Contract Standing Orders and may make Financial Regulations for the regulation of the making by it or on its behalf of contracts and for the proper planning, execution and control of its financial affairs and such Standing Orders and Regulations will form part of these Standing Orders and will be read with them and with any Scheme of Delegation made by the Council.
- 44.2 Contract Standing Orders and Financial Regulations made by the Council in terms of this Standing Order will apply to committees, members of the Council, Officers and certain Agents of the Council as appropriate, (the question of whether any person or body is an "Agent" of the Council being determined by the Chief Governance Officer whose ruling will be final).



## **SECTION 6**

### **SCHEME OF DELEGATION TO COMMITTEES**

#### **45. INTRODUCTION**

- 45.1 Like every other local authority, Falkirk Council's process of making decisions and actually carrying out its business is done in a variety of ways. In order to be as effective as possible in delivering services to members of the public or in responding to external parties engaged in dealings with it, the Council delegates these tasks to Committees or Officers. This is permitted in terms of the Law and allows for a speedier and more efficient delivery of Council business, as well as allowing those engaging with the Council to do so in the knowledge that the interaction will not be hampered by a lack of authority on the part of their relevant Council contacts.
- 45.2 Whilst there are some decisions reserved exclusively to the Council as a whole, where delegation does take place it is important to remember that every decision taken under delegated power, whether by a committee or an officer, is considered to be a decision of the Council.
- 45.3 This section of the Standing Orders describes how decision-making operates within the Council. The remaining sections detail some specific delegations that have been agreed by the Council.

#### **46. EXTENT OF DELEGATION**

- 46.1 The Council can only delegate to a Committee or an Officer of the Council or any other local authority in Scotland. Unless the Council states otherwise, Committees may delegate further to Officers and it may be that such delegations are contained in reports on particular topics dealt with from time to time by the Council. As regards Officer delegation, broadly speaking matters are delegated in the first instance to Chief Officers.
- 46.2 Chief Officers may delegate any matter delegated to them with the expectation that day to day decisions should be delegated as close to the point of service delivery as possible. Any action or decision taken in these circumstances remains the responsibility of the Chief Officer. Chief Officers should keep a written record of this delegation.
- 46.3 Where a responsibility has been further delegated there is nothing to prevent the person who was originally given delegated powers under this Scheme of Delegation from dealing with the responsibility themselves or from withdrawing or amending the delegation.

## **47. COUNCIL**

47.1 The following decisions are reserved to Council:-

### **(1) Arrangements for the Discharge of Council Business**

- appointment of committees in terms of section 57 of the Local Government (Scotland) Act 1973;
- determination, amendment or revocation of Standing Orders including Standing Orders in relation to meetings, Scheme of Delegation for the discharge of Council functions by committees or officers and, in particular, to fix the constitution, functions and powers of committees and to amend the same from time to time as council may decide;
- making, amendment or revocation of Financial Regulations and Contract Standing Orders;
- appointment of the Leader of the Council, any Depute Leader and the Conveners and Depute Conveners of committees except as otherwise provided in these Standing Orders;
- appointment of the Provost and Depute Provost ;
- appointment of portfolio holders and the determination of their remit;
- establishment of any joint committee or joint board to carry out any of the functions of the Council;
- appointment of members to (a) committees, (b) joint committee or board, (c) any body where the Council is obliged or entitled to make an appointment under statutory authority and (d) any other appointment by the Council of a member to represent the Council on any body; and
- setting the remuneration framework for members.

### **(2) Finance and Budgets**

- setting of the council tax;
- setting of the Council's annual revenue and capital budgets;
- approval of the audited annual accounts of the Council as made up at the end of the financial year and audited on behalf of the Accounts Commission together with the auditors' report on the accounts;
- setting of the Council's Prudential Indicators; and
- approval of the level of council house rents.

(3) **Corporate Plans**

- approval of the Community Plan for Falkirk;
- approval of the Corporate Plan;
- approval of the Falkirk Council Local Development Plan;
- approval of any new policies or changes to policies that may have a significant impact on the Council's strategic objectives and corporate policies or its resources;
- approval of the Council's Scrutiny Plan; and
- approval of the local police plan and the local Fire and Rescue Plan.

(4) **Other Issues**

- determination of all planning applications which fall within section 38A(1) of the Town and Country Planning (Scotland) Act 1997;
- promotion or opposition to private legislation;
- consideration of reports by the Head of Paid Service or the Monitoring Officer in terms of sections 4 and 5 respectively of the Local Government and Housing Act 1989;
- dealing with all matters relating to the conduct of members, other than that specifically described elsewhere in these Standing Orders;
- consideration of any report the Controller of Audit may make to the Accounts Commission with respect to the accounts of the Council in terms of section 102 of the Local Government (Scotland) Act 1973 and subsequent report on recommendations which the Accounts Commission may make to the Scottish Ministers;
- delegation of new powers and duties and exercise of new discretion not already delegated to a committee or officer;
- any other matter which may not by law be delegated to a committee or officer; and
- any motion submitted in terms of SO 29 with significant impact on the Council area which the Provost, having consulted with the Leader and Leader of the Main Opposition Groups, considers is suitable for debate at Council.

In addition, the Council may decide any matter referred to it by the Executive or the Education, Children and Young People Executive.

## **48. THE EXECUTIVE**

### **Composition of the Executive**

- 48.1 The Executive will consist of 12 members. The Leader of the Council will appoint members of the Administration as Portfolio Holders and determine which will sit on the Executives. Any portfolio holder not appointed to an Executive may attend and speak on an item which is within their remit but not vote. The Leader of the Council will determine the number of portfolio holders to be appointed and their remit. The role and remit of a portfolio holder is as described in the schedule to this section of the standing orders together with descriptions of portfolio areas.

### **Powers of the Executive**

- 48.2 The Executive will have the exclusive power to take all decisions on behalf of the Council other than those:

- (1) reserved to Council;
- (2) delegated to the Education, Children and Young People Executive;
- (3) delegated to a regulatory, common good committee or to the Appeals, Appointments, Audit or Pensions Committees; or
- (4) delegated to a Chief Officer,

subject only to such decisions being consistent with the Budget and the Corporate Plans agreed by the Council.

- 48.3 The Executive may refer any matter within its decision making competence to Council.

### **Policy Development Panels**

- 48.4 The Executive will be responsible for developing the policies of the Council consistent with the Corporate Plans. The Executive has the power to establish Policy Development Panels to consider any policy area.

- 48.5 A Policy Development Panel will consist of the relevant portfolio holder who will chair the panel and such other members of the Council as the Executive/ Education, Children and Young People Executive decides to a maximum of five in number including the portfolio holder who will be the convener of the panel. In establishing the panel, the Executive will include within its members a member or members not drawn from the Administration.

- 48.6 A Policy Development Panel will operate within terms of reference agreed by the Executive and will report its findings to the Executive. A Policy Development Panel will have no decision making powers and is not a sub-committee of the Executive.

- 48.7 A Policy Development Panel will carry out its work in accordance with guidance issued from time to time by the Executive.

## **Relationship with External Bodies**

48.8 As a principal decision-making body of the Council, the Executive will receive reports and take any necessary decisions within its decision-making competence from the following bodies:-

- (1) the Falkirk Community Trust;
- (2) the Falkirk Community Planning Partnership;
- (3) the Joint Consultative Committee, and
- (4) the Integration Joint Board.

## **49. EDUCATION, CHILDREN AND YOUNG PEOPLE EXECUTIVE**

### **Composition of Committee**

49.1 The Education, Children and Young People Executive will consist of 12 members of Council with the addition of:-

- (1) three religious representatives appointed in accordance with section 124 of the Local Government (Scotland) Act 1973 (whose voting powers are restricted to those functions discharged as education authority);
- (2) two non-voting parents nominated by the Parents Forum;
- (3) two non-voting teachers chosen from among the Council's teaching workforce;
- (4) two 2 non-voting young people – to be appointed by such process as approved by the Education, Children and Young People Executive; and
- (5) 1 non-voting care experienced young person.

The parent, pupil and teacher representatives will not be entitled to vote or move motions and amendments but will in all other respects be members of the Education, Children and Young People Executive.

### **Powers of Children and Young People Executive**

49.2 The Education, Children and Young People Executive will have the exclusive power to take any decision on behalf of the Council in the discharge of its functions as education authority except those reserved to Council or delegated to a Chief Officer. The powers of the Education, Children and Young People Executive will include all matters within the remit of Children's Services. The Education, Children and Young People Executive may establish Policy Development Panels in the same way as the Executive. Any Panel so established will operate in terms of the remit fixed by the Education, Children and Young People Executive and in accordance with guidance issued from time to time by the Executive.

49.3 The Education, Children and Young People Executive may refer any matter within its decision making competence to Council.

## **50. SCRUTINY COMMITTEE**

### **(a) The Scrutiny Committee**

#### **Composition of the Scrutiny**

#### **Committee**

- 50.1** The Scrutiny Committee will consist of eight members (subject to the proviso that no member of the Executives may be a member of the Scrutiny Committee). Any member not appointed to the Scrutiny Committee may attend and speak when the committee is considering Service performance reports, but may not vote.

#### **Role of the Scrutiny Committee**

- 50.2** The Scrutiny Committee will develop the annual Scrutiny Plan of the Council and will submit it to Council for agreement. The Scrutiny Committee will also be responsible for overseeing implementation of the plan. The scrutiny will identify the principal areas which require detailed scrutiny. In order to undertake that scrutiny, the Scrutiny Committee may establish one or more Scrutiny Panels. The Scrutiny Committee will have no decision-making power but will make such recommendations as it considers appropriate to the Executive and Education, Children and Young People Executive.

#### **Scrutiny Panels**

- 50.3** A Scrutiny Panel will consist of up to five members of the Council as determined by the Scrutiny Committee. Any member of the Council other than a member of the Executive within whose remit the review topic falls may be appointed to a Scrutiny Panel. A Scrutiny Panel will consist of a member or members drawn from the Administration and a member or members not drawn from the Administration. The Scrutiny Panel will conduct its work in accordance with the remit fixed by the Scrutiny Committee and in accordance with guidance on scrutiny issued by the Scrutiny Committee from time to time. The Scrutiny Panel will have no decision-making power and will not be a sub-committee of the Scrutiny Committee.

#### **Additional Roles**

- 50.4** The Scrutiny Committee will:-
- (1) consider Service performance reports;
  - (2) consider overview reports by Audit Scotland;
  - (3) consider reports from school inspections; and
  - (4) consider any other matter referred to the committee for consideration by Council, the Executive or Education, Children and Young People Executive.

## **(b) The Scrutiny Committee (External)**

### **Composition of the Scrutiny Committee (External)**

- 50.5** The Scrutiny Committee (External) will consist of eight members (subject to the proviso that no member of the Executives may be a member of the Scrutiny Committee (External)).

### **Role of the Scrutiny Committee (External)**

- 50.6** The Scrutiny Committee (External) will consider:-
- (1) any report in accordance with the Following the Public Pound framework;
  - (2) reports on performance by the Falkirk Community Trust;
  - (3) any performance reports in respect of the Local Police Plan or the Local Fire and Rescue Plan;
  - (4) reports on performance by the Integration Joint Board; and
  - (5) any other matter referred to the committee for consideration by council or the Executive; and
- 50.7** The Scrutiny Committee (External) will have no decision-making power but will make such recommendations as it considers appropriate to the Executive and Education, Children and Young People Executive.

## 51. PLANNING COMMITTEE

### Reservation to Council

- 51.1 It is important to note, prior to detailing the Terms of Reference and Powers of the Planning Committee, that under section 56(6A) of the 1973 Act, there is reserved to Council, the determination of all applications which fall within section 38A(1) of the Town and Country Planning (Scotland) Act 1997. These are applications which require a mandatory pre-determination hearing prior to determination and include “national developments” as set out in a National Planning Framework and major developments which are significantly contrary to the development plan. This reservation to Council is noted at paragraph 1(4) of this Scheme of Delegation to Committees.

### Terms of Reference and Powers of the Planning Committee

- 51.2. To discharge the Council's regulatory and enforcement functions as detailed at paragraphs 51.3 to 51.9 below.

- 51.3 In relation to development control matters, to determine applications for:-

- (i) planning permission in relation to major and local developments in terms of section 26A(1) subsections (b) and (c) respectively of the Town and Country Planning (Scotland) Act 1997;
- (ii) listed building and conservation area consent;
- (iii) discharge, amendment or deletion of conditions;
- (iv) certificates of lawfulness of existing or proposed development;
- (v) advertisement consent;
- (vi) hazardous substances consent, and
- (vii) decisions on permitted development,

all in circumstances where:-

- (a) the application has been made by a member of the Council or by an officer involved in the statutory planning process;
- (b) determining the application (whether by grant or refusal) would result in a contravention of the development plan or a contravention of the Council's policies, whether or not objections have been made;



- (c) it is proposed to approve the application and there is a formal objection from a statutory consultee which would trigger referral of the application to Scottish Ministers;
- (d) there has been a request from an elected member to refer any matter to committee within seven days of the periodical recommendations list being issued, in which case reasons must be stated;
- (e) for any other reason, the Director of Development Services considers it inappropriate to consider the application under delegated powers; or
- (f) where a member calls in an application to committee they must give valid planning reasons for their actions. These reasons will be included within the subsequent report. Where an application is called in to committee the person who has called the application in will also give an explanation of their interest in the application including declaration of any approaches made to them by other members.

51.4 In relation to development control matters, to conduct pre-determination hearings required by section 38A of the Town and Country Planning (Scotland) Act 1997.

51.5 In relation to development control matters, to determine applications for modification or discharge of planning obligations or good neighbour agreements other than in circumstances where:-

- (a) the original application was determined by Council in which case Council shall determine the application for modification or discharge;
- (b) the original application was determined by the Planning Committee solely by reason of 51.3(a) above in which case the Director of Development Services shall have delegated power to determine the application for modification or discharge unless, for any reason, they consider it inappropriate to consider the application for modification or discharge under delegated powers and refers the matter back to Planning Committee for determination; or
- (c) the original application was determined by the Director of Development Services in which case the Director of Development Services shall have delegated power to determine the application for modification or discharge unless her decision on the original application was subject to review by the Planning Review Committee and/or for any reason, they consider it inappropriate to consider the application for modification or discharge under delegated powers.

- 51.6 To hear and determine unresolved objections to any order proposed for the regulation of traffic and the implementation of traffic management schemes under the Road Traffic Regulation Act 1984, the Roads (Scotland) Act 1984, the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 and any other relevant Acts or Regulations, and to conduct any hearings required under those Acts and Regulations.
- 51.7 To consider and determine any of the regulatory and enforcement matters relating to the Council's functions as Roads Authority, in terms of the Roads (Scotland) Act 1984, the Road Traffic Regulation Act 1984, the Town and Country Planning (Scotland) Act 1997 or any other relevant Acts or Regulations, where the nature of the matter has been deemed controversial by the Director of Development Services.
- 51.8 To conduct hearings under the Building (Scotland) Act 2003 and to make consequential determinations.
- 51.9 To agree the procedures relating to conduct of any review carried out by the Planning Review Committee, other than those already set out in regulations or a development order.
- 51.10 In carrying out any of their powers hereunder, the committee may:-
- (i) conduct hearings in such manner as they consider appropriate, having regard to the subject matter under consideration and the requirements of law;
  - (ii) visit any site connected with a matter under consideration if it would assist the committee in the discharge of their functions; and
  - (iii) authorise the institution, entering appearance in or defending of any proceedings before any Court, Tribunal or Inquiry (where not authorised elsewhere in these Schemes of Delegation) where Council involvement is necessary to protect or uphold the interests of the Council and its community in respect of any matter within the remit of the committee, provided that it will remain open to any Chief Officer to provide the foregoing authority where time limits or an emergency situation requires immediate action to ensure the Council's participation in the proceedings.

#### **Powers Delegated to Chief Officer**

- 51.11 Paragraphs 60.15 and 60.16 in the Scheme of Delegation to Officers detail the powers delegated to the relevant Chief Officer.

## **52. PLANNING REVIEW COMMITTEE**

### **Terms of Reference**

52.1 To discharge the planning authority's functions in terms of section 43A (8) of the Town and Country Planning (Scotland) Act 1997 in connection with the review of any planning decision taken by an officer appointed for that purpose in terms of section 43A (1) of the said Act.

### **Powers of the Planning Review Committee**

52.2 When required to do so by the applicant, to review any application which has been dealt with by an officer appointed in terms of section 43A (1) above where:-

- (i) the application has been refused;
- (ii) the application has been granted subject to conditions; or
- (iii) the application has not been determined within such period as may be prescribed by regulations or a development order.

52.3 To uphold, reverse or vary any determination made in terms of 52.2(i) or 52.2(ii) above.

52.4 To determine any application which has not already been determined in terms of 52.2(iii) above.

52.5 To conduct any review in accordance with regulations or a development order made in terms of section 43A (10) of the said Act or as decided by the Planning Review Committee, which shall, without prejudice to the foregoing include the power to:-

- (i) hold pre-examination meetings to determine the manner in which the review is to be conducted;
- (ii) invite written submissions;
- (iii) hold hearing sessions; and
- (iv) undertake site visits.

## **53. CIVIC LICENSING COMMITTEE**

### **Terms of Reference and Powers of the Civic Licensing Committee**

53.1 To discharge the Council's regulatory and enforcement functions in relation to all licensing matters under the Civic Government (Scotland) Act 1982 or other relevant Acts or Regulations covering personal or other licences, certificates, permits and the regulation of public processions so far as not delegated to another committee or a Chief Officer. In carrying out its powers the committee may:-

- (i) conduct hearings, in such a manner as it considers appropriate having regard to the subject matter under consideration and the requirements of law, in relation to the determination, suspension or revocation, as appropriate, of applications for licences, certificates, permits or orders;
- (ii) visit any site connected with a matter under consideration if this would assist the discharge of functions; and
- (iii) institute, become involved in, or defend, any proceedings before a Court, Tribunal or Inquiry where the Council's involvement is deemed necessary to protect or uphold Council or community interests. This is on the condition that it remains open to a Chief Officer to provide the foregoing authority where time limits or an emergency situation require immediate action to ensure the Council's participation in the proceedings.

### **Powers Delegated to Chief Officers**

53.2 Paragraphs 60.17 to 60.20 of the Scheme of Delegation to Officers detail the powers delegated to the relevant Chief Officers.

## **54. PENSIONS COMMITTEE**

### **Terms of Reference**

54.1 The Pensions Committee will:-

- (1) exercise responsibility for the administration of the Superannuation Pension Fund;
- (2) monitor and review investment activity and Fund performance;
- (3) establish policies in relation to investment management and administration;
- (4) present an annual report to Council on the state of the Fund and on the investment activities during the preceding year.

54.2 The functions delegated to and powers of this committee are:-

- (i) to oversee the Council's role as an Administering Authority in terms of the Local Government etc (Scotland) Act 1994 and the Superannuation Act 1972;
- (ii) to oversee the Council's role as scheme manager in terms of the Public Service Pensions Act 2013;
- (iii) to supervise the administration of the Fund in accordance with relevant legislation and codes of practice;
- (iv) to formulate and monitor policies in respect of the administration of the Fund;
- (v) to manage the investments of the Fund in accordance with relevant legislation and codes of practice;
- (vi) to formulate and monitor an investment policy and strategy for the Fund, including an asset allocation strategy;
- (vii) to formulate and monitor a funding policy for the Fund;
- (viii) to ensure that a Statement of Investment Principles, Funding Strategy Statement, Administration Strategy and Governance Compliance Statement are maintained in accordance with strategy and policy;
- (ix) to ensure that a risk register is maintained;
- (x) to ensure that the Fund is subject to actuarial valuations as required;
- (xi) to approve the Pension Fund Annual report and Accounts;
- (xii) to set a training policy on pensions matters for committee and Panel members;
- (xiii) to appoint external advisers, investment managers and custodians, as required;
- (xiv) to receive, consider and, as appropriate, make determinations in relation to reports from officers on matters of relevance to the running of the pension fund; and
- (xv) to ensure appropriate communication and consultation with Fund stakeholders.

## **55. APPEALS COMMITTEE**

### **Terms of Reference and Powers of the Appeals Committee**

55.1 The functions delegated to this committee are the consideration of appeals by individual employees on decisions of Chief Officers to dismiss, or issue a final written warning, following proceedings under the Disciplinary or Capability Procedures. In addition, the committee will exercise an appellate role in relation to grievances where required by any national terms and conditions to which the Council is a party.

## **56. APPOINTMENTS COMMITTEE**

### **Terms of Reference of the Appointments Committee**

56.1 The function delegated to this committee is to recommend to the Council, the appointment of the Chief Executive and Chief Officers.

## **57. AUDIT COMMITTEE**

### **Terms of Reference**

57.1 The purpose of the Audit Committee is to support the Council in its responsibilities for risk management, governance, and control. It does this by seeking assurance that an effective system of internal control is maintained, and that reasonable arrangements have been established to ensure that assets are safeguarded, waste or inefficiency is avoided, reliable financial information is produced, value for money is continuously sought, and that Council activities are within the law.

57.2 The main objectives of the committee are to provide:-

- (i) independent assurance on the adequacy of the risk management framework and associated control environment within Falkirk Council;
- (ii) independent scrutiny of the authority's financial and non-financial performance to the extent that it affects Falkirk Council's exposure to risk and weakens the control environment; and
- (iii) assurance that any issues arising from the process of drawing up, auditing, and certifying the Annual Accounts are properly dealt with.

### **Powers of the Audit Committee**

#### **57.3 Risk Management, Governance, and Control**

- (i) to review and seek assurance on the framework of risk management, governance, and control;
- (ii) to review and seek assurance on the system of internal financial control;
- (iii) to review the Authority's Assurance Statements to ensure they properly reflect the risk environment, and to produce an annual report on the above to support these statements;
- (iv) to take account of the implications of publications detailing best practice for audit, risk management, governance, and control; and
- (v) to take account of recommendations contained in the relevant reports / minutes of external scrutiny agencies.

#### **57.4 Internal Audit**

- (i) to review and approve the Internal Audit Strategy and Plans ensuring that the process has due regard to risk materiality and coverage;
- (ii) to monitor progress and review audit reports from the Internal Audit Manager;
- (iii) to monitor management action taken in response to audit recommendations;
- (iv) to consider the Internal Audit Manager's Annual Assurance Report;
- (v) to review the operational effectiveness of Internal Audit by considering its standards, resources, staffing, technical competency, and performance measures; and
- (vi) to ensure there is direct contact between the Audit Committee and Internal Audit, and the opportunity is given for discussions with the Internal Audit Manager (as required) without the presence of Executive Officers.

#### **57.5 External Audit**

- (i) to review the Audit Strategy and Plan, including the Performance Audit Programme;
- (ii) to consider all statutory audit material, in particular:-
  - Audit Reports (including Performance Audit Studies);
  - Annual Reports; and
  - Management Letters.
- (iii) to monitor management action taken in response to External Audit recommendations, including Performance Audit Studies;
- (iv) to have the ability to hold meetings with the External Auditors at least once per year without the presence of the Executive Directors;
- (v) to review the extent of co-operation between External and Internal Audit; and
- (vi) to note the appointment and remuneration of External Auditors.

#### **57.6 Standing Orders and Financial Regulations**

- (i) To periodically review Standing Orders and Financial Regulations.

### **57.7 Annual Accounts**

- (i) To review significant changes in accounting policy; and
- (ii) To consider the unaudited annual accounts
- (iii) To review and recommend approval to the Council of the audited annual Accounts.

### **57.8 Other**

- (i) the committee has a duty to review its own performance, effectiveness, and terms of reference on an annual basis;
- (ii) the committee shall keep up-to-date with changes to topical laws and regulations;
- (iii) an Annual Report of the work of the Committee shall be submitted to the Full Council (by the Convener of the Audit Committee);
- (iv) the committee has the power invite such persons with particular expertise in areas being considered by the Committee to address the Committee or to take part in meetings; and
- (v) to report on the roles and responsibilities of the Audit Committee and actions taken to discharge those.

## **58. COMMON GOOD FUND COMMITTEES**

### **Terms of Reference and Powers of the Common Good Fund Committees**

- 58.1 The functions delegated to and powers of these committees are to consider and determine applications for grants and donations from organisations from Common Good Funds held by the Council as Trustees.



## 59. **EMERGENCY COMMITTEE**

### **Terms of Reference and Powers of the Emergency Committee**

59.1 The functions delegated to and powers of this committee are:-

To take such immediate action as may be necessary (including consultation with such individuals or organisations as the committee may consider appropriate) to protect the interests of the Council in relation to:-

- (i) Emergencies arising from industrial action by employees of the Council; and
- (ii) Any other emergency the implications of which, in the opinion of the Convener or the Chief Executive, require to be referred to the committee.

A Meeting of the Emergency Committee may be called with 24 hours notice.

## 59A. **COMMUNITY EMPOWERMENT REVIEW COMMITTEE**

### **Composition of the Community Empowerment Review Committee**

59A.1 The Community Empowerment Review Committee will consist of the Provost and the Deputy Provost with, on a rota basis, three other members who are not members of the relevant Executive. The Provost will be the convener of the Community Empowerment Review Committee. The deputy convener will be the Deputy Provost. No member of the Community Empowerment Review Committee shall be a member of the Executive.

### **Terms of Reference and Powers of the Community Empowerment Review Committee**

59A.2 When a valid application for review of a decision of the Council or a failure to make a determination by the Council has been made under the Community Empowerment (Scotland) Act 2015 and regulations made in terms of the Act, to review any such decision or non determination.

59A.3 To confirm the decision, modify the decision or any part of it or substitute a different decision.

59A.4 To conduct any review in accordance with the procedures provided for in the Community Empowerment (Scotland) Act 2015 and regulations made in terms of the Act.

## Schedule referred to in Paragraph 48.1

### PORTFOLIO HOLDERS

Portfolio Holders are councillors who have been allocated specific areas of responsibility known as portfolios to ensure greater political accountability for the decisions taken by the Executives.

Within the area of their remit, portfolio holders will:-

- exercise strategic and political leadership, having regard to the goals, outcomes and priorities set out in the Council's corporate plans;
- lead on policy development;
- lead on service issues at Executive/ Education, Children and Young People Executive and Council meetings;
- meet on a regular basis with senior management to discuss service issues including performance, the requirement for continuous improvement and adherence to the budget set by Council;
- answer questions at Council;
- act as spokespersons on behalf of the Council; and
- promote the Council's equalities duties and exercise oversight of the arrangements in place to secure best value.

The Leader of the Council may appoint members of the Administration as portfolio holders, subject to the requirement that all of the areas listed below are covered and to determine which portfolio holders will be members of the Executives. The remit of each portfolio holder will be determined by the Leader of the Council and intimated to the Chief Governance Officer. All appointments and portfolio remits will be reported to Council for information.

The portfolio areas are detailed below. In any situation of uncertainty, it is for the Leader of the Council to determine which portfolio a delegation by Council lies within. For the avoidance of doubt, portfolio holders are not responsible for service management nor is there any delegation of decision making to any individual member of the Council.

## **PORTFOLIOS**

### **LEADER OF THE COUNCIL**

The Leader of the Council will exercise strategic leadership of the Council and promote the Council's core values, ensuring effective communication of Council policies and strategies. The Leader will carry overall political accountability for the co-ordination of Council business, achievement of the priorities identified in the corporate plans and leadership of the Council's Community Planning responsibilities.

The role of the Leader can operate across all portfolio areas as and when appropriate. This might, for example, include leading a policy development panel on an area not directly under their remit but one that requires specific expertise or strategic political direction.

In addition to the general leadership role set out above, the Leader will exercise strategic and political leadership in the following areas:-

- oversight of the Council's corporate governance arrangements;
- corporate budget planning and financial strategy;
- workforce;
- equalities;
- the poverty strategy;
- community participation; and
- efficient and effective use of the Council's heritable office and workplace assets.

### **PORTFOLIO AREAS**

#### **CULTURE, LEISURE AND TOURISM**

To exercise strategic and political leadership in the following areas:

- culture and the arts;
- leisure, sport and recreation;
- museums and galleries;
- libraries;
- development and maintenance of parks and public open space;
- tourism;
- built and natural heritage;
- the contractual relationship with Falkirk Community Trust; and
- strategic management of assets maintained for the purposes contained in this portfolio.

## **ECONOMIC DEVELOPMENT**

To exercise strategic and political leadership in the following areas:

- economic development including inward investment, regeneration and business support;
- employment training;
- development planning policy ;
- strategic transport and infrastructure planning;
- development and management of the Council's non-operational land and property;
- economic partnerships; and
- funding from European programmes.

## **EDUCATION**

To exercise strategic and political leadership in the following areas:-

- Early years, nursery, primary, secondary and special school provision;
- "Getting it right for every child" (GIRFEC), particularly for children with additional support needs;
- Curriculum for Excellence with a focus on attainment, wider achievement and improving positive and sustained destinations for all young people aged 16+;
- community learning and development;
- integrated children's services plan; and
- strategic management of the school and Community Learning Development estate and management of school admissions.

## **ENVIRONMENT**

To exercise strategic and political leadership in the following areas:-

- sustainability;
- climate change;
- flood risk management;
- energy efficiency and carbon management;
- renewable energy;
- waste and recycling;
- management and maintenance of roads and related assets, road safety and traffic management;
- public transportation;
- environmental health;
- cemeteries and crematoria; and
- animal health and welfare.

## **HEALTH & SOCIAL CARE**

To exercise strategic and political leadership in the following areas:-

- community care and adult services;
- mental health and wellbeing;
- health inequalities;
- health improvement;
- substance misuse;
- care and carers including provision for looked after children; and
- services for people with a disability,

## **HOUSING**

To exercise strategic and political leadership in the following areas:-

- strategic housing investment;
- local housing strategy;
- housing allocations policy;
- tenancy participation;
- homelessness;
- affordable housing;
- services related to the private sector including landlord registration;
- tenant/tenancy support and supported accommodation; and
- strategic management of assets held on the Housing Revenue Account.

## **PUBLIC PROTECTION**

To exercise strategic and political leadership in the following areas:-

- community safety;
- relationships with Police Scotland and the Scottish Fire and Rescue Service;
- criminal justice services including the management of offenders and relationships with the Community Justice Authority;
- protection of children and vulnerable adults;
- domestic abuse;
- emergency planning;
- trading standards;
- building control; and
- licensing policy, other than that which is the responsibility of the Licensing Board.

## **RESOURCES**

To exercise strategic and political leadership in the following areas:-

- oversight of the Council's arrangements for the proper administration of its financial affairs;
- procurement;
- Information Technology (ICT);
- information security and governance; and
- corporate risk management.

## **SECTION 7**

### **SCHEME OF DELEGATION TO OFFICERS**

#### **60. The Scheme of Delegation to officers is as follows:-**

- 60.1 Chief Officers are the only officers specifically empowered to act and take decisions in the name of the Council.
- 60.2 The Chief Executive is the Head of Paid Service and has authority over all other Chief Officers so far as is necessary for efficient management and for carrying out the Council's functions. Their principal responsibilities are:-
- (i) to be the Council's principal adviser on general policy, and to ensure that all proposals are consistent with policy;
  - (ii) to make long term assessments of resources, needs and commitments and to co-ordinate advice on forward planning;
  - (iii) to ensure that the Council's policies and programmes are implemented and that the Council's staff is managed effectively having regard to statutory responsibilities; and
  - (iv) to be responsible for management of the Council's operational buildings.
- 60.3 Subject to paragraph 60.2 above, the Council's Chief Officers are answerable to the Council for the efficient management of the services provided by their staff and due performance of their statutory functions.
- 60.4 The Council's Chief Officers are hereby empowered to take operational decisions:-
- (i) discharging any of the functions of the Council except for any matters specifically reserved to Council or Committee and provided that any such decision does not alter or depart from any Council policy or any procedure which has been approved by Council or any of its Committees and is consistent with the Budget;
  - (ii) on all managerial and professional matters incidental or ancillary to the discharge of functions delegated under (i) above or relating to lawful requirements imposed on them or their staff by third parties; and
  - (iii) without exception, where an emergency requires that a decision under (i) above be taken without reference to Council or Committee .

60.5 The Council's Chief Officers may use whatever means they consider appropriate to discharge the functions of the Council allocated to or dealt with by them or their staff, including:-

- (i) incurring expenditure;
- (ii) engaging and deploying staff provided (a) that there shall be no increase in agreed staffing levels unless the increase is necessary to implement any decision of Council, and (b) all matters relating to remuneration and terms and conditions of employment are conform to Council policy;
- (iii) deploying other resources within their control;
- (iv) placing contracts and procuring other resources within or outside the Council; and
- (v) determining any matter which is necessary to enable the Council to provide any service, to comply with any duty or requirement in the provision or management of any service, to assist the efficient and effective management of the Council or a function thereof or to implement any decision of the Council.

60.6 In exercising their delegated powers the Council's Chief Officers must:-

- (i) act within the law and the Council's Standing Orders, Contract Standing Orders and Financial Regulations and any Code of Conduct or Practice adopted by the Council from time to time;
- (ii) ensure that no decision taken by them would impact significantly on service delivery across the whole of the Council area;
- (iii) ensure that decisions taken are compliant with agreed revenue and capital budgets;
- (iv) have regard to the Corporate Plans;
- (v) ensure the implementation of corporate policies and strategies, both at an area wide and local level;
- (vi) ensure that the performance of their Service across the Council area in relation to agreed standards is reported appropriately;
- (vii) ensure that local members are informed about the performance of their service in their ward; and
- (viii) consult, as appropriate, with the portfolio holder for the service area involved and the local members.



- 60.7 The Council's Chief Officers may authorise other officers to exercise powers delegated to them. However, actions taken under that authority must be taken in the name of the Chief Officer concerned, and remain their responsibility.
- 60.8 Emergency action taken under delegated powers must be reported to the next meeting of the appropriate Committee.
- 60.9 The Council's Chief Officers will have full legal authority under paragraph 60.4 above to take or authorise actions, decisions, expenditure and commitments on behalf of the Council. However, without qualifying that legal authority, conformance with Council policy should be assured in one of the following ways:-
- (i) the matter involves the implementation of a Council policy approved by Committee; or
  - (ii) the matter was approved by Committee as part of the annual service plan and budget; or
  - (iii) the procedure set out in paragraph 60.10 below is followed.
- 60.10 The procedure referred to in paragraph 60.9(iii) above is as follows:-
- The Chief Executive or Chief Officer concerned will:-
- (i) consult the Convener of the relevant Committee or relevant portfolio holder as appropriate before exercising the delegated power;
  - (ii) consult the Chief Governance Officer, the Chief Finance Officer and any other Chief Officer involved as a matter of good administrative practice before exercising the delegated power;
  - (iii) keep a record of the exercise of the delegated power; and
  - (iv) make this record available to the Members of the relevant Committee.
- 60.11 Approval of the budget by Council provides authorisation for Chief Officers to incur expenditure and collect income in respect of revenue and capital budgets, subject to:-
- (i) any restrictions or conditions included in service plans;
  - (ii) further approval from the Executive where sufficient detail has not been included in service plans; and
  - (iii) compliance with the financial limits set from time to time.

60.12 All Directors must ensure to the satisfaction of the Chief Executive and the Director of Corporate and Housing Services that:-

- (i) appropriate systems for planning, monitoring, evaluating and reviewing performance are in operation for the Services for which they are responsible;
- (ii) capital expenditure is planned and monitored continually to ensure that the Council's plans are actioned, including the prompt implementation of associated revenue elements; and
- (iii) revenue expenditure is planned and monitored continually to ensure that it is within approved estimates and continues to be justified by Service performance.

60.13 Where specific powers and duties are imposed upon specific Officers of the Council by operation of law, those powers and duties will be undertaken by the Officer so empowered having regard to the procedures set out by law, the Council's policies and this Scheme of Delegation. The statutory appointments which the Council is obliged to make are listed at clause 60.24 below.

60.13A In paragraphs 60.1 – 13, provisions relating to the exercise of delegated powers by Chief Officers shall, in relation to the Chief Officer of the Integration Joint Board, apply with the following modifications,

- (a) references to consultation with the portfolio holder are to the portfolio holder and the Chairperson and Vice Chairperson of the Integration Joint Board;
- (b) references to a Council plan, strategy or policy are to a Council and Integration Joint Board plan, strategy or policy; and
- (c) references to the budget of the Council are to the budgets of the Council and the Budgets of the Council and the Integration Joint Board.

### **Specific Delegation to Chief Officers**

**Notwithstanding the general nature of the delegations detailed above, relevant Chief Officers will have the following specific delegated powers:-**

#### **60.14 Civic Events**

The Chief Executive and/or the Director of Corporate and Housing Services in consultation with the Provost will have authority to approve expenditure and determine ceremonial matters and hospitality in accordance with the policy of the Council.

60.14A Where any member of Council is invited to form or be part of a delegation to an event or place which involves overseas travel, the decision on whether to approve that travel will rest with the Director of Corporate and Housing Services where the cost does not exceed £200. In all other cases, decision making will rest with the Executive. This provision does not extend to travel by or on behalf of the Provost to any events of a civic nature, decision making on which will remain with the Chief Governance Officer in consultation with the Provost.

60.15 **Regulatory and Enforcement Matters**

Any regulatory or enforcement powers or duties conferred or imposed on the Council in terms of law, apart from those in relation to Civic Licensing and those detailed herein as being within the remit of the Council, the Planning Committee or the Planning Review Committee will be executed by the Chief Officer for the relevant Service and, in the event of there being any conflict as to which is the relevant Service, the Chief Executive will be entitled to decide.

60.16 Without prejudice to the generality of the foregoing, it is specifically acknowledged that the Director of Development Services will have power to:-

- (i) appoint persons to determine planning applications in terms of section 43(A)(i) of the Town and Country Planning (Scotland) Act 1997;
- (ii) vary or otherwise any planning permission where the variation sought is not material, under section 64 of the Town and Country Planning (Scotland) Act 1997;
- (iii) advertise applications for planning permission when required by law or otherwise deemed desirable;
- (iv) make Tree Preservation Orders and decide whether the topping, lopping or felling of trees subject to Tree Preservation Orders is necessary in terms of section 160 of the Town and Country Planning (Scotland) Act 1997 and the authorisation of such activities;
- (v) issue stop notices and instruct action for interim interdicts;
- (vi) issue breach of condition and planning contravention notices;
- (vii) pursue enforcement action;
- (viii) issue statutory notices including those in relation to environmental protection matters, food safety, trading standards, planning, building standards and roads;
- (ix) determine whether the prior approval of the Planning Authority is required.

## **Regulatory and Enforcement matters- Civic Licensing**

60.17 The Director of Corporate and Housing Services is authorised to determine the following licensing matters:-

### **Taxi/Private Hire**

- (i) to grant taxi drivers and private hire car drivers licences, and taxi and private hire car operators licences, where there are no current convictions and where there have been no objections; provided that applications for second or subsequent operators licences for the same applicant will be referred to the Civic Licensing Committee;
- (ii) to renew taxi driver and private hire car driver licences, and taxi and private hire car operators licences, where there are no new convictions and where there have been no objections since the last consideration of the matter;
- (iii) to consider taxi driver and private hire car driver licence applications (both new applications and renewal applications) where an adverse medical report has been received (suspensions on medical grounds recommended during the currency of a licence must be referred to the Civic Licensing Committee unless an immediate suspension is required); and
- (iv) to issue Notice of exemption certificates to taxi/private hire car drivers who have demonstrated a medical condition that prevents them from assisting wheelchair bound passengers to enter/ exit the taxi/ private hire car or from carrying animals.

### **Other**

- (v) to grant licences for boat hirers, booking office,, cinema, house in multiple occupation, hypnotism, indoor sports entertainment, knife dealers, late hours caterers, market operators, metal dealers, public entertainment, second-hand dealers, skin piercing and tattooing, street traders, theatres, venison dealers, window cleaners and zoos, where there are no current convictions and/or where no objections have been received;
- (vi) to renew licences (as per (v) above) where there are no new convictions and where there have been no objections, since the last consideration of the matter;
- (vii) to consider renewal applications under the 1982 Act which are submitted late (but within 28 days of the licence expiry date);
- (viii) to determine applications for approval of premises under the Marriage (Scotland) Act 1977 and any associated Regulations;

- (ix) to consider applications to vary any licence;
- (x) to order the suspension or revocation of a licence;
- (xi) to issue permits and licences for cinema, public charitable collections and raised structures subject to no objections;
- (xii) to grant metal dealer exemption warrants if satisfied the applicant has met the financial threshold required; and
- (xiii) to make an order in relation to public processions where time does not allow for consideration of the matter at committee.

60.18 The Director of Corporate and Housing Services is authorised to exercise all decisions relating to the registration of Private Landlords except for the refusal of applications for registration and the revocation of registration which will be reserved to the Civic Licensing Committee.

60.19 The Director of Development Services is authorised to determine applications for licences for animal boarding establishments, breeding of dogs, caravan sites dangerous wild animals, performing animals pet animals, reservoirs and riding establishments.

60.20 The Director of Corporate and Housing Services and the Director of Development Services are authorised to undertake any necessary enforcement actions available to them under the appropriate legislation in the discharge of their functions detailed in paragraphs 60.17, 60.18 and 60.19.

60.21 **Local Government Pension Scheme (LGPS)**

- (i) The Chief Finance Officer will have authority to exercise all employer discretions available to the Council under the LGPS; and
- (ii) The Chief Finance Officer will have authority to determine the recipient of any death grant in circumstances where the scheme member has made a nomination and the payment is made to the nominee and in the absence of a nomination where the payment is made in accordance with a will, and in the absence of a will in accordance with the rules of intestate succession. In all other cases, the Chief Finance Officer and the Chief Governance Officer will have the authority to make the decision.

## 60.22 Property Matters

### (i) **Land and Property surplus to Operational requirements**

Chief Officers will have the authority to make the decision on removal from operational service land and property no longer required for operational purposes for internal transfer or for disposal either on the open market or on a negotiated basis where the value of the asset is assessed to be less than £5,000. **Notwithstanding the foregoing, the Executive shall decide on all applications for Asset Transfer made to the Council by a Community Transfer Body under the Community Empowerment (Scotland) Act 2015.**

Before any land or property is declared surplus by Chief Officers, they will consult the relevant portfolio holder and local members and may, where deemed appropriate consult with any other Council Service.

### (ii) **Disposal of Surplus Land and Property**

The Director of Development Services, in consultation with the relevant Chief Officer, will have authority to agree terms for the disposal or internal transfer of land and property, which has been declared surplus (whether in terms of paragraph 60.22(i) above or by the Executive), subject to a maximum value of £350,000 in any particular case.

### (iii) **Leases and other Property Transactions**

The Director of Development Services will have authority:-

- (a) to agree terms for leases up to 25 years duration and up to an annual rental value of £100,000;
- (b) to agree terms for ground leases for a duration of up to 125 years with a capital value of up to £350,000 or equivalent rental value; and
- (c) to agree the terms of other property transactions e.g. assignments, subleases, licences, servitudes, wayleaves and the like subject to and consistent with the financial values detailed above.

### (iv) **Acquisition of Land and Property**

- (a) The Director of Development Services, in consultation with the relevant Chief Officer, will have authority to approve any terms and conditions for the acquisition or internal transfer of land and property subject to a maximum value of £350,000 in any particular case provided that they are satisfied that the acquisition or transfer is consistent with the provisions of Paragraph 60.9 in relation to conformance with Council Policy, is contained within the approved capital programme or is otherwise approved by reference to a decision of the Executive or Council.

- (b) The Director of Development Services will have authority to instruct the Chief Governance Officer to conclude any relevant property transaction.

(v) **Demolition of Buildings**

Chief Officers, in consultation with the relevant portfolio holder, will have the authority to instruct the demolition of any building held under their operational remit in circumstances where the building is an imminent danger to health and safety or is beyond economic repair.

(vi) **Community Right to Buy**

Chief Officers, in consultation with the relevant portfolio holder and local members, shall be authorised to prepare and submit to the Scottish Ministers consultation responses on any applications by community bodies to register an interest in land owned by the authority under the Community Empowerment (Scotland) Act 2015.

**60.22A Participation Requests**

Chief Officers, in consultation with the relevant portfolio holder and local members (where appropriate), shall be authorised to respond to participation requests under the Community Empowerment (Scotland) Act 2015, where it is not practicable to bring the matter before the Executive or Education, Children and Young People Executive.

**60.23 Statutory Appointments**

In terms of various Statutes the Council is obliged to appoint designated officers to certain roles as follows :-

- (i) The Chief Executive is appointed as the Head of Paid Service in terms of section 4 of the 1989 Act;
- (ii) The Chief Governance Officer is appointed as the Monitoring Officer in terms of section 5 of the 1989 Act;
- (iii) The Chief Finance Officer is appointed as the officer with responsibility for the financial affairs of the Council in terms of section 95 of the 1973 Act;
- (iv) The Head of Social Work Children's Services is appointed as the Chief Social Work Officer in terms of section 3 of the Social Work (Scotland) Act 1968;
- (v) The Chief Executive is appointed as the Returning Officer in terms of section 41 of the Representation of the People Act 1983;

- (vi) The Chief Governance Officer is appointed in respect of all other references to Proper Officer in legislation relating to elections;
- (vii) The Chief Executive is appointed as Proper Officer for purposes in connection with Declarations of Acceptance of Office by Councillors in terms of section 33A of the 1973 Act;
- (viii) The Chief Executive is appointed as Proper Officer for receipt of Councillors' resignations in terms of section 34 of the 1973 Act;
- (ix) The Chief Governance Officer is appointed as Proper Officer for purposes in connection with meetings and proceedings of the Council, Committees and Sub Committees in terms of section 43 and schedule 7 of the 1973 Act;
- (x) The Chief Governance Officer is appointed as Proper Officer for purposes in connection with access to agendas, reports and background papers of the Council, Committees and Sub Committees in terms of sections 50B-F of the 1973 Act;
- (xi) The Chief Governance Officer is appointed as Proper Officer for various purposes in connection with legal proceedings and service of notices etc on the Council in terms of section 190 of the 1973 Act
- (xii) The Chief Finance Officer is appointed as Proper Officer in respect of claims on behalf of the Council in sequestrations and liquidations in terms of section 191 of the 1973 Act;
- (xiii) The Chief Governance Officer is appointed as Proper Officer in respect of the authentication of documents in terms of section 193 of the 1973 Act;
- (xiv) The Chief Executive, the Chief Governance Officer, and the Legal Managers are appointed as Proper Officers in respect of execution of deeds and use of the Council Seal in terms of section 194 of the 1973 Act;
- (xv) The Chief Governance Officer is appointed as Proper Officer for various purposes in connection with byelaws in terms of sections 202-204 of the 1973 Act;
- (xvi) The Head of Human Resources and Business Transformation is appointed as Proper Officer in respect of politically restricted postholders in terms of section 2 of the 1989 Act;
- (xvii) The Chief Governance Officer is appointed as Proper Officer in respect of management rules in terms of sections 112-113 of the Civic Government (Scotland) Act 1982;



- (xviii) The Chief Governance Officer is appointed as Proper Officer in respect of maintaining the register of members' interests in terms of The Ethical Standards in Public Life etc (Scotland) Act (Register of Interests) Regulations 2003.
- (xix) The Information Governance Manager is appointed as the Data Protection Officer for the purpose of the General Data Protection Regulation.

For the avoidance of doubt, any reference to the Chief Governance Officer and the Chief Finance Officer is deemed to include reference to their deputies.

- 24. In relation to the foregoing delegations, in the event that the relevant Chief Officer considers it inappropriate to deal with a matter under delegated powers, the matter may be referred by them for a decision to the relevant Committee.