

Item: 14

Policy and Resources Committee: 20 June 2023.

Scheme of Delegation to Officers – Review.

Report by Corporate Director for Strategy, Performance and Business Solutions.

1. Purpose of Report

To consider proposed amendments to the Scheme of Delegation to Officers.

2. Recommendations

The Committee is invited to note:

2.1.

That, in May 2021, the Council reviewed and updated the Scheme of Delegation to Officers noting that a further review, to consider any necessary changes arising from the proposed management restructure, would be reported to the Policy and Resources Committee in due course.

2.2.

That, since May 2021, Council decisions and other actions, including adoption of the new management structure, have necessitated the proposed amendments and additions to the Scheme of Delegation to Officers, as summarised in section 4 of this report.

2.3.

The proposed revised Scheme of Delegation to Officers, attached as Appendix 1 to this report, which incorporates the proposals outlined in section 4 of this report.

It is recommended:

2.4.

That powers be delegated to the Chief Executive to finalise and publish the Scheme of Delegation to Officers referred to at paragraph 2.3 above.

3. Background

3.1.

The Scheme of Delegation to Officers is made for the purposes of section 50G of the Local Government (Scotland) Act 1973. It specifies those powers of the authority which, for the time being, are exercisable from time to time by officers and states the title of the officer by whom each of the powers is exercisable. The Scheme is to be read in conjunction with the Council's Standing Orders, the Scheme of Administration, the Financial Regulations and Contract Standing Orders.

3.2.

The Scheme of Delegation to Officers was last considered by the Policy and Resources Committee May 2021. Although the updated Scheme of Delegation to Officers was approved, the Committee noted that a further review, to consider any necessary changes arising from the proposed management restructure, would be reported in due course.

3.3.

Since May 2021, further Council decisions and other actions, including adoption of the revised management structure, have necessitated the changes proposed in this report. Although the Scheme of Delegation to Officers includes a process for review (section 1.14 in the introductory section), which allows the Chief Executive to alter or amend the Scheme on an ongoing basis to correct any textual or minor errors or to reflect decisions of the Council or changes in legislation and/or established practice, the proposed revised Scheme is presented to Committee, as requested.

3.4.

It should be noted, however, that, following approval of the revised management structure in December 2021, the Chief Executive, in terms of delegated powers, has arranged for the relevant delegated powers to be assigned to the appropriate Corporate Director, pending approval of the revised Scheme of Delegation to Officers.

4. Proposed Changes

4.1.

The main changes proposed to the Scheme of Delegation to Officers, attached as Appendix 1 to this report, are to align the delegations to the relevant Corporate Director. These are marked with comment boxes and primarily relate to the previous posts of Executive Director of Corporate Services and Executive Director of Development and Infrastructure. These sections will be deleted and new sections, incorporating the relevant delegated functions, will be inserted for the following Corporate Directors:

- Strategy, Performance and Business Solutions.
- Enterprise and Sustainable Regeneration.
- Neighbourhood Services and Infrastructure.

4.2.

The General Delegation to all Chief Officers (section 2.1) and the delegations to the Chief Executive have been updated to reflect the revised governance process in respect of the staffing establishment, as recommended by the Policy and Resources Committee on 1 March 2022.

4.3.

Other recent Council decisions incorporated in the Scheme include the following:

- Chief Executive:
 - Harbour Authority – Role of Duty Holder – provision for continuity during election periods.
 - Flag Flying.
- Enterprise and Sustainable Regeneration:
 - Community Transport Small Grant Scheme.
 - Crown Estate Economic Development Fund.
 - Crown Estate Community Led Development Fund.
- Neighbourhood Services and Infrastructure:
 - Climate Change.
- Education, Leisure and Housing:
 - Lighting up St Magnus Cathedral.
- Chief Officer of the Orkney Health and Social Care Partnership:
 - Self-Directed Support payments.

4.4.

The section on Development Management (currently section 2.7.54) has been updated to reflect similar amendments to the Scheme of Administration for consistency. The opportunity has also been taken to update the section on enforcement (sections 2.7.56 onwards), following recent training provided to officers by a planning consultant, in conjunction with a review of the enforcement process.

4.4.1.

It was suggested that the Scheme should be explicit in determining whether there has been a breach of planning control in the first instance and importantly, to allow a case to be closed. This is due to the discretionary nature and expediency test which is at the core of enforcement.

4.5.

Finally, Appendix 1 has been updated to reflect the management structure approved in December 2021.

4.6.

Should the Committee be supportive of the amendments detailed above, it is proposed that powers be delegated to the Chief Executive to incorporate all of the proposed changes, as agreed by Council, and thereafter to publish the revised Scheme of Delegation to Officers.

5. Corporate Governance

This report relates to the Council complying with governance and procedural issues and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

6. Financial Implications

There are not anticipated to be any significant financial consequences arising from the recommendations of this report.

7. Legal Aspects

With limited exceptions, Section 56 of the Local Government (Scotland) Act 1973 provides that a local authority may arrange for the discharge of any of its functions by a committee of the authority, a sub-committee, an officer of the authority or by any other local authority in Scotland. The discharge of functions also includes doing anything which is calculated to facilitate or is conducive or incidental to the discharge of any of these functions.

8. Contact Officers

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9. Appendix

Appendix 1: Scheme of Delegation to Officers – Revised July 2023.



Style Definition: TOC 3

Scheme of Delegation to Officers

Review/Updates to Scheme of Delegation to Officers.

Date.	Committee.	Review/update – amendments made.
February 2018.	Policy and Resources.	Full Review.
March 2018.	Not applicable.	Update – Inclusion of Data Protection Officer (Statutory Officer) at Section 1.9.
May 2021.	Policy and Resources.	Interim Review.
<u>20 June 2023.</u>	<u>Policy and Resources.</u>	<u>Update to reflect new management structure and recent Council decisions.</u>

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1. Introduction

1.1. Background

1.1.1. This Scheme is made by Orkney Islands Council for the purposes of Section 50G of the Local Government (Scotland) Act 1973.

1.1.2. There shall be delegated to the Chief Executive and Corporate Directors the powers hereinafter specified, subject to the limitations and conditions stated.

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1.1.3. Acts and proceedings, except as otherwise provided by statute, done in pursuance of delegated powers shall be deemed to be acts and proceedings of the Council. Such delegations are in addition to the powers of the Chief Executive and Corporate Directors to exercise responsibility for operational, functional and managerial matters falling within the scope of their service responsibilities which may not be expressly provided for or specifically detailed in this Scheme.

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1.2. Interpretation

1.2.1. The Interpretation Act 1978 applies to this Scheme.

1.2.2. Any reference in this Scheme to legislation, including delegated or subordinate legislation, should be taken as including any amendments, replacement and re-enactments of such legislation currently in force.

1.2.3. References in this Scheme to authorisation to grant, approve or issue, shall also be taken to include authority to refuse or to grant, approve or issue subject to conditions.

1.2.4. In the context of this Scheme, power to serve a Notice or other proceedings shall also include power to enforce that Notice or those proceedings.

1.2.5. In any situation of uncertainty, the Chief Executive will determine:

- Whether an issue is delegated to a particular Committee/Sub-committee or a Chief Officer.
- Which Chief Officer is empowered to exercise authority which has been delegated by the Council.

1.3. Statutory and Proper Officers

1.3.1. Statutory Officers of the Council have specific duties as set out in legislation and discharge these roles as part of their wider responsibilities within the Council. They have an important, independent role in promoting and enforcing good governance and for making sure that the Council complies with legislation as follows.

1.4. Head of Paid Service

1.4.1. In terms of Section 4 of the Local Government and Housing Act 1989, it shall be the duty of every relevant authority:

- To designate one of their officers as the Head of Paid Service.

- To provide that Officer with such staff, accommodation and other resources as are, in his/her opinion, sufficient to allow his/her duties under Section 5 of the 1989 Act to be performed.

1.4.2. It shall be the duty of the Head of Paid Service, where he/she considers it appropriate to do so in respect of any proposals of his/hers with respect to any of the matters specified below, to prepare a report to the authority setting out his/her proposals:

- The manner in which the discharge by the authority of its different functions is co-ordinated.
- The number and grades of staff required by the authority for the discharge of its functions.
- The organisation of the authority's staff.
- The appointment and proper management of the authority's staff.

1.4.3. The Head of Paid Service in Orkney Islands Council is the **Chief Executive**.

1.5. Monitoring Officer

1.5.1. It shall be the duty of every relevant authority:

- To designate one of their officers (to be known as the Monitoring Officer) as the officer responsible for performing the duties imposed by Section 5 of the Local Government and Housing Act 1989.
- To provide that Officer with such staff, accommodation and other resources as are, in his/her opinion, sufficient to allow those duties to be performed.

1.5.2. The officer so designated may be the Head of Paid Service but shall not be the Chief Financial Officer.

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1.5.3. It shall be the duty of the Monitoring Officer if, at any time it appears to him/her that any proposal, decision or omission by the authority, by any Committee, Sub-committee or officer of the authority, or by any Joint Committee on which the authority is represented, constitutes, has given rise to or is likely to or would give rise to:

- A contravention by the authority, by any Committee, Sub-committee or officer of the authority or by any such Joint Committee of any enactment or rule of law or of any code of practice made or approved by or under any enactment; or
- Any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974 (Local Commissioners) or Part II of the Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland), to prepare a report to the authority with respect to that proposal, decision or omission.

1.5.4. It shall be the duty of the Monitoring Officer:

- In preparing a report under this section to consult so far as practicable with the Head of Paid Service and the Chief Financial Officer.
- As soon as practicable after such a report has been prepared by him/her or his/her deputy, to arrange for a copy of it to be sent to each member of the authority.

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1.5.5. The Monitoring Officer in Orkney Islands Council (Solicitor to the Council) is the **Head of Legal and Governance**.

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1.6. Officer responsible for Financial Administration

1.6.1. The Council shall, in terms of the Local Government and Housing Act 1989 and Section 95 of the Local Government (Scotland) Act 1973:

- Make arrangements for the proper administration of such of its financial affairs as it relates to its capacity as a local authority, police authority or port health authority.
- Secure that one of its officers has responsibility for the administration of those affairs.

1.6.2. The officer responsible for Financial Administration in Orkney Islands Council (the Chief Financial Officer) is the **Corporate Director for Enterprise and Sustainable Regeneration**.

Deleted: Chief Financial Officer

1.7. Chief Social Work Officer

1.7.1. The Council shall, for the purposes of its functions in terms of the Social Work (Scotland) Act 1968 and the enactments contained in Section 5(1B) appoint an officer to be known as the Chief Social Work Officer.

1.7.2. The overall objectives of the Chief Social Work Officer are:

- To confidently manage the discharge of the Council's statutory social work duties.
- To ensure the provision of effective professional and objective advice to elected members and officers in the Council's provision of social work services.
- To secure the effective provision of social work services.

1.7.3. The Chief Social Work Officer in Orkney Islands Council is the **Head of Children, Families and Justice Services**.

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1.8. Proper Officers

1.8.1. The Chief Executive is the Proper Officer for the purposes of implementing the provisions of Section 43 (Schedule 7) – Meetings and Proceedings of the Council, Committees and Sub-committees and Section 197 – Inspection and Deposit of Documents (Minutes, Reports etc) of the Local Government (Scotland) Act 1973.

1.8.2. The Chief Executive and the Monitoring Officer are the Proper Officers in connection with the signature and execution of, and affixation of the Common Seal of the Council to, all deeds and other documents, in terms of Sections 193 and 194 of the Local Government (Scotland) Act 1973 and Paragraph 4 of Schedule 2 of the Requirements of Writing (Scotland) Act 1995. Either the Chief Executive or the Monitoring Officer may sign or execute, or affix the Common Seal of the Council to, any deed or other document in terms of the foregoing provisions.

1.9. Data Protection Officer

1.9.1. The General Data Protection Regulation, which came into force on 25 May 2018, replaces the Data Protection Act 1998 and makes changes to the law in relation to the processing of personal information.

1.9.2. In terms of Article 39 of the General Data Protection Regulation, the Data Protection Officer must have the ability to fulfil the following minimum tasks:

- To inform and advise the Council and its employees about their obligations to comply with the General Data Protection Regulation and other data protection laws.
- To monitor compliance with the General Data Protection Regulation, including the assignment of responsibilities, awareness-raising and training of staff involved in the processing operations and related audits.
- To provide advice where requested about data protection impact assessments and to monitor their performance.
- To co-operate with the supervisory authority (the Information Commissioner's Office).
- To act as the contact point for the Information Commissioner's Office on issues related to the processing of personal data.

1.9.3. The Data Protection Officer in Orkney Islands Council is the **Head of Legal and Governance**.

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1.10. Limitations and Conditions

1.10.1. The delegation granted in this Scheme shall be exercised having regard to and in accordance with the Council's other constitutional documents, including:

- The Council's Standing Orders.
- Scheme of Administration.
- Financial Regulations.
- Contract Standing Orders.

1.10.2. The delegation granted in this Scheme shall be exercised as follows:

- On the basis that it will not result in actual expenditure exceeding that set out in the relevant part of the approved budget(s) to the extent that this could not be contained by the relevant Officer viring budget in accordance with the Financial Regulations.
- On the basis that it will not result in actual income falling below that set out in the relevant part of the approved budget(s) to the extent that this could not be contained by the relevant Officer viring budget in accordance with the Financial Regulations.
- On the basis that it will not result in expenditure exceeding that set out in the relevant part of the Capital Programme for the financial year in question.
- Subject to the member of the public or, in the case of employment matters, employee, being notified, in writing, of any right of appeal.
- To be consistent with any general or particular policy direction made by the Council.
- To be consistent with the Council's procedures, corporate standards and strategies.
- To be consistent with any qualifications required to exercise the delegation.
- To be consistent with agreed service objectives.
- Subject to the Health and Social Care Integration Scheme for Orkney.

1.10.3. Chief Officers and the Chief Internal Auditor may choose not to exercise the powers delegated to them on any occasion they deem appropriate. Should this be the

case, the matter should be referred to the appropriate Committee/Sub-committee for consideration.

1.11. Further Delegation

1.11.1. In the absence of the Chief Executive, a member of the Corporate Leadership Team is authorised to exercise the powers delegated to the Chief Executive by this Scheme, unless prohibited by any statutory provision from so doing.

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1.11.2. The Corporate Leadership Team currently comprises the four Corporate Directors, the Chief Officer of the Orkney Health and Social Care Partnership, the Head of Legal and Governance and the Head of Human Resources and Organisational Development.

Deleted: Senior Management

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1.11.3. A Chief Officer is authorised in the absence, or on the written instruction, of the Chief Executive or Corporate Director to exercise the powers delegated by this Scheme which relate to his/her service, unless prohibited by any statutory provision from so doing. A list of Chief Officers forms Appendix 1 to this Scheme.

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1.11.4. A Chief Officer may authorise any member of his/her staff to act for them in respect of any duties and responsibilities delegated in terms of this Scheme. The Chief Officer must consider the role of the officer they intend to delegate those powers to and whether the officer has appropriate qualifications and experience.

1.11.5. Any officer using delegated powers will be responsible for their actions. However, if an officer delegates their powers to another officer, this will not relieve the delegating officer of his/her responsibility for the duties they have delegated.

1.11.6. Proper Officers should ensure any delegation of statutory powers and duties is recorded.

1.12. Consultation

1.12.1. In using the authority delegated to them, Chief Officers may, where appropriate, consult the Convener, the Leader, the Depute Leader, the Chair and Vice Chair of the relevant Service Committee and/or Ward councillors, if they consider that a proposed decision or action is of a non-routine nature and is likely to significantly and directly affect the Ward interests of Ward Members. This does not apply to proposed decisions or actions that have a general effect throughout the area, or are of a routine nature covered by this Scheme.

1.13. Commencement

1.13.1. This Scheme will apply and have effect on and after 4 July 2023.

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1.14. Review

1.14.1. The Council may review this Scheme annually.

1.14.2. Subject to adequate publicity being given to such amendments, the Chief Executive shall have the power to amend or alter this Scheme:

- To correct any textual or minor errors.

- To make any consequential amendments required as a result of a decision of the Council.
- To reflect changes in legislation and/or established practice.

2. Delegated Powers

2.1. General Delegation to all Chief Officers

The following matters are delegated to all Chief Officers:

Human Resources.	
2.1.1.	To appoint employees in accordance with the appointments procedure.
2.1.2.	To implement, in accordance with Council policies and any instructions given by the Chief Executive, the terms of national and local agreements on salaries and conditions of service, in respect of: <ul style="list-style-type: none">• The placing of employees within their grade.• The granting of paid and unpaid leave of absence, and of occasional absences to attend to services of a civic, honorary, charitable or personal nature.• The application of car, travelling and other related allowances, appropriate to the duties of the post.• The payment of removal expenses.• The secondment of employees to other agencies, or for training purposes, for temporary periods.• The attendance of employees at conferences, seminars, meetings and training events, provided that attendance would be beneficial to the Council.
	<u>In consultation with Human Resources, to create temporary posts, excluding chief officers, of not more than two years' duration (delegated to Head of Service).</u>
	<u>In consultation with Human Resources, to create temporary posts, excluding chief officers, of over two years and up to four years overall duration (delegated to Corporate Director).</u>
	<u>To delete vacant permanent posts from the establishment.</u>
	<u>In consultation with Human Resources, to approve a temporary market supplement for a post for a period not exceeding three years.</u>
	<u>To approve payment of overtime for any post over the agreed Council overtime threshold.</u>
	<u>To approve use of a recruitment agency for temporary appointment of agency staff or sourcing staff for appointment to the Council.</u>
	<u>To change the job title of any post (delegated to Service Manager for posts reporting to them in the establishment).</u>
	<u>To create a new temporary post for sickness cover, maternity leave, adoption leave, career break or secondment cover (delegated to Service Manager for posts reporting to them in the establishment).</u>

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The creation, subject to the agreement of the Chief Executive and the Chief Financial Officer, of temporary posts of not more than two years' duration, provided that adequate funding has been identified within the relevant budget.

	<u>To approve temporary acting up/additional responsibility arrangements or agency use, for up to three months (delegated to Service Manager for posts reporting to them in the establishment).</u>
2.1.3.	To conduct disciplinary and grievance proceedings and to take disciplinary action in accordance with the disciplinary procedure.
Procurement.	
2.1.4.	To invite tenders, select tenderers from the Council's approved lists or equivalent procedure and issue tender documents in respect of any contract.
2.1.5.	To accept tenders, subject to the identification of necessary funding within the relevant budget, and in accordance with the Financial Regulations and Contract Standing Orders.
2.1.6.	To determine participation in collaborative procurement opportunities.
2.1.7.	To issue orders for work, goods and services in accordance with the Financial Regulations.
2.1.8.	To purchase specialist consultancy services, provided that necessary funding is identified within the relevant budget, and in accordance with the Financial Regulations and Contract Standing Orders.
Entry to Land and Premises and Identification.	
2.1.9.	To issue the necessary authorisation to officers to exercise statutory powers and duties including, where necessary, the right to enter land and premises in connection with the discharge of their duties.
2.1.10.	To issue identity cards to officers.
Annual Subscriptions.	
2.1.11.	To approve payment of annual subscriptions to bodies of which the Council is a member.
Fees and Charges.	
2.1.12.	To revise on 1 April each year all fees and charges commensurate with the uprating factors determined annually as part of the budget setting process in accordance with the Corporate Charging and Concessions Policy.
Capital Projects and Revenue Maintenance Programmes.	
2.1.13.	To instruct the preparation of plans and tender documents and, in consultation with the Solicitor to the Council, the Chief Financial Officer and the <u>Corporate Director for Neighbourhood Services and Infrastructure</u> , to instruct the acquisition of land, property or heritage in respect of any project within the approved Capital Programme and provided that the said land, property or heritage is identified within the relevant project appraisal.
2.1.14.	To authorise works contained within approved corporate asset capital improvement and revenue maintenance programmes for the Council's land and property assets, funded through the approved Capital Programme and revenue budgets.

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Land and Property Assets.	
2.1.15.	To exercise day-to-day operational responsibility for land and property assets allocated to the respective service area, on terms that may be determined from time to time by the Council and/or the <u>Corporate Director for Neighbourhood Services and Infrastructure</u> .
2.1.16.	In consultation with the <u>Corporate Director for Neighbourhood Services and Infrastructure</u> , to undertake initial enquiries in relation to potential purchase of strategic land and/or property assets, where this could contribute to approved Council priorities, and thereafter progress negotiation on principles.
Finance.	
2.1.17.	To transfer, following the consent of the Chief Financial Officer, sums between Heads of Estimate within revenue budgets, provided that the transfer would not result in any increase to the overall budget.
Grant Funding.	
2.1.18.	In consultation with the Chief Financial Officer, to submit applications for grant funding and/or pursue other funding opportunities, where these are in line with agreed Council policy and/or service plan priorities.
2.1.19.	To grant extension of time to existing approved grants, provided there is no net impact on approved budget(s) and exceptional circumstances are defined.
Representations and Consultation Responses.	
2.1.20.	To make representations in respect of applications for licences, consents, permissions or comparable applications, appropriate to the particular function of the Chief Officer.
2.1.21.	To submit consultation responses, on behalf of the Council, where these are in line with agreed Council policy and/or service plan priorities.
Information Governance.	
2.1.22.	In consultation with the Solicitor to the Council, to provide or withhold information in terms of the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and relevant data protection legislation.
2.1.23.	In consultation with the Solicitor to the Council, the <u>Corporate Director for Strategy, Performance and Business Solutions</u> or other Chief Officer, depending on the circumstances, to review decisions to withhold information in terms of the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and relevant data protection legislation.
Policies, Plans, Processes and Procedures	
2.1.24.	To develop new policies, plans, processes and procedures in order to reflect changes in legislation and practice and undertake consultation, prior to submission to the Council for adoption, if required.

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2.1.25.	To monitor and, if necessary, amend existing policies, plans, processes and procedures in order to reflect changes in legislation and practice, subject to adequate publication being given to such amendments.
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2.2. Chief Executive

Statutory and Proper Officer Duties

The Chief Executive is appointed as the Head of the Council's paid service, in terms of Section 4 of the Local Government and Housing Act 1989 and is the Chief Adviser to the Council on matters of policy.

The Chief Executive is also appointed by the Council as Returning Officer for Local Government and Community Council Elections and as Counting Officer in respect of Referenda and to discharge the functions of and act as Appropriate Officer in terms of the Representation of the People Act 1983 as amended and all other relevant legislation. The Chief Executive, as Returning Officer, will make appropriate arrangements for any circumstances in which he/she is unable to act in person, and will therefore appoint one or more Depute Returning Officers to discharge his/her functions where appropriate.

The Chief Executive acts as the Proper Officer in terms of Sections 33A, 34, 43 and Schedule 7, 50B(2), 50C(2), 50F(2) and 231 of the Local Government (Scotland) Act 1973 and otherwise in relation to the arrangements for the conduct of business arising at any meeting of the Council, or its Committees and Sub-committees.

The Chief Executive also acts as the Proper Officer in terms of Section 33A of the Local Government (Scotland) Act 1973 (Declaration of Acceptance of Office); Section 7 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Members' Interests) and the relevant provisions of the Local Governance (Scotland) Act 2004.

Specific Delegated Powers

The Chief Executive holds the following delegated powers to enable him/her to carry out these functions, without prejudice to all statutory duties, responsibilities and powers exercisable by him/her, as follows:

Operational Responsibility.	
2.2.1.	To exercise operational responsibility for the administrative and financial services of the Council, including the Council's web site.
Emergency and Urgent Powers.	
2.2.2.	To determine all matters of urgency which require decision by the Council during the period from the date of the local government election to the date of the first meeting of the Council following that election.
2.2.3.	To determine, in consultation with the Convener, the Leader and Depute Leader and/or the Chair and Vice Chair of the relevant Service Committee, all matters of urgency which require decision by the Council during the period from the date of the last General Meeting of the Council to the date of the Local Government Election.
2.2.4.	To take action on behalf of the Council where considered necessary in the event of an emergency, or as required as a matter of urgency, following consultation with the Convener, the Leader and Depute Leader and/or the Chair and Vice Chair of the relevant Service Committee.

Commented [HF1]: Delete and ensure all areas of operational responsibility are included in the new directorates

Human Resources.	
2.2.5.	To designate Chief Officers to perform such functions of the Chief Executive as may be required.
2.2.6.	To establish new or additional permanent posts, with the exception of chief officers.
	To determine designations and salary levels of permanent posts of chief officer (Corporate Directors and Heads of Service).
2.2.7.	To designate suitably qualified officers to act as Appropriate and/or Statutory Officers, in accordance with relevant legislation.
2.2.8.	In consultation with Human Resources, to create temporary posts, excluding posts of chief officer, of over four years' duration.
	In consultation with the Head of Finance and Human Resources, to create temporary posts of chief officer of up to two years' duration.
2.2.9.	In exceptional circumstances, to authorise extensions to existing temporary appointments, in accordance with good employment practice, in order to deliver activities which meet Council priorities and where budget provision is available.
2.2.10.	If deemed necessary, to approve short term appointments to enable continuation of essential duties in the event of long term sickness or maternity leave.
2.2.11.	To make any long term temporary posts permanent, provided the post meets the following criteria: <ul style="list-style-type: none"> • The individual having a minimum of 4 years' continuous service under the contract for that post, including any temporary amendments to that contract. • Funding for the post being contained within an approved baseline budget. • It is not currently anticipated that the post will be at risk. • Where the required hours of the post might vary, any appointment should be to the minimum known full-time equivalent requirement. • The postholder originally obtaining the post via a recruitment and selection exercise which complies with Council policy.
2.2.12.	To determine applications from employees in terms of the Voluntary Severance and Early Retirement Policy, with the exception of applications from Chief Officers.
2.2.13.	To vary the conditions of the Resettlement Allowances Scheme in specific cases, subject to the total amount to be granted to any individual employee not exceeding the maximum entitlement under the Scheme.
2.2.14.	To determine the Council's public holidays, following consultation with trade unions.
2.2.15.	To authorise the payment of acting-up allowances, provided that adequate funding has been identified within the relevant budget.
Civic Hospitality.	

Commented [HF2]: P&R, 1.3.22 agreed new governance arrangements for staffing establishment. Amendments reflect that decision.

Commented [HF4]: Reference to salary levels deleted as most Council staff covered by Job Evaluation process (SJC) and teaching staff covered by National Conditions of service, therefore subject to how the salary level is determined, establishment of new/additional permanent posts (whether SJC or teaching) is delegated to the Chief Executive.

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Commented [HF6]: To be deleted as temporary appointments now delegated at various levels depending on length of appointment
(up to two years – Head of Service;
Between 2 and 4 years – Corporate Director;
Over 4 years – Chief Executive)

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2.2.16.	To arrange, in consultation with the Convener, and to incur reasonable expenses connected with, civic hospitality, including the reception and entertainment of distinguished persons and of persons connected with local government and other public services, and to authorise Chief Officers to so arrange.
2.2.17.	To make arrangements for artistic direction at corporate civic events, including payment of fees, payment of expenses and the cost of supply cover, if required.
2.2.18.	To determine the level of fee to be paid to professional artists.
Representations in respect of Local Government or other Public Services.	
2.2.19.	To make representations, following consultation with the Leader and Depute Leader, to the European Union, the United Kingdom Government, the Scottish Government, the Convention of Scottish Local Authorities, and such other relevant bodies or agencies with regard to matters affecting local government, or other public services.
Land and Property Assets	
2.2.20.	To acquire land and property assets required for strategic reasons, subject to funding being identified.
2.2.21.	To determine requests, following consultation with the Chair and Vice Chair of the Policy and Resources Committee, for the waiving of hire fees for use of Council property.
Donations.	
2.2.22.	To determine requests for donations to charitable or voluntary bodies, or for community benefit, of not more than £1,000.
Twinning Activities.	
2.2.23.	To determine disbursement of the annual budget for twinning activities, including requests for financial assistance relating to the twinning arrangements between Orkney and Hordaland.
2.2.24.	To award, where appropriate, travel grants to community groups wishing to travel to Norway.
Elected Members.	
2.2.25.	To determine attendance by Councillors at any conference, seminar, course or meeting held within or outwith the United Kingdom, including attendance at meetings of bodies to which members have been nominated or appointed by the Council.
2.2.26.	In consultation with the Chief Financial Officer, to determine the scheme of elected members' allowances in terms of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007.
Foreign Travel.	

2.2.27.	In consultation with the Chief Financial Officer, to authorise foreign trips by employees in respect of international professional development opportunities and/or service priorities.
Common Seal of the Council.	
2.2.28.	To act as and to designate suitably qualified officers to act as the Proper Officer in connection with the signature of, and affixation of the Common Seal of the Council to, deeds and other documents.
Statutory Notices.	
2.2.29.	To issue statutory notices on behalf of the Council.
Fees and Charges.	
2.2.30.	In consultation with the Chief Financial Officer, to set fees payable to local interpreters.
Legal Actions and Claims.	
2.2.31.	To negotiate and settle legal actions and claims by or against the Council, over £50,000, excluding any associated claim for expenses, after consultation with the Chief Financial Officer, the Solicitor to the Council and any other relevant Chief Officer.
Community Councils.	
2.2.32.	To implement schemes of assistance to Community Councils.
Education Appeals Committee.	
2.2.33.	To select members to sit on the Education Appeals Committee, as and when required, depending on availability and the nature of the appeal.
Local Review Body.	
2.2.34.	To issue the Decision Notice arising from an appeal to the Local Review Body.
Civil Contingencies.	
2.2.35.	To exercise strategic responsibility in respect of the Council's functions relating to civil contingencies.
Regulation of Investigatory Powers.	
2.2.36.	To act as the Council's Senior Responsible Officer in terms of the Regulation of Investigatory Powers (Scotland) Act 2000.
Harbour Authority – Role of Duty Holder.	
	<u>To nominate a minimum of two and up to a maximum of three members of the Corporate Leadership Team to act as additional Duty Holders for the Harbour Authority to ensure continuity during election periods.</u>
Flag Flying.	
	<u>In consultation with the Convener, Leader and Depute Leader, to fly a flag from either the Council Offices or Kirkwall Town Hall, provided the request (from an</u>

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organisation not included within the flag flying protocol) meets the undernoted criteria:

- No political element to the activity.
- No commercial element to the activity.
- No significant cost to the Council.
- Flying the flag does not conflict with another event already included in the approved flag flying protocol.

2.3. Chief Financial Officer

The Chief Financial Officer is appointed as the Proper Officer in terms of Section 95 of the Local Government (Scotland) Act 1973 and to administer the financial affairs of the Council and to take any necessary action in terms of the Council's Financial Regulations.

The following matters are delegated to the Chief Financial Officer:

Accounting Practices.	
2.3.1.	To select suitable accounting policies for the Council and ensure that they are consistently applied to the Council's Accounts.
2.3.2.	To determine all accounting procedures and records of the Council and its Officers.
2.3.3.	To prepare the Council's annual financial statement of accounts, in accordance with proper accounting practice and as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom.
Financial Planning.	
2.3.4.	To develop and manage the Council's financial planning process and determine the detailed form and timetable in respect of the Council's revenue and capital plans and budgets.
2.3.5.	To review and amend, as required, the Financial Regulations.
2.3.6.	To amend service budgets for new monies received or subsequent approvals during the year, with all such changes being recorded in the budget monitoring statements.
Lending and Borrowing.	
2.3.7.	To take all necessary action on behalf of the Council in relation to the borrowing and lending of money and in arranging the terms thereof including, for the avoidance of doubt, the negotiation and issue of bonds.
2.3.8.	To effect borrowings in the name of the Council in accordance with the provisions of the General Code of Practice for the Regulation of the borrowing of Local Authorities in England, Scotland and Wales.
2.3.9.	To lend on the money markets in accordance with the provisions contained in the Financial Regulations.
2.3.10.	To manage funds in accordance with the limits and conditions imposed by statute and by the Council.
2.3.11.	To incur expenditure on fees and expenses payable to brokers and bankers acting for and on behalf of the Council.
Income Collection.	
2.3.12.	To collect Council Tax as set by the Council in accordance with section 97(1) and Schedules 2 and 8 of the Local Government Finance Act 1992 and the provisions of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992.

2.3.13.	To collect Non-Domestic Rates payable to the Council in terms of section 237 of the Local Government (Scotland) Act 1947.
Debt Collection.	
2.3.14.	To establish and review procedures for the collection, recovery and enforcement of sundry debt invoices issued by the Council, including the instruction of actions for payment, and the appointment and instruction of Sheriff Officers and debt recovery agents in accordance with policy and statute.
2.3.15.	In respect of Council Tax, Non-Domestic Rates and sundry debts due to the Council, to pursue civil actions against payment defaulters, including raising bankruptcy, liquidation, or sequestration petitions.
2.3.16.	Following unsuccessful debt recovery action, including by Sheriff Officers and debt recovering agents, to write off debts which are considered not to be realistically or economically viable to collect.
2.3.17.	To write off debts where the debtor has been the subject of a formal insolvency or sequestration procedure.
2.3.18.	To write off, in consultation with the Chair and Vice Chair of the Development and Infrastructure Committee and the <u>Corporate Director for Enterprise and Sustainable Regeneration (where this officer is not also the Chief Financial Officer)</u> , assistance from the Strategic Reserve Fund due to be repaid to the Council, in circumstances where a business has failed, where the individual concerned has made a genuine attempt to establish the business and where repayment of the assistance would cause personal hardship.
2.3.19.	To approve the non-recovery of an overpayment to an employee of the Council following consultation with the Head of <u>Human Resources</u> and <u>Organisational Development</u> .
Benefit Schemes.	
2.3.20.	To administer benefits in accordance with the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992.
2.3.21.	To administer a Council Tax reduction scheme in accordance with the Council Tax Reduction (Scotland) Regulations 2012.
2.3.22.	To administer the Scottish Welfare Fund for payments of Crisis Grants and Community Care grants in accordance with the Welfare Funds (Scotland) Act 2015.
2.3.23.	To establish and review procedures for considering, authorising and making discretionary housing payments in accordance with the Discretionary Financial Assistance Regulations 2001.
Business Improvement District.	
2.3.24.	To administer a Business Improvement District scheme in accordance with the Planning etc (Scotland) Act 2006.
Investment Managers.	

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2.3.25.	To appoint, in consultation with the Investments Sub-committee or the Pension Fund Sub-committee, as appropriate, investment fund managers.
Asset Register.	
2.3.26.	To set up and maintain an asset register of all assets owned by the Council.
2.3.27.	To apply asset rental charges to service accounts in respect of assets employed and the crediting of charges to the Plant and Vehicle Replacement Reserve.
Banking Arrangements.	
2.3.28.	To deal with all matters relating to banking arrangements and negotiation of banking terms, pay duly authorised accounts and operate the Council's banking accounts without exceeding a total overdraft position of £1,000,000.
2.3.29.	To provide such imprest accounts as he/she considers appropriate to such Officers of the Council as may need them for the purposes of defraying petty cash and other expenses.
Insurance Arrangements.	
2.3.30.	To effect all insurance cover and negotiate and settle all insurance claims in consultation with other Officers where necessary.
2.3.31.	To determine, in consultation with the <u>Corporate Director for Neighbourhood Services and Infrastructure</u> , whether or not insurance premiums should be recharged to the tenant where the Council has made special arrangements regarding rent for charitable, voluntary or sporting groups.
2.3.32.	To pay, following consultation with the Solicitor to the Council, valid claims for damage to or loss of personal property of employees which occurred during the course of their employment, up to an amount of £1,000 per claim for any one incident, and, claims of up to £1,000 for damage to, or loss of property by members of the public, arising from the fault of the Council.
Payroll Arrangements.	
2.3.33.	To pay all salaries, wages, pension, compensation and other emoluments to all employees or former employees of the Council.
2.3.34.	To implement nationally agreed pay awards for Council staff and allowances for Councillors.
2.3.35.	To settle any liabilities arising from reviews by Her Majesty's Revenues and Customs and to enter into local agreements for the efficient processing of taxation matters.
Procurement.	
2.3.36.	To enter into any non-procurement related contract or agreement in circumstances where, after consultation with the Solicitor to the Council and relevant Chief Officer, he/she is satisfied that it is in the interest of the Council so to do.
2.3.37.	To enter into finance and operating leases on behalf of the Council.

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Housing Loans.	
2.3.38.	To determine applications for housing loans and the interest rate levels charged to Home Loan borrowers, in terms of the Housing (Scotland) Acts.
2.3.39.	To call-up housing loans where borrowers have fallen into arrears.
Pension Services.	
2.3.40.	To make suitable arrangements for the actuarial valuation of the assets and liabilities of the Orkney Islands Council Pension Fund.
2.3.41.	To administer the Local Government Pension Scheme and to implement investment arrangements for the Orkney Islands Council Pension Fund in accordance with the Local Government Pension Regulations.
2.3.42.	To exercise operational responsibility in respect of the application of Local Government Pension Regulations.
2.3.43.	To determine the terms of "closed" admission agreements to the Council's Pension Scheme, by external providers, including the scope and nature of bonds and guarantees to be granted, in consultation with the Solicitor to the Council.
2.3.44.	To conclude Admission Agreements between the Council and bodies admitted to the Council's Pension Fund, in consultation with the Solicitor to the Council.
Deprivation of Capital Assets.	
2.3.45.	Following determination by the Chief Social Work Officer on whether or not deprivation of capital assets has occurred in relation to residential care charging and, subject to any decision on review made by the Solicitor to the Council, in terms of section 2.5.13 of this Scheme, to determine whether or not to pursue the debt.

2.4. Executive Director of Corporate Services

The following powers are delegated to the Executive Director of Corporate Services:

Operational and Functional Responsibilities.	
2.4.1.	To exercise operational responsibility for the Council's corporate services including, but not restricted to, legal, human resource, information technology, facilities, strategic property asset management, procurement, risk and performance management, corporate policy and community planning services.
2.4.2.	To exercise functional responsibility for the internal audit services of the Council.
Corporate Governance.	
2.4.3.	To maintain the Council's Local Code of Corporate Governance and to co-ordinate the Council's annual assessment in relation to the Code.
Community Empowerment.	
2.4.4.	To establish and maintain processes for the management of participation requests submitted in terms of the Community Empowerment (Scotland) Act 2015.
2.4.5.	To establish and maintain processes for the management of community asset transfer requests submitted in terms of the Community Empowerment (Scotland) Act 2015, including undertaking service and community reviews and consultations, if required.
Corporate Property Asset Management.	
2.4.6.	To exercise operational responsibility for estates management, including lease and rental income management, identification and management of surplus property and land and property acquisitions and disposals.
2.4.7.	To exercise strategic asset management planning for the Council's land and property.
2.4.8.	To instruct valuations of property in order that the Council might consider possible acquisition or disposal, or acquisition of land or heritage in respect of approved Council schemes, and to accept, where appropriate, the conclusion of the valuation.
2.4.9.	In consultation with the Solicitor to the Council, to obtain valuations of land and property required for operational reasons.
2.4.10.	To provide in-house valuations, in agreement with the Solicitor to the Council.
2.4.11.	To determine acquisition of land and property assets required for operational requirements, up to a market valuation of £300,000.
2.4.12.	To determine sale of land and property assets not required by any Council service, including those deemed surplus to operational requirements, up to a market valuation of £300,000.

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2.4.13.	In consultation with the relevant <u>Corporate</u> Director, to approve requests for leases on terms below market value, up to a maximum duration of 5 years and for a maximum market rental value of £10,000 per annum.
2.4.14.	To determine requests to lease land and property assets, including within industrial estates and business parks, on terms to be agreed with the Solicitor to the Council.
2.4.15.	In consultation with the Chair and Vice Chair of the Education, Leisure and Housing Committee, the <u>Corporate</u> Director for Education, Leisure and Housing, the Solicitor to the Council and the Chief Financial Officer, to purchase appropriate properties in terms of the Mortgage to Rent Scheme.
2.4.16.	In consultation with the Chair and Vice Chair of the Education, Leisure and Housing Committee, together with relevant Ward Members and the <u>Corporate</u> Director for Education, Leisure and Housing, subject to approval from Scottish Ministers, where required, to dispose of properties, held on the Housing Revenue Account, which become vacant and where there is no housing demand for the property concerned.
2.4.17.	In consultation with the <u>Corporate</u> Director for Education, Leisure and Housing, the Solicitor to the Council and the Chief Financial Officer, to purchase additional properties for the purpose of providing homeless accommodation.
Procurement.	
2.4.18.	To exercise contractual management of all tender and procurement exercises.
2.4.19.	To enter into any goods and/or services supply contract or agreement in circumstances where, after consultation with the Solicitor to the Council and relevant Chief Officer, if required, he/she is satisfied that it is in the interest of the Council so to do.
2.4.20.	To determine requests for Non-Competitive Action.
2.4.21.	To review and amend, as required, the Contract Standing Orders.
Building Cleaning.	
2.4.22.	To exercise operational responsibility for the cleaning of Council buildings and facilities, including public conveniences.
School Meals.	
2.4.23.	To exercise operational management of the provision of school meals.
Health and Safety.	
2.4.24.	To exercise operational responsibility for the establishment and review of policies, including monitoring, to comply with the Council's statutory duties in terms of the Health and Safety at Work Act 1974, amendments thereof and regulations made thereunder.
Civil Contingencies.	

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2.4.25.	To exercise operational responsibility in respect of the Council's functions relating to preparedness for a response to an incident/emergency under the Civil Contingencies Act 2004, the Civil Contingencies Act 2004 (Contingency Planning)(Scotland) Regulations 2005 and Preparing Scotland.
2.4.26.	To exercise operational responsibility in respect of the Council's duties relating to preparedness in relation to the Counter-Terrorism and Security Act 2015.
Citizenship Ceremonies.	
2.4.27.	In consultation with the Convener, to make necessary arrangements regarding the format and extent of individual citizenship ceremonies, taking into account the number of persons involved and other relevant circumstances.
Document Management.	
2.4.28.	To review and update the Council's Publication Scheme.
2.4.29.	To direct the management and monitoring of the Council's records in line with the provisions of the Public Records (Scotland) Act 2011.
Information Governance.	
2.4.30.	To direct the Council's compliance with information compliance legislation, including the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and relevant data protection legislation.

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2.5. Solicitor to the Council

The Solicitor to the Council is appointed as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989.

The Solicitor to the Council shall act as, or designate a suitably qualified officer to act as, Clerk to the Orkney Islands Area Licensing Board in terms of the Licensing (Scotland) Act 2005.

The following powers are delegated to the Solicitor to the Council:

Operational Responsibility.	
2.5.1.	To exercise operational responsibility in respect of the registration of births, deaths, marriages and civil partnerships.
Standard Contract Terms.	
2.5.2.	To determine standard terms for contracts and for the sale, lease or occupation of land, property or buildings, including sites or premises within industrial estates and business parks.
Contracts and Agreements.	
2.5.3.	To enter into, vary, and, where necessary, terminate any contract or agreement in circumstances where, after consultation with the relevant Chief Officer, he/she is satisfied that it is in the interest of the Council so to do.
2.5.4.	To sign missives, deeds, notices, orders, leases, contracts and other similar documents binding the Council, except where otherwise provided for in this Scheme.
External Legal Advice.	
2.5.5.	To engage private legal firms, or to instruct Counsel, as necessary to enable the legal work of the Council to be carried out.
Parliamentary Agents.	
2.5.6.	To appoint parliamentary agents.
Legal Proceedings by or against the Council.	
2.5.7.	To submit reports, notices, orders or other similar documents in respect of any judicial, quasi-judicial or administrative proceedings before any court, tribunal or other body.
2.5.8.	To arrange for the Council to be represented in relation to any type of judicial, quasi-judicial or administrative proceedings before any court, tribunal or other body and in that regard to initiate, enter, defend and withdraw from such proceedings.
2.5.9.	To act as proper officer in respect of the receipt of notices of any legal proceedings served on the Council.
Settlement of Claims.	

2.5.10.	To negotiate and settle legal actions and claims by or against the Council, up to a maximum sum of £50,000, excluding any associated claim for expenses, after consultation with the Chief Financial Officer and any other relevant Chief Officer.
Information Governance.	
2.5.11.	To manage the Council's compliance with information compliance legislation, including the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and relevant data protection legislation.
Records Management.	
2.5.12.	To manage the Council's records in line with the provisions of the Public Records (Scotland) Act 2011.
Deprivation of Assets.	
2.5.13.	To review decisions taken by the Chief Social Work Officer in respect of deliberate deprivation of assets in terms of the Health and Social Services and Social Security Adjudications Act 1983 and associated legislation.
Safeguarders, Curators Ad Litem, Reporting Officers and Legal Representatives for Children.	
2.5.14.	To maintain, and make appointments to, the Panels of Safeguarders, Curators Ad Litem, Reporting Officers and Legal Representatives for children, and to determine fees for the performance of the members' duties.
Superior's Consent.	
2.5.15.	To approve applications, following consultation with the Corporate Director for Neighbourhood Services and Infrastructure , for the consent of the Council as superior, in respect of self-build plots.
Improvement Orders.	
2.5.16.	In consultation with the Corporate Director for Neighbourhood Services and Infrastructure , to make Improvement Orders.
Civic Government Licensing.	
2.5.17.	To grant applications for licences and renewals thereof, in terms of the Civic Government (Scotland) Act 1982, the Cinemas Act 1985 and the Theatres Act 1968, where no objection has been raised, and to exercise such other statutory functions of the Council which are not reserved to the Licensing Committee.
Common Seal of the Council.	
2.5.18.	To act as the Proper Officer in connection with the signature of, and affixation of the Common Seal of the Council to, deeds and other documents.

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2.6. Chief Internal Auditor

The following powers are delegated to the Chief Internal Auditor:

Internal Audit Plans.	
2.6.1.	To prepare and finalise operational and strategic internal audit plans covering the entire control environment of the Council.
2.6.2.	To ensure that internal audit resources are appropriate, sufficient and effectively deployed to achieve the approved plan. Where it is believed that the level of agreed internal audit resources will impact adversely on the provision of the annual internal audit opinion, the Chief Internal Auditor must bring the consequences to the attention of the Monitoring and Audit Committee.
Access.	
2.6.3.	To access all records, assets, personnel and premises as follows: <ul style="list-style-type: none"> • To enter at all reasonable times on any Council premises or land. • To have access to, and remove, all records, documents and correspondence, including computer records, relating to any financial and other transactions of the Council. • To be provided with a separate log-in to any computer system within the Council and have full access to any system, personal computer or other device in the ownership of the Council. • To require and receive such explanations as are necessary concerning any matter under examination. • To require any employee or member of the Council to produce cash, stores or any other Council property under their control. • To examine financial records of Council owned companies, trusts administered by the Council and other organisations funded by the Council.
Internal Audit Reports.	
2.6.4.	To prepare and finalise internal audit reports in his/her own name without hindrance or delay, together with the requirement to disclose all material facts known which, if not disclosed, could distort a report or conceal unlawful or inappropriate practice. This covers, but is not limited to, any fact(s) arising from, or as a result of, a review directly or indirectly identified during the course of their work.
2.6.5.	To determine the recipients of both routine, ad hoc and investigation reports, together with communicating matters to Audit Scotland and/or the appointed external auditor.
2.6.6.	To require response from the management of the Council in relation to reports issued in draft format in order that these can be progressed and reported in a reasonable timeframe.
2.6.7.	To determine the timing of presentation of a report to the relevant Committee.
Annual Report and Assurance Statement.	

2.6.8.	To prepare and finalise the Internal Audit Annual Report and Assurance Statement which must be issued in his/her own name.
Formal Investigations.	
2.6.9.	To initiate, undertake and report on formal investigations into any matter. Investigations may also be requested by the Chief Executive, a Corporate Director, the Chief Financial Officer, Audit Scotland and/or the appointed external auditor.
Fraud Prevention.	
2.6.10.	In accordance with the Corporate Anti-Fraud Policy, to report a matter of criminal activity to the Police or appropriate investigative body, in consultation with the Chief Executive and the Chief Financial Officer, and to liaise with that body in furtherance of the investigation.
Access to Chair and Vice Chair of Audit Committee.	
2.6.11.	To arrange a meeting, periodically, in private with the Chair and Vice Chair of the Monitoring and Audit Committee.

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2.7. Executive Director of Development and Infrastructure

The following matters are delegated to the Executive Director of Development and Infrastructure:

General.	
2.7.1.	To exercise operational management of the Council's functions falling within the remit of development and infrastructure services.
2.7.2.	To implement schemes for the control of, and response to, flooding and coastal erosion.
Harbour and Towage Services.	
2.7.3.	To exercise functional responsibility for the Council's harbour and towage services.
Airfields and Air Services.	
2.7.4.	To exercise operational management of airfields owned and operated by, or on behalf of, the Council, including implementing all relevant health and safety, emergency procedures and safety management systems, and exercising the function of Accountable Manager in terms of CAP 1059 guidance issued by the Civil Aviation Authority.
2.7.5.	To make arrangements for maintenance of, and minor improvements to, such airfields, including any provisions necessary to respond to unforeseen circumstances which may threaten safety or consistency of lifeline air services.
2.7.6.	To exercise responsibility for contracting the provision of internal air services.
2.7.7.	To make temporary arrangements, for the provision of internal air services, outwith the scope of public service obligations, to meet unforeseen circumstances.
Public and Community Transport.	
2.7.8.	To exercise operational responsibility for the Council's functions in respect of public transport services.
2.7.9.	To make temporary arrangements, for the provision of public transport services, outwith the scope of public service obligations, to meet unforeseen circumstances.
	<u>To determine applications for assistance from the Community Transport Small Grant Scheme.</u>
Ferries.	
2.7.10.	To make temporary arrangements for the provision of internal ferry services to meet unforeseen circumstances.

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2.7.11.	To represent the Council in advising and supporting the Board of Orkney Ferries Limited on operational and management related matters associated with the delivery of Service Level Agreements.
Naming of Roads.	
2.7.12.	To name all roads in accordance with the principles of the Road Naming Policy and Procedure Guidelines.
Roads.	
2.7.13.	To exercise operational management of the Council's functions as roads authority, including all matters pertaining to roads, roads infrastructure, car parking, street lighting, Christmas Trees and other decorative features.
2.7.14.	To grant construction consent for the building of new roads, other than roads built by the Council.
2.7.15.	To grant consent for works to, or excavations of, public and other roads.
2.7.16.	To add or delete roads from the list of public roads.
2.7.17.	To review annually and thereafter implement service plans in respect of the Council's functions as roads authority, including the winter service plan.
2.7.18.	To exercise operational management of Electric Vehicle infrastructure, including installation of infrastructure and establishment of new charge points and associated infrastructure.
Land and Property.	
2.7.19.	To exercise operational management for maintenance of the Council's land and property, including land and property held on the Housing Revenue Account, industrial estates and business parks.
2.7.20.	To provide technical advice in respect of management of the Council's land and property portfolio.
Parking Provision.	
2.7.21.	To exercise operational management of off-street parking facilities, including temporary cancellation of charging or amendments to charges to meet unforeseen circumstances.
2.7.22.	To exercise operational management for the enforcement of notices of charge relating to contravention of road traffic orders, including determination of requests for cancellation thereof.
2.7.23.	To determine applications for parking permits.
2.7.24.	In consultation with the Solicitor to the Council, to grant permission for street trading or market-type operations in non-charging car parks, in accordance with the following criteria: <ul style="list-style-type: none"> The prime traffic management purpose of the car parks should not be compromised, with commercial trading or market-type operations only permitted should there be surplus capacity in the car park and sufficient space for the trader to operate from and for customer car parking.

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	<ul style="list-style-type: none"> • Consultation to take place with the relevant ward members and the relevant Community Council. • A charge to be levied to meet administration costs, for the use of Council property for street trading or market-type operations, to ensure equity with local businesses paying non-domestic rates.
2.7.25.	In consultation with the Solicitor to the Council, to grant permission for charitable and community fund raising events within non-charging car parks, subject to no traffic management difficulties being anticipated.
Flood Prevention.	
2.7.26.	To exercise operational management of policies and schemes for the prevention of flooding of non-agricultural land.
Traffic Management and Road Safety.	
2.7.27.	To make temporary restrictions and prohibitions, by order, of the use of roads by traffic and pedestrians.
2.7.28.	Following approval by Council of the principle of restrictions and/or prohibitions for the use of roads, to make new traffic orders, whether permanent or experimental, including statutory consultation procedures, where no objection has been raised.
2.7.29.	In consultation with the Solicitor to the Council, to amend existing or make new traffic orders, including those necessitated by new road layouts, including statutory consultation procedures, where no objection has been raised.
2.7.30.	To stop up unnecessary or dangerous roads.
Operational Environmental Services.	
2.7.31.	To exercise operational management for the collection, disposal and control of waste and litter, including street cleansing services and recycling schemes.
Quarry Services.	
2.7.32.	To appoint a suitably qualified officer for the statutory functions and obligations of the Council in terms of all current and relevant legislation relating to explosives and shot firing in relation to the Council's quarrying operations.
2.7.33.	To exercise operational management for the Council's quarrying services.
Coastal Protection.	
2.7.34.	To implement schemes for coastal protection.
2.7.35.	In consultation with the Chief Financial Officer, to authorise works for coastal protection in order to respond to urgent situations.
Burial Grounds.	
2.7.36.	To exercise operational management of burial grounds, including maintenance.

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2.7.37.	To appoint Burial Ground Clerks.
Public Conveniences.	
2.7.38.	To exercise operational management of public conveniences, including maintenance and determination of opening hours where these are accommodated within existing budgets.
St Magnus Cathedral.	
2.7.39.	To make arrangements for the maintenance of St Magnus Cathedral.
Economic Development.	
2.7.40.	To determine applications for financial assistance which meet the criteria of approved schemes.
	<u>In consultation with the Leader, Depute Leader and Chair and Vice Chair of the Development and Infrastructure Committee, to determine applications for funding from the Crown Estate Economic Development Fund.</u>
	<u>In consultation with the Leader, Depute Leader, Chair and Vice Chair of the Development and Infrastructure Committee, together with the Chair of the Orkney Local Action Group, to determine applications for funding from the Crown Estate Community Led Development Fund.</u>
2.7.41.	To liaise with tenants accommodated within the Council's industrial and commercial land and property estate regarding any current and future development needs.
Fisheries.	
2.7.42.	In consultation with the Solicitor to the Council, to amend or extend previously accepted terms of grant undertakings, provided exceptional circumstances apply.
2.7.43.	In consultation with the Solicitor to the Council, to agree terms in respect of the lease of the Council's fisheries quota.
Environment.	
2.7.44.	To implement schemes and identify external funding sources relating to environmental improvements, including the rehabilitation of derelict land and property, contaminated land, open space and biodiversity issues.
2.7.45.	To deliver the Council's duties and responsibilities, in partnership with other agencies, in relation to the conservation of biodiversity and protective species as required by the Nature Conservation Act 2004 and the Wildlife and Countryside Act 1981.
	<u>To deliver the Council's duties and responsibilities as required by the Climate Change (Scotland) Act 2009, including Orders and/or Regulations under that Act.</u>
Access to the Countryside.	

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2.7.46.	To exercise operational responsibility for the assertion of access rights and public rights of way, including maintenance of a paths network.
2.7.47.	To uphold access rights, including asserting, protecting and keeping open and free from obstruction any route, and ensuring that landowners do not deliberately undertake any activity for the purpose of preventing or deterring the exercise of access rights.
2.7.48.	To take steps to warn and protect the public against any danger on any land in respect of which access rights are exercisable.
2.7.49.	To ensure that core paths and rights of way are reinstated after ploughing or any other land management practices which have disturbed the route.
2.7.50.	To determine applications to exclude land from access rights.
2.7.51.	To authorise contractors or others operating on behalf of the Council to enter land.
Historic Buildings and Town Heritage.	
2.7.52.	To implement schemes and identify external funding sources to help safeguard the future use of historic buildings and the enhancement of conservation areas.
2.7.53.	To make arrangements for the delivery of all project and policy decisions and operational activities arising from townscape heritage initiatives, landscape partnerships and other heritage schemes, where these fall within approved budgets, including the establishment of partnership boards.
Development Management.	
2.7.54.	<p>To determine all planning applications, with the exception of the following:</p> <ul style="list-style-type: none"> • Any planning application which is deemed as a “national development” or a “major development”. • Any planning application which is significantly contrary to the Local Development Plan and recommended for approval. • Any planning application which attracts an objection, which <u>meets the terms of a valid representation,</u> and recommended for approval. • Any planning application which is subject to an Environmental Impact Assessment. • Where notice has been given to the Appointed Officer by two or more elected members of the Council that they require the planning application to be referred to the Planning Committee for determination. • Any planning application made by or on behalf of the following, <u>including their spouse/partner:</u> <ul style="list-style-type: none"> ○ An Elected Member of the Council. ○ A member of staff employed within the Planning Service (Development Management or Development and Marine Planning).

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	<ul style="list-style-type: none"> o A member of staff routinely servicing the Planning Committee, including the Clerk to the Committee and the Legal Adviser. o The Chief Executive or any other Chief Officer .
2.7.55.	Notwithstanding the delegation above, to refuse planning applications, regardless of representations, which are the subject of requests from planning officers for information required in order to determine the applications, but where such requests have not been met within the prescribed time, being a minimum of 14 days, and without prejudice to re-submission of further applications, containing the required information, within one year of the date of refusal without incurring a further planning fee.
2.7.56.	<p>To issue the undernoted notices and orders:</p> <ul style="list-style-type: none"> • Enforcement Notices for change of use, unauthorised development, breach of condition, listed buildings and advertisement control. • Breach of Condition Notice. • Stop Notice. • Completion Notice. • Building Preservation Notice. • Discontinuance Order. • Hazardous Substances Contravention Notice. • Temporary Stop Notice. • Fixed Penalty Notice. • Amenity Notice. • Planning Contravention Notice. • Section 272 Notice.
2.7.57.	To determine applications for Works Licences, or any variation to or transfer of an existing Works Licence, <u>except for applications which attract an objection, which meets the terms of a valid representation, and are recommended for approval.</u>
2.7.58.	To determine applications for advertisement consent.
2.7.59.	To determine applications for tree works, <u>including trees protected by Tree Preservation Orders.</u>
2.7.60.	To determine applications for High Hedge Notices.
2.7.61.	To determine applications for Listed Building Consent or Conservation Area Consent, <u>except for applications which attract an objection, which meets the terms of a valid representation, and are recommended for approval.</u>
2.7.62.	To determine applications for Hazardous Substances Consent.
2.7.63.	To determine applications for <u>prior approval and administer prior notification submitted</u> under the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (as amended).

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This dates back to a previous Scheme of Delegation where officers were able to refuse applications on technical grounds. This is now covered in section 2.7.54 above.

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2.7.64.	To determine requests for non-material variation of planning applications in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended)..
2.7.65.	In accordance with the applicable Environmental Impact Assessment (EIA) Regulations, to adopt a screening opinion as to whether a proposed development would require an Environmental Impact Assessment, and to adopt a scoping opinion as to the scope of environmental information to be submitted with an Environmental Impact Assessment.
2.7.66.	To carry out Habitats Regulations Appraisals and, where any plan or project will have a likely significant effect on a European site, carry out an Appropriate Assessment.
2.7.67.	To process, administer and defend planning and related appeals to Scottish Ministers, either by written representation, hearing or Inquiry sessions.
2.7.68.	To fulfil functions of the Council in terms of the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997.
2.7.69.	To determine applications made under Regulation 62 of the Conservation (Natural Habitats, &c.) Regulations 1994.
2.7.70.	To determine applications for Modifications or Discharge of Planning Obligations.
2.7.71.	To determine whether to issue, or refuse to issue, certificates of lawfulness of existing and/or proposed use or development.
2.7.72.	To decline to determine an application in terms of Section 39 of the Town and Country Planning (Scotland) Act 1997 (as amended).
	To make an order to revoke or modify planning permission, except where the owner, lessee or occupier of the land affected, or such other person who, in the opinion of the Appointed Officer, will be affected by the order, has objected to the order.
Marine Planning.	
2.7.73.	To determine the Council's response, as a statutory consultee, to Scottish Government marine licence consultations, with the exception of responses where the officer recommendation is an objection.
Trees.	
2.7.74.	In consultation with the Solicitor to the Council, to make Tree Preservation Orders that are considered necessary to ensure the immediate protection of trees.
2.7.75.	To confirm Tree Preservation Orders, where no objection has been received during a statutory publication period.
Electricity Act.	

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Deleted: whether a planning application requires to be supported by an EIA Report (Screening Opinion) and to determine the scope of any such EIA Report (Scoping Opinion)

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2.7.76.	<p>To determine the Council's response to energy consent applications made to Scottish Ministers in terms of the Electricity Act 1989, known as Section 36 and Section 37 applications, and to Simplified Notifications submitted by developers, with the exception of the following:</p> <ul style="list-style-type: none"> • Electricity Act consultations equivalent in scale to "national development". • Electricity Act consultation where an objection is raised.
Planning Enforcement.	
	<p><u>To issue the undernoted notices and orders:</u></p> <ul style="list-style-type: none"> • <u>Enforcement Notice.</u> • <u>Listed Building Enforcement Notice.</u> • <u>Advertisement Enforcement Notice.</u> • <u>Section 33A Notice (requiring an application for planning permission for development already carried out).</u> • <u>Breach of Condition Notice.</u> • <u>Stop Notice.</u> • <u>Completion Notice.</u> • <u>Building Preservation Notice.</u> • <u>Discontinuance Order.</u> • <u>Hazardous Substances Contravention Notice.</u> • <u>Temporary Stop Notice.</u> • <u>Fixed Penalty Notice.</u> • <u>Amenity Notice (Section 179 Notice).</u> • <u>Planning Contravention Notice (to obtain information about activities on land where a breach of planning control is suspected).</u> • <u>Section 272 Notice (to obtain information on interests in land and the use of land).</u>
	<p><u>To enter land, to take direct action required by a notice, and attempt to recover costs reasonably incurred in so doing.</u></p>
	<p><u>To authorise any person to enter land without a warrant in the circumstances specified by the Town and Country Planning (Scotland) Act 1997 as amended.</u></p>
	<p><u>To determine (1) whether or not there has been a breach of planning control and (2) having regard to the provisions of the Development Plan and to any other material considerations, that it is not expedient to take action and/or issue a notice.</u></p>
Environmental Health.	
2.7.77.	<p>To appoint suitably qualified officers for the statutory functions and obligations of the Council in terms of all current and relevant legislation relating to environmental health.</p>

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2.7.78.	To maintain a current list of local authority competent persons who carry out the functions conferred by the Public Health (Scotland) Act 2008 and any other enactment.
2.7.79.	To exercise the Council's operational and regulatory functions relating to environmental health and to exercise statutory powers, including the determination and issue of notices, orders, licences, grants, certificates and returns in respect of all legislative provisions, including the right to enter land, premises and vessels in connection with the discharge of these duties which fall within the following activities: <ul style="list-style-type: none"> • Air Quality. • Anti-social Behaviour. • Contaminated Land. • Food Safety. • Licensing Standards (alcohol). • Port Health. • Private Sector Housing. • Private Water Supplies. • Public Health. • Statutory Nuisances. • Waste Regulation. • Workplace Health and Safety.
2.7.80.	To exercise the Council's statutory functions in terms of environmental protection and public health with respect to statutory nuisances, anti-social behaviour, clean air, dog fouling, litter, fly-tipping, graffiti and waste regulation.
2.7.81.	To arrange for the identification of contaminated land and to take appropriate action to carry out remediation.
2.7.82.	To appoint suitably qualified officers for the statutory functions and obligations of the Council in terms of all current and relevant legislation relating to the functions of the Licensing Standards Officer and alcohol licensing.
2.7.83.	To serve Closing and Demolition Orders in respect of below tolerable standard housing, other than in instances where the property is occupied.
2.7.84.	To determine grants to owners of private premises, in respect of private water supplies.
2.7.85.	To promote improvements to public health and hygiene, including education and awareness raising on prevention of infectious diseases, contamination and other hazards that constitute a danger to public health.
2.7.86.	To grant new, or vary existing, miscellaneous licences, including, but not limited to, caravans, caravan sites and houses in multiple occupation, where no objection has been raised.

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2.7.87.	To bury or cremate the body of any person where it appears that no suitable arrangements for the disposal of the body have been made and to recover costs from the estate of the deceased person.
2.7.88.	To prepare, revise and update operational plans, including, but not limited to, Food Safety, Health and Safety and Port Health.
Trading Standards.	
2.7.89.	To appoint a suitably qualified officer for the statutory functions and obligations of the Council in terms of all current and relevant legislation relating to trading standards, including fulfilling the statutory functions of Chief Inspector of Weights and Measures.
2.7.90.	To exercise the Council's operational and regulatory functions relating to trading standards and to exercise statutory powers, including the determination and issue of notices, orders, licences, grants, certificates and returns in respect of all legislative provisions, including the right to enter land, premises and vessels in connection with the discharge of these duties which fall within the following activities: <ul style="list-style-type: none"> • Animal health and welfare. • Animal feed. • Consumer and business advice. • Consumer safety. • Fair trading. • Petroleum and explosives. • Weights and measures.
2.7.91.	To grant new, or vary existing, miscellaneous licences or conditions thereof, including, but not limited to the following activities, where no objection has been raised: <ul style="list-style-type: none"> • Animal boarding establishments. • Dog breeding establishments. • Pet animals. • Performing animals. • Keeping dangerous wild animals. • Riding establishments. • Zoos. • Storage of explosives. • Petroleum storage. • Fireworks.
2.7.92.	To undertake all functions and make all decisions in relation to the seizure, detention and disposal of stray dogs.
2.7.93.	To make test purchases pursuant to the Council's statutory obligations.

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2.7.94.	To exercise the Council's statutory functions in respect of The Energy Performance of Buildings (Scotland) Regulations 2008, and any amendment thereto or re-enactment thereof, in respect of domestic buildings.
2.7.95.	To authorise trading standard personnel from outwith Orkney to undertake any investigations or specialised work on behalf of the Council.
Building Standards.	
2.7.96.	To exercise the Council's regulatory functions relating to building standards in terms of the Building (Scotland) Act 2003 and carry out the duties of verifier as appointed/directed by Scottish Ministers, including the determination and issue of notices, orders, licences, certificates and returns in respect of all legislative provisions.
2.7.97.	To determine and issue building warrants and certificates of completion.
2.7.98.	To ensure compliance with, and enforcement of, building regulations, including serving Building Regulations Compliance Notices, Continuing Requirement Enforcement Notices and Building Warrant Enforcement Notices.
2.7.99.	To exercise the Council's functions in relation to dangerous and defective buildings, including the serving of Defective Building Notices and Dangerous Buildings Notices.
2.7.100.	To exercise the Building Standards functions in relation to providing advice and certification required in respect of applications in terms of the Licensing (Scotland) Act 2005 and the Civic Government (Scotland) Act 1982.
2.7.101.	To exercise the Council's statutory functions in respect of The Energy Performance of Buildings (Scotland) Regulations 2008, and any amendment thereto or re-enactment thereof, in respect of non-domestic buildings.

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2.8. Harbour Master

The Port Marine Safety Code, issued by the Department for Transport and the Maritime and Coastguard Agency, is endorsed by the UK Government, the devolved administrations and representatives from across the maritime sector. While the Code is not mandatory, these bodies have a strong expectation that all harbour authorities will comply. The Code states that the Harbour Master should have day-to-day responsibility for managing the safe operation of navigation and other marine activities in the harbour and its approaches.

The following matters are delegated to the Harbour Master, in consultation with and where appropriate, as determined by, the Corporate Director for Enterprise and Sustainable Regeneration:

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Harbour and Towing Services.	
2.8.1.	To exercise operational management of the Council's functions as Harbour Authority, including pilotage, towage and salvage functions.
2.8.2	To exercise operational management of the Council's functions as local lighthouse authority, including the provision of aids to navigation.
2.8.3.	To exercise operational management of the Council's harbours, harbour areas, piers, boat slips and jetties, including maintenance.
2.8.4.	To make operational arrangements to ensure safe navigation within the Council's harbour areas.
2.8.5.	To exercise operational management of the commercial operation of the Council's harbour areas, in accordance with the Schedule of Charges.
2.8.6.	To implement emergency procedures, including those in terms of the Dangerous Substances in Harbour Areas Act 1998 and the Health and Safety at Work Act 1974.
2.8.7.	To implement schemes for the control of, and response to, pollution within the harbour area and approaches.
2.8.8.	In consultation with the Chief Financial Officer, to determine charges, or amend existing charges, on a case-by-case basis, to respond to commercial competitiveness and/or expediency to secure maximum overall benefit to the Council from the Harbour Authority activities.
2.8.9.	To exercise operational responsibility for advising the Council, as duty holder for the harbour area, within the context of the Port Marine Safety Code.

2.9. Corporate Director for Education, Leisure and Housing

The Executive Director of Education, Leisure and Housing will be appointed the Chief Education Officer for the purposes of Section 25 of the Education (Scotland) Act 2016 once in effect.

The following matters are delegated to the Corporate Director for Education, Leisure and Housing:

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Education.	
2.9.1.	To exercise operational management of the Council's function as education authority, including: <ul style="list-style-type: none"> • The provision of school education, early learning and childcare and additional support needs. • The provision of services for the assessment and guidance of children with additional support needs. • The management of schemes for the operation of parent councils. • <u>Orkney College.</u> • The making of arrangements to secure improvement in the quality of school education. • The preparation and implementation of school development plans and standards and quality reports.
2.9.2.	To exclude pupils from schools.
2.9.3.	To suspend pupils from halls of residence.
2.9.4.	To determine applications for assistance, within policy, to enable pupils and students to take advantage of further education.
2.9.5.	To determine applications for travel grants, within policy.
2.9.6.	To award the annual travel scholarship to Hordaland County.
2.9.7.	To determine, in consultation with the Chair and Vice Chair of the Education, Leisure and Housing Committee, applications for financial assistance which require to be urgently resolved and which fall outwith Council policy.
2.9.8.	To determine the sum to be awarded towards the cost of education projects, to coincide with the St Magnus Festival.
Recreation Services.	
2.9.9.	To exercise operational management of the Council's functions in relation to: <ul style="list-style-type: none"> • Public libraries, theatres, halls, gymnasiums, playing fields, tracks, courts, swimming pools, outdoor centres, campsites, caravan sites, parks and other facilities for recreational and social activities. • Schemes to assist voluntary organisations and other persons engaged in activities connected with the provision of recreational and social activities. • The client function of leisure management, including the Council's arrangements with the Pickaquoy Centre Trust.

Commented [HF34]: Now that we have got clarity on college governance and also with reference to the Notice of Motion report to Council on 3.5.23, can we have clarification on whether this is a function of the "education authority"?

Commented [GM35R34]: Orkney College is a function of the education authority. The "duty" imposed on the education authority in section 1 of the Education (Scotland) Act 1980 (duty to provide education) does not include the provision of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992, but an education authority (e.g. OIC) still has a power to provide such further education in its area. The Council has exercised this power by providing a college of further education on Orkney. So, the Council is exercising a **function** conferred by the 1980 Act, even though it is not a duty.

	<ul style="list-style-type: none"> • Maintenance of the Kirk Green, Broad Street, Kirkwall.
2.9.10.	To determine applications which meet the criteria of approved schemes of assistance.
2.9.11.	To determine annual requests for financial assistance from voluntary organisations and other persons concerned with the provision of recreational, cultural and social activities or facilities, up to a maximum sum of £5,000.
Heritage Services.	
2.9.12.	To exercise operational responsibility for museums, galleries, arts and cultural centres and other facilities for heritage facilities.
2.9.13.	To implement schemes to assist voluntary organisations and other persons engaged in activities connected with the provision of heritage services.
2.9.14.	To acquire items for, and dispose of items within, the museum service collections, in accordance with the approved Collections Development Policy, Museums Accreditation and Museums Association Code of Ethics.
2.9.15.	To determine requests for loans of museum artefacts, including those which meet the undernoted criteria, subject to all standard conditions of loan being met by the applicant: <ul style="list-style-type: none"> • Key artefacts. • Valuable artefacts. • Large collections of artefacts. • Requests for artefacts to travel outwith the United Kingdom.
2.9.16.	To exercise operational responsibility for the caretaking and security of, and guiding of visitors around, St Magnus Cathedral.
	<u>In consultation with the Convener and the Chair and Vice Chair of the St Magnus Cathedral Sub-committee, to determine applications for illuminating St Magnus Cathedral, which meet approved policy guidelines and subject to conditions.</u>
Schoolcare Accommodation Services.	
2.9.17.	To exercise operational management of schoolcare accommodation.
2.9.18.	In consultation with the Chief Financial Officer, to amend charges for use of Papdale Halls of Residence, on a case-by-case basis, if required, to respond to requests for individual groups and/or expediency to secure maximum overall benefit to the Council for use of Papdale Halls of Residence.
Housing.	
2.9.19.	To exercise operational allocation and management of the Council's housing stock, in terms of the Council's Lettings Policy.
2.9.20.	To issue a Short Scottish Secure Tenancy, or convert an existing Scottish Secure Tenancy to a Short Scottish Secure Tenancy, where deemed appropriate.

Commented [HF36]: New delegation – St Mag Cath Sub – 13.3.23

2.9.21.	To determine applications received under the Housing Organisations Mobility and Exchange Services (HOMES) and MoveUK initiatives.
2.9.22.	To determine applications for mutual exchange tenancies, assignations and sub-letting.
2.9.23.	To determine applications for sheltered accommodation, in consultation with the <u>Chief Officer of the Orkney Health and Social Care Partnership.</u>
2.9.24.	To determine whether applications for rehousing should be given priority in circumstances of medical or social need, under-occupation or statutory overcrowding.
2.9.25.	To determine whether applicants for Council accommodation, whose names are removed from the Housing Register, should be reinstated without penalty.
2.9.26.	To determine whether former tenants owing rent in respect of a former Council property should be admitted to the Council's housing waiting list.
2.9.27.	To waive penalties for refusal of "reasonable" offers of accommodation, where deemed appropriate.
2.9.28.	To waive normal eligibility rules relating to property size allocation, where deemed appropriate.
2.9.29.	To determine responses for breaches of conditions of tenancy up to, but not including, eviction, in consultation with the Solicitor to the Council.
2.9.30.	To determine whether any court action for eviction should be taken in individual cases, in consultation with the Solicitor to the Council.
2.9.31.	In consultation with the Chair and Vice Chair of the Education, Leisure and Housing Committee, together with members representing isles wards, relevant Parent Councils and Community Councils, to declare isles' schoolhouses surplus to service operational requirements, as they become vacant.
2.9.32.	To determine non-contentious applications to operate businesses from Council housing, in consultation with the Solicitor to the Council.
2.9.33.	To exercise operational management of the provision of furnished accommodation and associated facilities.
2.9.34.	To implement schemes to meet the needs of homeless persons or persons threatened with homelessness.
2.9.35.	In consultation with the Solicitor to the Council, to accept a household as being homeless or being threatened with homelessness, without a court order, where it was likely that a court action would be detrimental to the tenant on medical grounds, had no reasonable prospect of being successfully defended, or where it was believed the tenant could be at risk of actual harm from the landlord.
2.9.36.	To determine appeals in connection with <u>any operational housing matter in respect of which a Council policy provides an appeals process and where no direct right of appeal lies to a Court or other independent tribunal.</u>
2.9.37.	To determine funding awards to relevant agencies in line with their roles relating to the approved Homelessness Strategy.

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Commented [HF37]: General delegation covering appeals for all operational housing matters where a policy contains an appeals process and where an appeal is not directly to the Sheriff Court
(Previous delegation was restricted to homelessness only).

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2.9.38.	To establish a Register of Private Sector Landlords in accordance with the provisions of Part 8 of the Antisocial Behaviour etc (Scotland) Act 2004, and to determine applications in respect thereof.
2.9.39.	To refuse to register and/or deregister landlords in accordance with Part 8 of the Antisocial Behaviour etc (Scotland) Act 2004, in consultation with the Solicitor to the Council.
2.9.40.	To award Decoration and Removals Grants in accordance with Council policy.
2.9.41.	In consultation with a panel, comprising the Chair and Vice Chair of the Education, Leisure and Housing Committee, the Head of <u>Community Learning, Leisure and Housing</u> , and other relevant officers, to determine the most appropriate action when tenants refuse to allow improvements, resulting in the property failing to meet the Scottish Housing Quality Standard and the Energy Efficiency Standard for Social Housing.
2.9.42.	To determine whether applicants should be eligible for further assistance under the Small Repairs Scheme within a period of two years from the initial application and to award assistance of sums in excess of £1,000 in special circumstances.
2.9.43.	To determine financial contributions to external bodies, including tenant associations, engaged in activities connected with the provision of social housing.
2.9.44.	To determine applications for Housing Grants, excluding aids and adaptations.
Fuel Poverty and Energy Efficiency.	
2.9.45.	In consultation with the Chair and Vice Chair of the Education, Leisure and Housing Committee, to submit bids, on an annual basis, for fuel poverty or energy efficiency funding that may become available as and when funds are opened.

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2.10. Chief Officer of the Orkney Health and Social Care Partnership

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The Chief Officer of the Orkney Health and Social Care Partnership holds the following delegated powers, with the exception of matters which are formally reserved to the Chief Social Work Officer:

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General.	
2.10.1.	To exercise operational management of the Council's functions as social work authority.
2.10.2.	Under secondment to the role of Chief Officer of the Orkney Integration Joint Board from the employing authority, either OIC or NHS Orkney, to ensure strategic management and operational delivery of the functions delegated to the Integration Joint Board.
Advice and Assistance.	
2.10.3.	To determine financial contributions, of a sum not exceeding £5,000, to external bodies connected with the provision of social work services.
2.10.4.	To provide advice, guidance and assistance, in cash or in kind, to persons requiring such facilities for the promotion of social welfare, up to a maximum of £6,000.
Children and Families.	
2.10.5.	To exercise the Council's statutory functions in terms of the Children (Scotland) Act 1995, and any amendment thereto or re-enactment thereof, including the power to make application for Exclusion Orders, Child Assessment Orders, Child Protection Orders and Parental Responsibilities Orders.
2.10.6.	To provide services including advice, guidance and assistance to children and their families referred to the Council by the Reporter and services to assist the Reporter and the Children's Panel in the discharge of their functions.
2.10.7.	To provide advice, guidance and assistance to further the interests of children looked after by the Council and the arrangements for the accommodation and maintenance of such children.
2.10.8.	To undertake investigations and submit reports to court in certain actions relating to parental responsibilities.
2.10.9.	To safeguard the interests of children in matrimonial proceedings.
2.10.10.	To exercise the Council's statutory functions in terms of the Adoption (Scotland) Act 1978, and any amendment thereto or re-enactment thereof, including the power to make application to the Sheriff Court for an Order Declaring a Child Free for Adoption.
2.10.11.	To make arrangements for services to ensure the protection of children placed for fostering and adoption.

2.10.12.	To act as “agency decision maker” in terms of the Adoption Agencies (Scotland) Regulations 1996 and any amendment thereto or re-enactment thereof.
Criminal Justice.	
2.10.13.	To exercise operational responsibility for the management of criminal justice services, including the provision of social work services to the courts to assist in the discharge of their functions, supervision of persons placed on probation, released from prison or subject to a community service order and arrangements for the supervision of, and provision of services to, offenders.
Community Care.	
2.10.14.	To exercise operational responsibility for the management of community care services.
2.10.15.	To exercise the Council's statutory functions in terms of the National Assistance Act 1948, the NHS and Community Care Act 1990 and the Adult Support and Protection (Scotland) Act 2007 and any amendment thereto or re-enactment thereof.
2.10.16.	To provide home-help and personal care services, for households containing persons in need, and the arrangements for assessment and review of the requirements for such help.
2.10.17.	To exercise the Council's statutory functions in terms of the Mental Health (Scotland) Act 1984 and any amendment thereto or re-enactment thereof.
2.10.18.	To exercise the Council's statutory functions in terms of the Adults with Incapacity (Scotland) Act 2000 and any amendment thereto or re-enactment thereof.
2.10.19.	To make arrangements for the care and aftercare of persons suffering from mental disorders.
2.10.20.	To appoint Mental Health Officers.
2.10.21.	To make arrangements for the care and aftercare of persons who have been suffering from illness, other than persons requiring medical, dental, nursing care or health visiting services.
2.10.22.	To make arrangements for the management of residential and other establishments required for social work services.
2.10.23.	To make arrangements for the assessment of the needs of persons requiring admission to such establishments and for securing their welfare.
2.10.24.	To implement Council policies and decisions in relation to joint working with partner organisations, including NHS Orkney, in furtherance of the Council's statutory duties, and agreed community planning objectives.
Community Safety Partnerships.	
2.10.25.	To exercise operational responsibility in respect of community safety partnerships.

Housing Grants.	
2.10.26.	To determine applications for enhanced Housing Grant, on grounds of disability, in consultation with the <u>Corporate Director for Education, Leisure and Housing</u> where required.
	<u>Self-Directed Support.</u>
	<u>In consultation with the Resource Management Group, to determine one-off costs associated with service users who have additional requirements, where the local authority has a duty to cover such costs.</u>

Deleted: Executive

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Commented [HF38]: New delegation recommended by OHAC, 4.4.19 and approved at Council 2.5.19

2.11. Chief Social Work Officer

The Chief Social Work Officer is a statutory appointment of the Council by virtue of Section 3 of the Social Work (Scotland) Act 1968.

The Chief Social Work Officer is appointed for the purposes of the Council's functions under the Social Work (Scotland) Act 1968 and under those other enactments listed in Section 5(1B) of that Act. In broad terms, those functions cover all social work and social care services whether provided directly by the Council, in partnership with other agencies, or procured by the Council and provided by others on its behalf.

Under the Public Bodies (Joint Working) (Scotland) Act, 2014, the Council's Chief Social Work Officer is required to be a co-opted non-voting member of Orkney's Integration Joint Board.

The qualifications required for the post are set out in the Qualifications of Chief Social Work Officers (Scotland) Regulations 1996.

The Chief Social Work Officer is required by section 5(1) of the 1968 Act to carry out the duties of the post under general guidance issued by Scottish Ministers.

Responsibility for values and standards.	
The Chief Social Work Officer should:	
2.11.1.	Promote values and standards of professional practice, including relevant National Standards, and provide a clear statement of expectation of social service workers and employers (consistent with the Scottish Social Services Council's Codes of Practice).
2.11.2.	Ensure that these values and standards are communicated on a regular basis, adhered to and reviewed periodically.
2.11.3.	Work with Human Resources to ensure that all social service workers meet the requirements of the Scottish Social Services Council's Code of Practice and that all registered workers meet the requirements of their regulatory body.
2.11.4.	Support and advise managers in maintaining and developing high standards of practice and supervision.
2.11.5.	Ensure that only registered social workers undertake those functions reserved in legislation or are accountable for those functions described in guidance.
2.11.6.	Ensure that there are effective governance arrangements for management of the complex balance of need, risk and civil liberties, in accordance with professional standards. Where the local authority's corporate policy on risk does not reflect this balance, the Chief Social Work Officer is required to bring this to the attention of the Chief Executive and to contribute to the development of appropriate governance arrangements.
2.11.7.	Ensure appropriate advice is provided on corporate workforce planning and quality assurance, including safe recruitment practice, probation/mentoring arrangements, managing poor performance and promoting continuous learning and development for staff.

2.11.8.	Actively promote continuous improvement, raising standards and evidence-informed good practice, including development of person-centred services that are focussed on the needs of the service user.
2.11.9.	Oversee the quality of practice learning experiences for social work students and effective workplace assessment arrangements, in accordance with the Scottish Social Services Council's Code of Practice for Employers of Social Service Workers.
2.11.10.	Ensure that appropriate systems are in place both to promote good practice and to identify and address weak and poor practice. The Chief Social Work Officer should work with managers to ensure these systems are effective and, where this is not the case, the Chief Social Work Officer has the responsibility for bringing this to the attention of the Chief Executive and contributing to the development or improvement of such systems.
2.11.11.	Ensure that significant case reviews are undertaken into all critical incidents either resulting in, or which may have resulted in, death or serious harm.
2.11.12.	Take final decisions on behalf of the local authority in relation to a range of social work matters, including adoption, secure accommodation, guardianship and other statutory decisions required from time to time.
2.11.13.	Contribute to reports to the Chief Executive and elected members – providing independent comment where necessary – on the findings of relevant performance reports, setting out: <ul style="list-style-type: none"> • Implications for the local authority, for services, for service users and carers, for individual teams/members of staff/partners as appropriate. • Implications for delivery of national and local outcomes. • Proposals for remedial action. • Means for sharing good practice and learning. • Monitoring and reporting arrangements for identified improvement activity.
2.11.14.	Report to the local authority on any other social work related issues.
2.11.15.	Prepare an annual report to the local authority on all of the statutory, governance and leadership functions of the role.
Access.	
To discharge these responsibilities effectively, the Chief Social Work Officer needs:	
2.11.16.	Access to people and information across the local authority, including the Chief Executive, elected members, managers and frontline practitioners, partner services and agencies.
2.11.17.	To be able to bring matters to the attention of the Chief Executive to ensure that professional standards and values are maintained.
2.11.18.	To be visible and available to any social service worker and ensure the availability of professional advice and guidance.
2.11.19.	To provide professional advice as required to senior managers across the authority in support of corporate agendas.

Leadership Responsibilities.	
The Chief Social Work Officer is responsible for providing professional leadership and should:	
2.11.20.	Support and contribute to evidence-informed decision making and practice, at professional or corporate level, by providing appropriate professional advice.
2.11.21.	Seek to enhance professional leadership and accountability throughout the organisation to support the quality of service and delivery.
2.11.22.	Support the delivery of social work's contribution to achieving local outcomes.
2.11.23.	Promote partnership working across professions and agencies to support the delivery of suitably integrated social work services.
2.11.24.	Promote social work values across corporate agendas.

The Chief Social Work Officer holds the following delegated powers:

Deprivation of Capital Assets.	
2.11.25.	To determine, with advice as appropriate from the Chief Financial Officer and/or the Solicitor to the Council, whether or not deprivation of capital assets has occurred in relation to residential care charging.

Appendix 1

List of Chief Officers

- Chief Executive.

Deleted: Chief Executive's Service.¶

Strategy, Performance and Business Solutions:

- Corporate Director.
- Head of Legal and Governance (currently also designated Solicitor to the Council and Monitoring Officer).
- Head of Human Resources and Organisational Development.
- Head of Improvement and Performance.

Deleted: <#>Head of Executive Support.¶
Head of Finance (currently also designated Chief Financial Officer).¶
Corporate Services

Deleted: <#> (interim line management reporting arrangements currently apply as indicated)

Deleted: Executive

Deleted: (post currently vacant)

Deleted: Services

Deleted: (reports to Chief Executive)

Deleted: Performance (reports to Executive Director of Education, Leisure and Housing)

Deleted: Information Technology and Facilities (reports to Executive Director of Development and Infrastructure)

Deleted: Development and

Deleted: Executive

Deleted: <#>Head of Marine Services, Engineering and Transportation.¶

Deleted: <#>Strategic Development and Regeneration

Deleted: Regulatory Services

Deleted: Roads and Environmental

Deleted: Interim Structure currently in place

Deleted: and

Deleted: (currently also designated

Deleted:)

Deleted: Infrastructure and Strategic Projects

Deleted: <#>Head of Planning, Development and Regulatory Services.¶

Deleted: Executive

Neighbourhood Services and Infrastructure:

- Corporate Director.
- Head of Property, Asset Management and Facilities.
- Head of Planning and Community Protection.
- Head of Neighbourhood Services.

Enterprise and Sustainable Development:

- Corporate Director (currently also designated Chief Financial Officer).
- Head of Finance.
- Head of Marine Services, Transportation and Harbour Master.
- Head of Enterprise and Economic Growth.

Education, Leisure and Housing:

- Corporate Director (Chief Education Officer designate).
- Head of Education.
- Head of Community Learning, Leisure and Housing.

Orkney Health and Social Care Partnership:

- Chief Officer.
- Head of Health and Community Care.
- Head of Children, Families and Justice Services (currently also designated Chief Social Work Officer).
- Head of Strategic Planning and Performance (currently employed by NHS Orkney).

Deleted: and Executive Director

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Deleted: Criminal

Deleted: (currently also designated Chief Social Work Officer)