

Item: 13

Policy and Resources Committee: 20 June 2023.

Scheme of Administration – Review.

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

1. Purpose of Report

To consider proposed amendments to the Scheme of Administration.

2. Recommendations

The Committee is invited to note:

2.1.

That, in May 2021, the Council reviewed and updated the Scheme of Administration noting that, if required, a further review of the Scheme of Administration would be undertaken to consider any necessary changes arising from the proposed management restructure.

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 Administration, as summarised in section 4 of this report.

2.3.

The proposed revised Scheme of Administration, attached as Appendix 1 to this report, which incorporates the proposals outlined in sections 4 to 6 of this report.

2.4.

That Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) required local authorities to develop a Scheme of Delegation for the determination of planning applications.

2.5.

That the proposed revised Scheme of Administration, referred to at paragraph 2.3 above, would be submitted to Scottish Ministers for approval, prior to implementation of any amendments in respect of determination of planning applications.

It is recommended:

2.6.

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

3. Background

3.1.

The Scheme of Administration is made under section 56 of the Local Government (Scotland) Act 1973. It sets out the terms of reference of the business of the Council, its Committees and Sub-committees, as well as defining the decisions they can make without further reference to the Council. The Scheme is read in conjunction with the Council's Standing Orders, Financial Regulations and Contract Standing Orders.

3.2.

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

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 Administration includes a process for review (section 10 in the introductory section), which allows the Chief Executive to alter or amend the Scheme on an ongoing basis to reflect future decisions of the Council and changes in legislation, it was considered appropriate to submit the proposals to Committee for consideration.

4. Proposed Amendments

4.1.

Various additions and deletions are marked as track changes on the revised Scheme of Administration, attached as Appendix 1 to this report. Where additional paragraphs are proposed and subsequently approved, sections will be renumbered consecutively, where required, prior to publication of the approved Scheme of Administration.

4.2.

The main changes proposed to the Scheme of Administration are summarised as follows, with further detailed explanations in the following sections where required:

- General:
 - References to job titles updated to reflect management structure adopted by Council in December 2021 and April 2022.
 - Determination of human resource requirements of individual services – to be removed from service committees to reflect decision of Council in March 2022 regarding revised delegation in respect of the staffing establishment (relevant to sections 4.1.27, 12.1.2, 13.1.5 and 14.1.3).
- New Section 3 to be inserted – Islands Growth Deal Joint Committee – to reflect Council decision to establish joint committee with Comhairle nan Eilean Siar and Shetland Islands Council. Detail taken from the Joint Committee Governance Agreement which was also approved by Council.
- Section 3.2 – Community Development Fund Sub-committee – Delegated Functions – addition to reflect recommendation by the Policy and Resources Committee when approving Framework for Third Party Funding Applications.
- Section 4 – Policy and Resources Committee:
 - Function list updated to reflect management structure adopted by Council in December 2021.
 - Climate Change and Biodiversity – new section included in remit of the Policy and Resources Committee to address recommendation arising from internal audit reported to Monitoring and Audit Committee in March 2023, specifically in relation to Climate Change. Biodiversity reference included for completeness, as triennial duty report scrutinised by the Policy and Resources Committee, although detailed matters relating to biodiversity remain a referred function of the Development and Infrastructure Committee.
- Section 7.2 – Human Resources Sub-committee – Delegated Functions – updated to reflect decision of Council in March 2022 regarding revised governance arrangements in respect of the staffing establishment.
- Section 10.3.9 – The Pension Board is a body corporate separate from the Council, therefore representatives who are not Elected Members are not subject to the Councillors’ Code of Conduct; however Elected Members are. All representatives on the Board must comply with their duties contained in the 2015 Regulations, which include provisions on conflicts of interest. Accordingly, reference made to pension scheme regulations and hyperlink updated to refer to latest version of Code of Conduct.
- Section 12 – Development and Infrastructure Committee – function list updated to reflect management structure adopted by Council in December 2021.
- Section 13 – Harbour Authority Sub-committee:
 - Remit updated to make reference to the Port Marine Safety Code, particularly in relation to the role of Duty Holder, and to reflect that Harbour Masterplan projects are now reported through Policy and Resources Committee.

- Section 13.1.16 – Annual Compliance Audit from Designated Person – in June 2022, the Council determined that this audit should also be reported to the Policy and Resources Committee. The Duty Holder role is not a statutory function of the Council which it has power to delegate. Instead, the Port Marine Safety Code requires the Council to “have” or “designate” a Duty Holder, which envisages an appointment being made of appropriately trained person/persons – the Council has determined that this role sits with the Harbour Authority Sub-committee, the members of which receive training in order to undertake that role. Accordingly, it is proposed that the Annual Compliance Audit from the Designated Person should only be reported to the Harbour Authority Sub-committee.
- Section 14 – Education, Leisure and Housing Committee:
 - Membership – updated to reflect Council decision to remove voting rights from religious representatives.
 - Orkney College – sections 14.1.5 and 15 may require to be updated/deleted depending on the outcome of a series of reports being presented to the Education, Leisure and Housing Committee on 7 June 2023, which are recommending amendments to the current governance surrounding Orkney College.
- Section 17 – Orkney Health and Care Committee – to be deleted to reflect Council decision to disestablish. Relevant functions will be incorporated within the remit of the Policy and Resources Committee.
- Section 18.3 – Licensing Committee – Hearing Process – updated to include protocol for remote attendance (for benefit of applicants, agents and objectors, who may not be familiar with the Council’s Standing Orders).
- Section 19: Orkney Islands Area Licensing Board:
 - Section 19.2 – hyperlink updated.
 - Section 19.3 – Hearing Process – updated to include protocol for remote attendance.
- Section 20 – updated to reflect disestablishment of Orkney Health and Care Committee.
- Section 21 – Planning Committee – see section 5 below for detail.
- Section 22 – Local Review Body – see section 6 below for detail.

5. Planning Committee

5.1.

Following a series of workshops for members of the Planning Committee, section 21 has been updated to reflect Council decisions, best practice and benchmarking with other authorities.

5.2.

The section on membership has been updated to reflect the decision of Council at the Statutory General Meeting held on 16 May 2022, whereby each electoral ward must be represented, with one member from each ward not on the Committee. The Council also determined that the Leader and the Chair of the Development and Infrastructure Committee should not be eligible for membership of the Planning Committee to provide a degree of separation from their roles as Chairs of Committees with potential strategic projects which may require planning permission.

5.3.

Regarding the call-in procedure, which is a governance matter and not part of the planning application determination process, it is proposed to amend the timescale for when the call-in can be invoked. A similar timescale is proposed for any objections, in order to be considered a valid representation. By providing these dates, this ensures that the planning officer can address all valid planning matters to be included in the report presented to Committee. Previously, with an objection being able to be submitted up to 10 days prior to the date of the Committee, issues arose with finalising reports which require to be issued 7 days prior to the meeting.

5.4.

The most substantial change proposed for the Planning Committee is the hearing process, detailed in section 21.3. While the process has been in operation for a number of years, various scenarios which have occurred recently have necessitated a full review.

5.5.

In the existing hearings process, the officer presents the report at the beginning of the process, including an assessment of the relevant planning policies. Thereafter the objector and the applicant present their case. In practice, this meant that the applicant could, as part of their presentation, attempt to dispute the assessment of the relevant planning policies.

5.7.

In the proposed procedure, the officer will continue to present the application, as submitted, by giving a description of the proposed development and site, together with a brief summary of the relevant Development Plan provisions and any other material considerations relevant to the application.

5.7.1.

After the objector(s) and applicant(s) have presented their case, the officer will provide the detailed appraisal of the application in relation to relevant Development Plan provisions and other material considerations, and including any valid representations and/or any salient points raised during the meeting. The officer will thereafter present the recommendation and clarify any planning conditions and/or reasons for refusal. Members of the Committee will then have an opportunity to ask any final questions for clarification.

5.7.2.

This will then conclude the hearings process and the Committee can then proceed to determine the application.

5.8.

In the section entitled “Notes for Guidance and Information”, it is proposed to delete a number of sections, including the section which details some examples of objections which are not valid in planning terms. Given that valid grounds for objections are included in the planning officer’s report, there is no requirement to provide this list which, as it states, is not exhaustive and only a guide.

5.9.

It is also proposed to remove any reference to provision of further information, be that photos or written submissions. Given that the application must be determined on the information supplied at the time of assessment, there should be no requirement to provide further statements, as these can only contain information which has already been assessed. No new information can be introduced at this stage and, if new information has been raised, all parties (namely the Committee, the applicant and the objector) must have an opportunity to review that information, prior to determination. The timescales in the existing hearings process, being 16:00 two working days prior to the date of the meeting, provides little opportunity to enable the information to be circulated to all relevant parties.

5.10.

Section 43A of the Town and Country Planning Scotland Act 1997 and the subsequent Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulation 2013 provides a power for local authorities to delegate determination of planning applications to officers, instead of being considered at Planning Committee. The purpose of this power is to ensure applications are dealt with efficiently by avoiding committee time being spent deciding routine applications which have raised no controversial issues or have attracted few objections. All planning authorities have a duty to keep their Section 43A scheme of delegation identifying the categories of planning applications that can be determined by a planning officer under review. The Section 43A scheme cannot be adopted by the Council until it has been approved by Scottish Ministers.

6. Local Review Body

6.1.

The membership detailed at section 22 has been updated to reflect the decision of Council, as membership of the Local Review Body is identical to that of the Planning Committee.

6.2.

As the Local Review Body has been operating for some time now, the opportunity has been taken to update this section. While the updates are minimum, detailed guidance for all interested parties is currently being developed and will be made available on the Council's website in due course.

7. Next Steps

Should the Committee be supportive of the amendments detailed in sections 4 to 6 above and given that some are reliant on other matters still to be determined by Council, 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 Administration.

8. 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.

9. Financial Implications

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

10. Legal Aspects

10.1.

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.

10.2.

Employees of the Council are disqualified from membership of Council committees and sub-committees by Section 59 of the Local Government (Scotland) Act 1973. However, Section 126 of the Act makes a specific exception for Teachers and allows them to sit on an Education Committee and on any Education Sub-committee.

11. Contact Officers

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12. Appendix

Appendix 1: Scheme of Administration – Revised July 2023.



Style Definition: TOC 3

Scheme of Administration

Review/Updates to Scheme of Administration.

Date.	Committee.	Review/update – amendments made.
February 2018.	Policy and Resources.	Full Review.
April 2018.	Policy and Resources.	Update – Constitutional arrangements for Orkney Health and Care Committee and Harbour Authority Sub-committee amended.
May 2021.	Policy and Resources.	Interim Review.
<u>20 June 2023.</u>	<u>Policy and Resources.</u>	<u>Update:</u> <ul style="list-style-type: none">• <u>To reflect management restructure.</u>• <u>Deletion of Orkney Health and Care Committee.</u>• <u>Revisions to Hearings Process for Planning Committee.</u>• <u>Council decisions since last review incorporated.</u>

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1. Introduction

1.1. Background

1.1.1. This Scheme is made by Orkney Islands Council under section 56 of the Local Government (Scotland) Act 1973.

1.1.2. It sets out the terms of reference of the business of the Council, its Committees and Sub-committees, as well as defining the decisions which Committees and Sub-committees can make without any further reference to Committees or the Council.

1.1.3. The Scheme should be read in conjunction with the Council's constitutional documents, including the Standing Orders for the Regulation of Proceedings and Business of Orkney Islands Council, the Financial Regulations and the Contract Standing Orders.

1.2. Committees

1.2.1. Orkney Islands Council will appoint the following Committees:

- Policy and Resources Committee.
- Development and Infrastructure Committee.
- Education, Leisure and Housing Committee.
- ~~Licensing Committee.~~
- Monitoring and Audit Committee.
- Planning Committee and Local Review Body.

Deleted: <#>Orkney Health and Care Committee.¶

1.2.2. Orkney Islands Council and its Committees shall have the membership, quorum and functions as set out in this Scheme. Committees may appoint Sub-committees and working groups to consider specific matters falling inside their remit.

1.3. Delegation to Committees and Sub-committees

1.3.1. There are limits to the powers which can be delegated by the Council. The Council can only delegate to a Committee, Sub-committee, an Officer of the Council or another local authority in Scotland.

1.3.2. Certain decisions must by law be taken by the Council itself, for example, setting the Council Tax or making this Scheme. Others it may choose to keep to itself, for example, approving the formulation of major policies.

1.3.3. There shall be delegated to the Committees and Sub-committees of the Council the powers and duties set out in this Scheme subject to the limitations and conditions stated below.

1.3.4. A Committee may further delegate to a Sub-committee or an Officer of the Council, any of the functions which have been delegated to the Committee by the Council. Sub-committees can also further delegate to Officers.

1.3.5. Decisions taken by Committees and Sub-committees exercising powers delegated to them shall be deemed to be actions and proceedings of the Council, except as otherwise provided by statute or by this Scheme.

1.4. Limitations and Conditions

1.4.1. The Council may vary, add to, recall or restrict any delegation to any Committee or Sub-committee.

1.4.2. All works authorised under delegated powers must comply with the Council's Financial Regulations and Contract Standing Orders.

1.4.3. Initial subscription payments in excess of £1,000 to external bodies must be referred to the Committee or Sub-committee. All existing subscriptions should be reviewed periodically to ascertain continuing value for money.

1.4.4. In accordance with the Council's Charging and Concessions Policy, charges for services should be reviewed as part of the annual budget setting process. Where the Council has the ability to amend these charges, an agreed budgetary uplift should be applied as a minimum. Authority to vary, cease or introduce new charges outside the budget setting process lies with the relevant Service Committee or Sub-committee for their sphere of responsibility.

1.5. Right of Reference to Committees and Council

1.5.1. Nothing shall prevent a Committee, Sub-committee or an Officer from referring any matter to the Council or any Committee for decision where that matter could otherwise be dealt with under delegated powers in terms of this Scheme or the Scheme of Delegation to Officers.

1.5.2. The Monitoring Officer has the power to refer for further consideration by the Council any item of business on which a decision has been made but which s/he may consider as being a contravention of law or any code of practice under any enactment, or maladministration leading to injustice.

1.6. Interpretation

1.6.1. In any situation of uncertainty, it is for the Chief Executive to determine which Committee is empowered to exercise authority which has been delegated (to a Committee) by the Council.

1.7. Reports to Committees and Sub-committees

1.7.1. Only those reports which require a decision to be taken by a Committee or Sub-committee of the Council, or are necessary to enable the Committee or Sub-committee to discharge its business or exercise its monitoring role, will normally be included on the agenda of any Committee or Sub-committee.

1.7.2. It is for the Chief Executive to determine whether or not an item of business should be included on an agenda.

1.7.3. Any reports which are for information only will normally be issued as briefing notes, prepared by the relevant Corporate Director and issued through Democratic Services.

Deleted: Executive

1.8. Member/Officer Working Groups

1.8.1. Member/Officer working groups may be set up for a particular purpose by the Council or a Committee to allow Members to work with relevant Officers to provide an additional opportunity for debate as well as informal discussions.

1.8.2. Member/Officer working groups are not decision-making bodies and any references arising from these groups will require to be reported to the Council or appropriate Committee or Sub-committee.

1.8.3. Any Member/Officer working group should have a time limit set to fulfil its remit and extension of time or change to remit can only be approved by the establishing Committee or Sub-committee following consideration of a report detailing reasons for the request.

1.8.4. If the Member/Officer working group is to undertake an ongoing role, consideration should be given to establishing a consultative forum, rather than a working group.

1.8.5. The provisions of Standing Orders do not apply to Member/Officer working groups or consultative forums and meetings are not open to the public.

1.9. Commencement

1.9.1. This Scheme shall take effect from ~~4 July 2023~~.

Deleted: 1 June

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1.10. Review

1.10.1. The Council may review this Scheme annually.

1.10.2. The Chief Executive shall have the power to alter or amend 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. Orkney Islands Council

Membership:

All 21 members elected in accordance with the provisions of the Local Government (Scotland) Act 1973 and the Representation of the People Acts.

Quorum:

Six members of Orkney Islands Council.

Remit:

The Council shall retain the key responsibilities for:

- The Council budget.
- The corporate management structure.
- Political decision-making processes.
- Specific statutory functions.

2.1. Retained Functions

The following functions shall not be delegated and shall be retained by the Council:

2.1.1.	The raising of money by Council Tax or any other form of legal rate.
2.1.2.	The incurring of any expenditure not provided for in the estimates of capital or revenue expenditure of the Council unless and until such expenditure is reported to and approved by the Policy and Resources Committee and by the Council.
2.1.3.	The making of an order for the compulsory acquisition of any land or interest in land.
2.1.4.	The taking of any decisions to co-operate or combine with other local authorities in the provision of services.
2.1.5.	The definition of the principal objectives of the Council and the approval of policies and programmes necessary to implement such objectives.
2.1.6.	The definition of the priorities of the Council in respect of the allocation of resources between the various functions and activities of the Council.
2.1.7.	The approval of prescribed Council policies and procedures for the implementation of the various functions of the Council.
2.1.8.	The determination of the Constitution, comprising: <ul style="list-style-type: none">• The Standing Orders relating to the Conduct of Meetings.• This Scheme setting out functions of all Committees of the Council and the reference, delegation or transfer of functions to or between Committees.• The Scheme of Delegation to Officers.• The Financial Regulations.• The Contract Standing Orders.

2.1.9.	The evaluation and review of the work of Committees.
2.1.10.	The co-ordination of the recommendations of Committee.
2.1.11.	The approval of schemes for the establishment of Community Councils.
2.1.12.	The promotion of, or opposition to, private legislation.
2.1.13.	The promotion of Byelaws, Regulations and Management Rules.
2.1.14.	The exercise of the Council's functions with respect to local taxation.
2.1.15.	Matters relating to Local Government Areas and Electoral Arrangements, including the appointment of the Returning Officer.
2.1.16.	The appointment of Convener, Leader, Depute Leader, Chairs and members of Committees.
2.1.17.	The appointment of persons other than Elected Members to Committees and Sub-committees.
2.1.18.	The appointment of members of the Council to external bodies.
2.1.19.	To admit honorary Freemen.
2.1.20.	The appointment of the Chief Executive and all matters relating to disciplinary procedures for the Chief Executive.
2.1.21.	To respond to any finding of maladministration by the Scottish Public Services Ombudsman.
2.1.22.	The consideration of any report prepared by the Council's Monitoring Officer under section 5 of the Local Government and Housing Act 1989 and to comply with the requirements of that section.
2.1.23.	The consideration of any report by the Accounts Commission received in terms of section 103D of the Local Government (Scotland) Act 1973 and, where the findings contain recommendations under section 103F(3)(b) of the Act, to determine: <ul style="list-style-type: none"> • Whether to accept any or all of those recommendations. • What, if any, action to take in response to those recommendations.
2.1.24.	To determine the following planning applications which cannot be determined by Officers or the Planning Committee: <ul style="list-style-type: none"> • Applications for developments defined as being National (listed in the National Planning Framework). • Applications for developments defined as Major (as defined in the Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009), which are significantly contrary to the Local Development Plan.
2.1.25.	To determine the Council's response, as a statutory consultee, to Scottish Government marine licence consultations, where the officer recommendation is an objection.

Committees and Sub-committees of the Council

The Council shall appoint the following Committees and Sub-committee:

- Islands Growth Deal Joint Committee.
- Community Development Fund Sub-committee.

3. Islands Growth Deal Joint Committee

Membership:

Six Members comprising two Members from each of the Constituent Authorities, namely:

- Comhairle nan Eilean Siar.
- Orkney Islands Council.
- Shetland Islands Council.

Orkney Islands Council Members comprise:

- Leader.
- Chair, Development and Infrastructure Committee.

Quorum:

Four Voting Members representing no less than at least one Voting Member from each of the three Constituent Authorities.

Remit:

The Joint Committee has been established for the purpose of regulating the joint discharge of the Functions by the Constituent Authorities.

The Functions of the Joint Committee are as follows:

- Implementation of the Growth Deal for the Islands, in particular:
 - Approval and oversight of projects and investments to be funded through the Deal
 - Approval and reporting of Business Cases in respect of those projects and investments.
 - Making recommendations to the Scottish and UK Governments regarding modified or substitute projects under the Deal as appropriate.
 - Monitoring, evaluation and reporting of progress in respect of projects being delivered.
 - Formal conclusion ("signing off") following satisfactory completion of each project delivered under the Deal.
 - Approval and oversight of an agreed Joint Committee budget allocated by the Constituent Authorities in order to further the aims of the Islands Growth Deal.
 - Acting as a strategic point of contact with the Scottish and UK Governments and providing quarterly progress reports to them in relation to the Deal.

- Approving governance arrangements and standing orders for the Joint Committee, Programme Management Board, and the Islands Deal Advisory Forum and other governance and procedural matters.
- Establishing sub-committees and working groups as appropriate and agreeing to the delegation of responsibilities of the Joint Committee to those bodies and to officers.
- Approval of the roles and remits of any sub-committees to which areas of authority may be delegated by Constituent Authorities.
- Seeking to provide a joined-up strategic response to common policy areas and growth opportunities for Orkney, Shetland and the Outer Hebrides that emerge either as a result of, or during the timeframe of, the Growth Deal.

3. Community Development Fund Sub-committee

Membership:

Eight Members comprising:

- Convener.
- Chair, Policy and Resources Committee.
- Chair, Education, Leisure and Housing Committee.
- Vice Chair, Education, Leisure and Housing Committee.
- Chair, Development and Infrastructure Committee.
- Vice Chair, Development and Infrastructure Committee.
- 2 other Members of the Council.

Quorum:

Three Members of the Sub-committee.

Remit:

The Community Development Fund Sub-committee has responsibility for all matters relating to the Community Development Fund.

Eligibility criteria for the Community Development Fund continue to be flexible, with each project being considered by the Sub-committee on its own merits. All projects assisted by the Community Development Fund must provide benefit to, or be available to, the community as a whole. Funding is not prioritised to any particular area(s) of Orkney.

The following basic principles are applied:

- The Community Development Fund should attract the maximum amount of external match funding into the county.
- There should be no ongoing cost to the Council as a result of any of the projects supported by the Community Development Fund.
- No Community Development Fund assistance should be given to projects that would normally be carried out by the Council itself.

3.1. Referred Functions

The following matters stand referred to the Community Development Fund Sub-committee:

3.1.1.	All matters relating to the establishment, review and operation of the Community Development Fund.
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3.2. Delegated Functions

The following matters are delegated to the Community Development Fund Sub-committee:

3.2.1.	The determination of applications for financial assistance from the Community Development Fund, towards capital projects.
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3.2.2. The determination of requests to the Council to submit funding applications on behalf of a third party.

Commented [HF1]: New delegation agreed P&R 22.6.21

4. Policy and Resources Committee

Membership:

All 21 members of Orkney Islands Council.

The Leader and Depute Leader shall hold the posts of Chair and Vice Chair respectively of the Policy and Resources Committee.

Quorum:

Six members of the Committee.

Remit:

The Policy and Resources Committee shall have responsibility for the directorate planning, performance management reporting and financial monitoring for the following service areas:

- Enterprise and Sustainable Regeneration:

- Finance.
- Enterprise (Strategic Projects).
- Marine Service and Transportation (Harbour Masterplan only).

- Strategy, Performance and Business Solutions:

- Committee Services.
- Communications.
- Customer Services.
- Democratic Services, including Members' services and community councils.
- Executive Support, including elections.
- Improvement Support.
- Internal Audit.
- Human Resources.
- Equalities and Performance.
- Legal Services and Licensing.
- Registration of Births, Marriages, Civil Partnerships and Deaths.
- Corporate Strategy.
- Community Planning.

- Neighbourhood Services and Infrastructure:

- Cleaning and Catering services.
- Estates.
- Safety and Contingencies.

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Moved up [3]: <#>Finance.¶

Moved down [1]: <#>Cleaning and Catering services.¶ Estates.¶

Moved down [2]: <#>Safety and Contingencies.¶

Deleted: <#>Information Technology.¶

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o Information Technology.

- Orkney Health and Social Care Partnership (OIC delegated services only).

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4.1. Referred Functions

The following matters stand referred to the Policy and Resources Committee:

Corporate Policy.	
4.1.1.	The establishment and review of the Council's corporate policies, objectives and priorities.
4.1.2.	The preparation and review of the Council's corporate strategic plan.
4.1.3.	The preparation and review of the Local Code of Corporate Governance.
4.1.4.	The establishment and review of schemes for reviewing the work of the Council, to ensure best value.
4.1.5.	The preparation and review of the Council's medium and long term financial plans.
Community Planning.	
4.1.6.	The establishment and review of schemes for the facilitation of community planning.
4.1.7.	The preparation and review of the Local Outcomes Improvement Plan, in so far as it applies to the Council.
Participation Requests.	
4.1.8.	The establishment and review of policy and guidance in respect of Participation Requests made in accordance with the Community Empowerment (Scotland) Act 2015.
Committee and Political Management Arrangements.	
4.1.9.	The establishment and review of schemes relating to committee and political management arrangements.
Finance.	
4.1.10.	The establishment and review of policies for funding the Council's expenditure and the provision of such expenditure, including arrangements for collection of revenue and granting of rebates and relief.
4.1.11.	The establishment and review of policies for alternative forms of local government finance.
4.1.12.	The establishment and review of policies for revenue support grant and other systems of grant available generally or in respect of a range of services.
4.1.13.	The establishment and review of policies relating to charges levied for miscellaneous services, including miscellaneous rents.
4.1.14.	The establishment and review of schemes for the allocation of the financial resources of the Council to the various services which the Council is required or empowered to provide, including the general level of capital and revenue expenditure and the levels of expenditure for individual services.

4.1.15.	The establishment and review of schemes for management of the financial resources of the Council, including the Council's Financial Regulations.
4.1.16.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Committee is responsible.
4.1.17.	To monitor, on a quarterly basis, the general levels of revenue expenditure, against approved budgets, across all service areas of the Council.
4.1.18.	To monitor, on a quarterly basis, the levels of capital expenditure incurred against approved budgets within the General and Non-General Fund capital programmes.
Reserve Funds and Investments.	
4.1.19.	The establishment and review of earmarked and non-earmarked reserves.
4.1.20.	The establishment and review of schemes in respect of utilisation of the Council's useable earmarked and non-earmarked reserves, including the Strategic Reserve Fund.
4.1.21.	The application of Strategic Reserve Fund monies to purchase land and property within Orkney, where the investment is as risk free as possible and it is ensured that the funds are applied to any purposes which "in the opinion of the Council, is solely in the interests of the County and its inhabitants".
4.1.22.	To consider the draft annual budget in respect of the Strategic Reserve Fund, prior to consideration through the budget setting process.
Procurement.	
4.1.23.	The establishment and review of strategies and schemes for the management of procurement requirements, including Contract Standing Orders.
Land and Property Asset Management.	
4.1.24.	All matters referred to the Asset Management Sub-committee.
HR Management and Employee Relations.	
4.1.25.	The establishment and review of policies relating to Local Government Pension Regulations.
4.1.26.	To receive the Triennial Actuarial Valuation of the Orkney Islands Council Pension Fund.
4.1.27.	The determination of the human resource requirements of services which fall within the remit of the Committee.
4.1.28.	The determination of the Council's corporate management structure.
4.1.29.	See also matters referred to the Human Resources Sub-committee.
Communications.	
4.1.30.	The establishment and review of policies and schemes for internal and external communications, including the Council's website.

Commented [HF2]: To be deleted from all service committees – P&R, 1.3.22 agreed delegation in respect of staffing establishment.

Freedom of Information and Data Protection.	
4.1.31.	The establishment and review of policies and schemes in respect of Freedom of Information and Data Protection.
Information and Communication Technology.	
4.1.32.	All matters referred to the Asset Management Sub-committee.
Digital Strategy.	
4.1.33.	The establishment and review of the Council's Digital Strategy.
Equalities.	
4.1.34.	The establishment and review of policies relating to the Council's equality duties.
Community Councils.	
4.1.35.	The establishment and review of schemes for Community Councils.
4.1.36.	The establishment and review of schemes for the provision of facilities and grants to Community Councils.
Europe.	
4.1.37.	The establishment and review of contractual arrangements with EC consultants to provide advice and to make representations on behalf of the Council on EC matters, including reference to "Brexit", as and when required.
4.1.38.	The co-ordination of the Council's involvement in EC funding initiatives and schemes, including prioritisation of applications.
4.1.39.	The co-ordination of representations to the EC on behalf of the Council.
4.1.40.	The determination of the Council's participation in transnational projects.
4.1.41.	The determination of all matters relating to the Conference of Peripheral Maritime Regions of the EC and other international organisations.
Official Hospitality and External Relations.	
4.1.42.	The establishment and review of policies and schemes for affording official hospitality to visitors to the area.
4.1.43.	The establishment and review of policies relating to twinning arrangements.
Support to Outside Bodies.	
4.1.44.	The determination of responses to requests for support from outside bodies, including the Convention of Scottish Local Authorities (COSLA), in accordance with statutory requirements and any policy directions laid down by the Council.
Political Campaigns.	
4.1.45.	The determination of responses to political campaigns in accordance with statutory requirements and any policy directions laid down by the Council.
Community Safety.	

4.1.46.	The establishment and review of policies and schemes in respect of community safety partnerships.
Change Review Framework.	
4.1.47.	The preparation and annual review of the Change Review Schedule.
4.1.48.	The determination of scoping papers and final reports on preferred options resulting from high level Change Reviews.
Risk Management.	
4.1.49.	The establishment and review of policies and schemes relating to the Council's functions in respect of risk management.
Civil Contingencies/CONTEST.	
4.1.50.	The establishment and review of policies and schemes relating to the Council's functions in respect of civil contingency arrangements.
Health and Safety.	
4.1.51.	The establishment and review of policies and schemes relating to the Council's functions in respect of health and safety management.
Registration of Births, Marriages, Civil Partnerships and Deaths.	
4.1.52.	The establishment and review of policies and schemes to exercise the Council's functions in respect of registration of births, marriages, civil partnerships and deaths.
National Audit Reports.	
4.1.53.	To consider key messages, findings and recommendations of service specific national audit reports and review how recommendations are being addressed locally.
Regulation of Investigatory Powers.	
4.1.54.	The establishment and review of policies relating to the Council's powers of covert surveillance in terms of the Regulation of Investigatory Powers legislation.
<u>Climate Change and Biodiversity.</u>	
	<u>The establishment and review of policies and strategies relating to the Council's duties and responsibilities as required by the Climate Change (Scotland) Act 2009, including Orders and/or Regulations under that Act.</u>
	<u>To scrutinise the Council's annual Climate Change Duties Report, prior to submission to the Scottish Government.</u>
	<u>To scrutinise the Council's triennial Biodiversity Duty Report, prior to submission to the Scottish Government.</u>
Miscellaneous.	
4.1.55.	The determination of all matters not specifically referred to any other Committee, or retained by the Council.

Commented [HF3]: Reference to Climate Change added to reflect recommendation from Internal Audit
Reference to Biodiversity added for completeness (main function lies with D&I Committee)

4.2. Delegated Functions

The following matters are delegated to the Policy and Resources Committee:

Community Councils.	
4.2.1.	The determination of the list of approved categories, relating to the Community Council Grant Scheme, within which the Community Council Liaison Officer can approve applications.
4.2.2.	The determination of applications for assistance from the Community Council Grant Scheme which fall outwith approved categories.
Support to Outside Bodies.	
4.2.3.	The determination of financial contributions to outside bodies which are not directly related to the provision of another service.

Sub-committees of the Policy and Resources Committee

The Policy and Resources Committee shall appoint the following Sub-committees:

- Asset Management Sub-committee.
- Community Asset Transfer Review Sub-committee.
- Human Resources Sub-committee.
- Investments Sub-committee.
- Pension Fund Sub-committee.
- Police and Fire Sub-committee.

Although not a Sub-committee of the Policy and Resources Committee, the Pension Board is included in this section for completeness. In practical terms, the Pension Board meets at the same time as the Pension Fund Sub-committee, with the same agenda, with the Chair of the Pension Fund Sub-committee chairing the concurrent meetings.

5. Asset Management Sub-committee

Membership:

Seven Members of the Policy and Resources Committee comprising:

- Chair, Policy and Resources Committee.
- Vice Chair, Policy and Resources Committee.
- 5 other Members of the Policy and Resources Committee.

Quorum:

Three Members of the Sub-committee.

Remit:

- The co-ordination, management, planning and use of the Council's land and property assets, including information and communications technology.
- The establishment and review of strategies and schemes for land and property asset management.

5.1. Referred Functions

The following matters stand referred to the Asset Management Sub-committee:

Revenue Expenditure.	
5.1.1.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Sub-committee is responsible.
5.1.2.	To monitor, on a quarterly basis, the levels of expenditure incurred against the approved annual revenue maintenance programmes for the Council's land and property assets, funded through the approved revenue budgets.
Capital Expenditure.	

5.1.3.	To monitor, on a quarterly basis, the levels of expenditure incurred against the following approved programmes, funded through the approved capital programmes: <ul style="list-style-type: none"> • Corporate asset capital improvement programme. • Information and communication technology capital replacement programme. • Plant and vehicle replacement programme.
Land and Property Asset Management.	
5.1.4.	The establishment and review of policies on the use, allocation, performance and management of the Council's land and property assets.
5.1.5.	The acquisition and disposal of land and property assets with a market value exceeding £1,000,000, established by independent valuation.
Information and Communication Technology.	
5.1.6.	The establishment and review of the Council's corporate information strategy, including matters relating to e-Government.
5.1.7.	The establishment and review of schemes for the provision of physical and logistical security of the Council's electronic data, information systems and technology, including information security.
5.1.8.	The establishment and review of schemes for the provision of information technology requirements of elected members and all services.
5.1.9.	The monitoring and evaluation of the Council's web site.

5.2. Delegated Functions

The following matters are delegated to the Asset Management Sub-committee:

Land and Property Asset Management.	
5.2.1.	The acquisition and disposal of land and property assets with a market value above £300,000 but not exceeding £1,000,000, established by independent valuation.
5.2.2.	The determination of requests to purchase sites and premises within industrial estates and business parks.
5.2.3.	The establishment and review of the annual 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.
5.2.4.	The determination of Asset Transfer Requests made in accordance with the Community Empowerment (Scotland) Act 2015.
Information and Communication Technology.	
5.2.5.	The establishment and review of the annual information and communication technology capital replacement programme, funded through the approved Capital Programme.

Plant and Vehicle Management.	
5.2.6.	The establishment and review of the annual plant and vehicle replacement programme, funded through the approved Capital Programme.
Council Garages.	
5.2.7.	The determination of requests to purchase Council garages.

6. Community Asset Transfer Review Sub-committee

Membership:

Seven members of the Policy and Resources Committee.

Members of the Asset Management Sub-committee are ineligible for membership.

Quorum:

Three members of the Sub-committee.

Remit:

To act as the review body in respect of decisions relating to Asset Transfer Requests, as defined in Section 86(10) of the Community Empowerment (Scotland) Act 2015, which states that a review must be carried out by Councillors.

6.1. Powers

The Sub-committee will exercise delegated powers, on behalf of the Council, to conduct reviews where:

- The Asset Management Sub-committee has refused an Asset Transfer Request.
- The Asset Management Sub-committee has granted an Asset Transfer Request, subject to terms and conditions which are significantly different to those requested.
- The Council has not determined the Asset Transfer Request within six months, or such longer period as has been agreed.

6.2. Hearings Process

To be completed.

(potentially amend process used at Licensing Committee).

7. Human Resources Sub-committee

Membership:

Eight Members of the Policy and Resources Committee comprising:

- Chair, Policy and Resources Committee.
- Vice Chair, Policy and Resources Committee.
- Six other Members of the Policy and Resources Committee.

Quorum:

Three members of the Sub-committee.

Remit:

The co-ordination, management and planning of the human resource requirements of the Council.

7.1. Referred Functions

The following matters stand referred to the Human Resources Sub-committee:

7.1.1.	The establishment and review of policies, procedures and strategies relating to the human resource requirements of the Council.
7.1.2.	The formulation of local agreements in respect of conditions of service.
7.1.3.	The receipt of annual reports relating to staff numbers and statistics.

7.2. Delegated Functions

The following matters are delegated to the Human Resources Sub-committee:

7.2.1.	The determination of designations and grades in relation to permanent posts of chief officer (see Note below).
	<u>The determination of appeals by chief officers in respect of designation or grading determined by the Chief Executive.</u>
7.2.2.	The determination of appeals by employees, including teaching staff, and, subject to any statutory provisions, regarding any question in respect of disciplinary action, the employee's rights under the appropriate scheme of conditions of service, the grading of a post, or rights in respect of which the officer has a right of complaint to an employment tribunal.

Note.

In the event of an appeal by a chief officer in respect of designation or grading determined by the Human Resources Sub-committee, the matter shall be determined by an appeals sub-committee, comprising those members not serving on the Human Resources Sub-committee, and convened solely for that purpose, the Chair of which will be appointed on an ad hoc basis.

Commented [HF4]: Delete – new delegation agreed by P&R, 1.3.22 (now delegated to Chief Executive)

Commented [HF5]: Delete – HR Sub can determine the appeal

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7.3. Hearings Process when sitting as Staff Appeals Sub-committee

Order of Business

Briefing

The following are present for the briefing:

- Members of the Sub-committee.
- Clerk to the Sub-committee (a Solicitor).
- Clerk's Assistant (Member of staff from Committee Services).
- Head of Human Resources and Organisational Development or nominated depute (as HR Adviser to the Sub-committee).

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1. Apologies for absence intimated by the Clerk's Assistant.
2. Declarations of Interest – Chair asks members of the Sub-committee if they have any interest to declare.
3. Disclosure of Exempt Information – Chair moves that the public be excluded from the meeting as the business to be considered involves the disclosure of exempt information (staffing related) and seeks a seconder.
4. Briefing from Clerk – the Clerk will give a short briefing to the Sub-committee, outlining the nature of the appeal, the procedure to be followed and the range of outcomes which the Sub-committee is entitled to reach.

Appeal Hearing

A short break while the Council's Representative and the Appellant and/or his/her representative are invited into the meeting.

Witnesses should only be in attendance to give their evidence. They should not hear the presentations of cases, any evidence from any other witnesses or the summing up.

5. Short introductions from Chair of Sub-committee.
6. Presentation of the Council's Case (including evidence from witnesses, if called).
7. Questions from the Appellant's Representative to the Council's representative.
8. Presentation of Appellant's Case (including evidence from witnesses, if called).
9. Questions from the Council's Representative to the Appellant's Representative.
10. Questions from Members of the Sub-committee to both parties (the Council's representative and the Appellant's representative).
11. Summing up by the Council's Representative (introducing no new material).
12. Summing up by the Appellant's Representative (introducing no new material).

13. Both parties (Council's Representative and the Appellant and/or his/her representative) withdraw from meeting.

14. The Sub-committee deliberates in private with only the Clerk, the Clerk's Assistant and the HR Adviser (either the Head of Human Resources and Organisational Development or nominated depute) in attendance.

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15. The Council's Representative and the Appellant and/or his/her representative are then invited back into the meeting.

16. The Sub-committee's decision is thereafter announced in the presence of both parties and in one of the following prescribed formats:

16.1. "That the grounds of the appeal have been substantiated and the appeal be upheld".

16.2. "That the grounds of the appeal have been substantiated in part and that the appeal be upheld to the extent that ...".

16.3. "That the grounds of the appeal have not been substantiated and the appeal be not upheld".

8. Investments Sub-committee

Membership:

Seven Members of the Policy and Resources Committee comprising:

- Chair, Policy and Resources Committee.
- Vice Chair, Policy and Resources Committee.
- Five other Members of the Policy and Resources Committee.

Quorum:

Three members of the Sub-committee.

Remit:

The Investments Sub-committee has responsibility for matters relating to management of the investment of the Council's reserve funds, including monitoring fund managers, approval of the overall parameters within which the investment fund managers will be authorised to operate and monitoring investment performance.

Appointment of fund managers, although delegated to the Chief Financial Officer, is undertaken in consultation with the Investments Sub-committee, following an interview process and advice from the Council's appointed investment adviser.

The Investments Sub-committee also has responsibility for considering the application of reserve fund monies to local investments, including making loans.

8.1. Referred Functions

The following matters stand referred to the Investments Sub-committee:

Revenue Expenditure.	
8.1.1.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Sub-committee is responsible.
Strategic Reserve Fund.	
8.1.2.	To consider and agree an investment strategy and management structure for the Strategic Reserve Fund and: <ul style="list-style-type: none">• To develop a responsible investment strategy.• To establish performance benchmarks and targets.• To monitor performance.
8.1.3.	To monitor the performance of the Council's portfolio of local investments held within the Strategic Reserve Fund, including investment properties, loans, investments in local companies and fishing quota.
8.1.4.	The application of Strategic Reserve Fund monies, including the making of loans but excluding the purchase of land and property within Orkney, where:

	<ul style="list-style-type: none"> • The return on any such disbursement is equivalent to, or greater than, the amount of interest which could reasonably be expected to be obtained if the money is left with the investment managers. • The investment is as risk free as possible. • It is ensured that the funds are applied to any purposes which “in the opinion of the Council, is solely in the interests of the County and its inhabitants”.
Other Investments.	
8.1.5.	The determination of applications to the Renewable Energy Investment Fund, having regard to appropriate internal and external professional advice and the balance of risks and rewards involved.

8.2. Delegated Functions

The following matters are delegated to the Investments Sub-committee:

8.2.1.	All Referred Matters.
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9. Pension Fund Sub-committee

Membership:

Same membership as the Investments Sub-committee namely:

- Chair, Policy and Resources Committee.
- Vice Chair, Policy and Resources Committee.
- Five other Members of the Policy and Resources Committee.

Quorum:

Three members of the Sub-committee.

Remit:

The Pension Fund Sub-committee has responsibility to discharge all functions and responsibilities relating to the Council's role as administering authority for the Orkney Islands Council Pension Fund (the Pension Fund) in terms of the Local Government (Scotland) Act 1994, the Superannuation Act 1972 and the Public Service Pensions Act 2013.

9.1. Referred Functions

The following matters stand referred to the Pension Fund Sub-committee:

Revenue Expenditure.	
9.1.1.	To consider the draft annual budget in respect of the Pension Fund, prior to consideration through the budget setting process.
9.1.2.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Sub-committee is responsible.
Pension Fund.	
9.1.3.	To oversee administration of the Local Government Pension Scheme in accordance with the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008.
9.1.4.	To manage the investments of the Pension Fund in accordance with the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010.
9.1.5.	The preparation, publication and review of: <ul style="list-style-type: none">• Funding Strategy Statement.• Statement of Investment Principles.• Governance Compliance Statement.• Pension Administration Strategy.
9.1.6.	To receive, for information, the actuarial valuation of the assets and liabilities of the Pension Fund.

9.1.7.	To consider and agree an investment strategy and management structure for the Pension Fund and: <ul style="list-style-type: none"> • To develop a responsible investment strategy. • To establish performance benchmarks and targets. • To monitor performance.
9.1.8.	To make suitable arrangements for the safekeeping and servicing of the Pension Fund's investment assets.
9.1.9.	To be responsible for governance arrangements including regulatory compliance and implementation of internal and external audit recommendations in respect of the Pension Fund.
9.1.10.	To contribute to development of the Local Government Pension Scheme and pension policies, and to ensure that regulatory and other changes are implemented timeously.
Annual Reports and Accounts.	
9.1.11.	To consider the unaudited Annual Accounts of the Orkney Islands Council Pension Fund, as submitted to the auditor, no later than 31 August immediately following the financial year to which the Annual Accounts relate.
9.1.12.	To consider the audited Annual Accounts of the Orkney Islands Council Pension Fund and thereafter approve for signature, as described in The Local Authority Accounts (Scotland) Regulations 2014, no later than 30 September immediately following the financial year to which the accounts relate.
9.1.13.	To prepare and publish a Pension Fund Annual Financial Report, incorporating the Annual Accounts.
9.1.14.	To review the Annual Audit Report on the Orkney Islands Council Pension Fund to elected members, including the audit certificate, from External Audit.
9.1.15.	To review implementation of recommendations arising from current and previous Annual Audit Reports on the Orkney Islands Council Pension Fund.

9.2. Delegated Functions

The following matters are delegated to the Pension Fund Sub-committee:

9.2.1.	All referred matters.
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10. Pension Board

Membership:

- Employer Representatives:
 - Orkney Islands Council – 3 Elected Members who are not members of the Pension Fund Sub-committee or the Monitoring and Audit Committee.
 - Scheduled/Admitted Bodies – 1 representative.
- Trade Union Representatives:
 - GMB – 1 representative.
 - UNISON – 2 representatives.
 - Unite – 1 representative.

Quorum:

Three members of the Board.

10.1. Terms of Reference

Introduction.	
10.1.1.	Each Local Government Pension Scheme Manager in Scotland is required to establish a Board separate from the Committee that acts as the Scheme Manager.
10.1.2.	The Orkney Islands Council Pension Fund Pension Board is established under the provisions of the Local Government Pension Scheme (Governance) (Scotland) Regulations 2015.
Objectives.	
10.2.1.	The Pension Board is the body responsible for assisting the Scheme Manager in relation to compliance with scheme regulations and the requirements of the Pensions Regulator.
10.2.2.	<p>The Pension Board will determine the areas they wish to consider including, amongst others:</p> <ul style="list-style-type: none"> • Reports produced for the Pension Fund Sub-committee. • Seeking reports from the Scheme Manager on any aspect of the Pension Fund. • Monitoring investments and the investment principles/strategy/guidance. • The Pension Fund annual report. • External voting and engagement provisions. • Pension Fund administrative performance. • Actuarial reports and valuations. • Pension Fund funding policy. • Any other matters that the Pension Board deems appropriate.

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Membership.	
10.3.1.	Membership of the Pension Board will consist of equal numbers of trade union representatives and employer representatives, drawn from Orkney Islands Council and scheduled or admitted bodies in membership of the Pension Fund. Pension Board representatives must not also participate in, or act as members of, the Pension Fund Sub-committee or the Monitoring and Audit Committee. Local Authority employer representatives will normally be Elected Members of the Council.
10.3.2.	The Scheme Manager will appoint a senior officer as Joint Secretary. The trade unions will appoint their own Joint Secretary. The Joint Secretary's role is to liaise with Pension Board members and other colleagues to support the smooth operation of Pension Board meetings and to assist in the resolution of any issues arising within normal Pension Board meetings or processes.
10.3.3.	The term of appointment to the Pension Board will be concurrent with the Council election cycle. Pension Board members may be reappointed to serve further terms.
10.3.4.	There will be four trade union representatives appointed by the trade unions as follows: <ul style="list-style-type: none"> • GMB – 1 representative. • UNISON – 2 representatives. • Unite – 1 representative.
10.3.5.	Each of the trade unions will arrange their own selection process after consultation with the Scheme Manager. The Scheme Manager will confirm the appointment once satisfied that the person to be appointed does not have a conflict of interest.
10.3.6.	There will be four employer representatives appointed by the respective employer organisations as follows: <ul style="list-style-type: none"> • Orkney Islands Council – 3 representatives. • Scheduled/Admitted Bodies – 1 representative.
10.3.7.	The Orkney Islands Council representatives will be Councillors nominated by the Council's Policy and Resources Committee. On ceasing to be a Councillor, the Council representatives will also cease to be members of the Pension Board.
10.3.8.	The Scheduled and Admitted Bodies will be invited to nominate representatives who will be chosen by the drawing of lots at a meeting of the Pension Board.
10.3.9.	Timescales for organisations to notify the Pension Board of their representatives shall be determined locally. Employer bodies and organisations retain the right to withdraw representatives and identify replacements on occasion. Pension Board representatives are required to comply with their obligations contained in the Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 as may be amended from time to time. In addition, Elected Members of Orkney Islands Council

	who sit on the Pension Board are required to adhere to the Councillors' Code of Conduct .
10.3.10.	Appointing bodies can appoint a named substitute for their representative. Such substitutes must undertake the same training as set out in section 10.6 below.
10.3.11.	Advisors may attend meetings of the Pension Board in a non-voting capacity.
10.3.12.	No person may be appointed to the Pension Board who has a significant conflict of interest. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Pension Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme for which the Pension Board is established. The Pension Board will adopt policies and protocols for handling any conflicts that are unanticipated and might arise during membership.
Meetings.	
10.4.1.	The Chair of the Pension Board will be rotated on an annual basis between the trade union and employer sides of the Pension Board.
10.4.2.	Pension Board meetings will be administered by Orkney Islands Council as agreed with Joint Secretaries appointed by the trade union and the employers' sides of the Pension Board. All reasonable administration costs shall be met by the Pension Fund.
10.4.3.	The Pension Board will meet at least quarterly. A majority of either side may requisition a special meeting of the Pension Board in exceptional circumstances.
10.4.4.	The Pension Board may establish sub-committees.
10.4.5.	While the statutory roles and function of the Pension Fund Sub-committee and the Pension Board are separate, the normal practice will be that both bodies will meet at the same time to consider the same agenda, with the Chair of the Pension Fund Sub-committee chairing the concurrent meeting. The Council's Standing Orders will apply at concurrent meetings. The aim is to engender a positive and proactive partnership culture where in practice the two bodies act as one.
10.4.6.	Ordinarily all items, including exempt items, will be open to the Pension Board. Exceptionally, the Pension Fund Sub-committee may reserve the right to consider items in the Pension Board's absence.
Dispute resolution.	
10.5.1.	If the Pension Fund Sub-committee and the Pension Board cannot reach joint agreement on any matter, the process for resolving any differences between the two bodies will be as set out in section 10.5.2 below. Whilst this process is undertaken the decision of the Pension Fund Sub-committee is still competent.
10.5.2.	In the first instance, if at least half of the members of the Pension Board agree, then the Pension Board can refer back a decision of the Pension Fund

Deleted: Councillors' Code Model Code of Conduct

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Deleted: (details can be found at the following link: <https://beta.gov.scot/policies/local-government/accountability-standards-councils/>)

	<p>Sub-committee for further consideration if any of the following grounds are met:</p> <ul style="list-style-type: none"> • There is evidence or information which it is considered needs re-evaluating or new evidence or data which the Pension Fund Sub-committee did not access or was not aware of at the point of decision making and which is considered material to the decision taken. • The decision of the Pension Fund Sub-committee could be considered illegal or contrary to regulations. • The decision of the Pension Fund Sub-committee is contrary to a relevant Code of Practice published by the Pensions Regulator. • The decision is not in the interest of the continued financial viability of the Scheme or is against the principles of proper and responsible administration of the Scheme.
10.5.3.	If there is no agreement after the matter has been referred back to the Pension Fund Sub-committee, then the difference in view between the Pension Board and the Pension Fund Sub-committee will be published in the form of a joint secretarial report on the Pension Fund website and included in the Pension Fund annual report.
10.5.4.	The Scottish LGPS Advisory Board may also consider and take a view on the matter and, if considered appropriate, provide advice to the Scheme Manager or the Pension Board in relation to the matter.
Training.	
10.6.1.	All members (and named substitutes) of the Pension Board must undertake a training programme in accordance with any guidance issued by the Pensions Regulator and complying with best practice training requirements of the Pension Fund Sub-committee.
10.6.2.	The Pension Board shall agree policies and arrangements for the acquisition and retention of knowledge and understanding for Pension Board members.
10.6.3.	The Scheme Manager will keep an updated list of the documents with which they consider Pension Board members need to be conversant to effectively carry out their role and make sure that both the list and the documents are accessible.
Access to Information.	
10.7.1.	<p>The Scheme Manager and the Pension Board will together ensure that information is published about the activities of the Pension Board including:</p> <ul style="list-style-type: none"> • The full terms of reference for the Pension Board, including details of how it will operate. • The Pension Board appointment process. • Who each individual Pension Board member represents. • Any specific roles and responsibilities of individual Pension Board members.

10.7.2.

The minutes of the Pension Board will be published on the Pension Fund website. The Pension Board may undertake such communications and stakeholder engagement as it deems appropriate to perform its functions.

11. Police and Fire Sub-committee

Membership:

Seven members of Orkney Islands Council comprising:

- One Member from each of the six electoral wards.
- One other Member of the Council.

Quorum:

Three Members of the Sub-committee.

Remit:

All matters concerning the scrutiny of and engagement with the Police service and the Fire and Rescue Services in terms of the Police and Fire Reform (Scotland) Act 2012 and the Fire (Scotland) Act 2005 respectively.

11.1. Referred Functions

The following matters stand referred to the Police and Fire Sub-committee:

11.1.1.	To scrutinise and review the outcomes, priorities and objectives set out in the Local Police Plan and the Local Fire and Rescue Plan.
11.1.2.	To consider and monitor progress and performance on implementation of the Local Police Plan and the Local Fire and Rescue Plan.
11.1.3.	To work with the Area Commander, Police Scotland, and the Local Senior Officer for the Fire and Rescue Service to set priorities and objectives for Local Police Plans and Local Fire and Rescue Plans to ensure alignment with the Local Outcomes Improvement Plan.
11.1.4.	To monitor delivery of the Police and Fire and Rescue Services in Orkney, providing feedback and making recommendations for improvements as required.
11.1.5.	To call for reports from the Area Commander, Police Scotland, and the Local Senior Officer for the Fire and Rescue Service on issues relevant to delivery of the Police and Fire and Rescue Services in Orkney as appropriate.
11.1.6.	To respond to consultations relative to national strategic plans and priorities for the Police and Fire and Rescue Services.
11.1.7.	To make representations to national authorities, as required, in relation to wider scrutiny issues and concerns relating to the Police and Fire and Rescue Services.
11.1.8.	To engage with the Scottish Police Authority and the Scottish Fire and Rescue Service Board so that they are aware of the community safety context and issues for Orkney when determining national policies.
11.1.9.	To ensure compliance with any requirements on Orkney Islands Council arising from governance reviews of the national bodies.

12. Development and Infrastructure Committee

Membership:

Twelve Members of the Council comprising:

- Convener (ex officio).
- Leader (ex officio).
- Depute Leader.
- 9 other Members of Orkney Islands Council.

Quorum:

Four members of the Committee.

Remit:

The Development and Infrastructure Committee shall have responsibility for the directorate planning, performance management reporting and financial monitoring for the following service areas:

- Marine Services and Transportation (not including Harbours Masterplan).
- Neighbourhood Services.
- Enterprise and Economic Growth (not including Strategic Projects).
- Planning and Community Protection.

Deleted: , Engineering

Deleted: Roads and Environmental

Deleted: Strategic Development and Regeneration

Deleted: Regulatory Services

12.1. Referred Functions

The following matters stand referred to the Development and Infrastructure Committee:

Revenue Expenditure.	
12.1.1.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Committee is responsible.
Service Staffing Requirements.	
12.1.2.	The determination of the human resource requirements which fall within the remit of the Committee.
Economic Development.	
12.1.3.	The establishment and review of policies, projects and schemes for the exercise of the Council's functions in respect of economic development, including promotion, diversification, individual business enterprises, formulation of economic partnerships, sourcing of external funds and skills and inward investment.
12.1.4.	The form of co-operation and level of support awarded to organisations promoting tourism and other sectors in Orkney.
12.1.5.	The determination of applications for assistance, for grant and/or loan exceeding £500,000, which relate to the promotion of economic development

Commented [HF6]: To be deleted – P&R, 1.3.22 agreed new delegation regarding staffing establishment

	and are not eligible for consideration in terms of approved schemes of assistance.
Business and Industry.	
12.1.6.	The provision of industrial and commercial land and property estate, including development of new industrial sites and premises.
12.1.7.	The establishment and review of policies and schemes for management of the Council's industrial land and commercial property estate.
Business Improvement Districts.	
12.1.8.	The making of arrangements with regard to business improvement districts.
Energy.	
12.1.9.	The establishment and review of policies and schemes relating to the promotion and development of energy related matters, including low carbon technology.
12.1.10.	The establishment and review of policies in respect of the use, source, conservation and generation of energy and energy efficiency in Orkney.
Public Transport.	
12.1.11.	The establishment and review of policies and schemes to exercise the Council's functions in respect of public transport services.
12.1.12.	The form of co-operation with national, regional and local statutory bodies and voluntary organisations engaged in activities connected with the provision of public transport services and facilities.
Public Bus Services.	
12.1.13.	The establishment and review of policies and schemes to provide public bus services, including services within the scope of Public Service Obligations.
12.1.14.	The establishment and review of policies and schemes on the form of co-operation with, and support to, public transport operators.
Airfields and Air Services.	
12.1.15.	The establishment and review of policies and schemes in respect of airfields owned and operated by, or on behalf of, the Council.
12.1.16.	The construction of, substantial improvements to and maintenance of Council-owned airfields.
12.1.17.	The establishment and review of policies and schemes to provide internal air services, including services operated within the scope of Public Service Obligations.
12.1.18.	To consider Civil Aviation Authority audit findings and recommendations and to review actions taken on recommendations made.
Harbours and Towage.	
12.1.19.	All matters referred to the Harbour Authority Sub-committee.

Internal Ferry Services.	
12.1.20.	The establishment and review of policies and schemes to provide internal ferry services, including services operated within the scope of Public Service Obligations.
12.1.21.	The provision of transport subsidies to internal ferry operators.
12.1.22.	The determination of inter-isles ferry service levels.
External Ferry Services.	
12.1.23.	The form of co-operation and policy for engagement with national, regional and local statutory bodies and voluntary organisations engaged in activities connected with the provision of external ferry services.
Roads.	
12.1.24.	The establishment and review of policies and schemes to exercise the Council's functions as roads authority, including all matters pertaining to roads and roads infrastructure.
12.1.25.	The construction of, or major improvement to, the Council's roads and/or roads infrastructure, including bridges, tunnels, roundabouts, passing places, lay-bys, footways, footpaths, foot bridges, street refuges, fences, walls, rails, retaining walls, embankments, pedestrian crossings and protective works to safeguard roads against hazards of nature, including floods, erosion and landslides.
12.1.26.	The making of arrangements to secure improvement and maintenance of private roads, including payment of contributions towards the cost of improvement and/or maintenance of such roads.
12.1.27.	The establishment and review of the winter service policy and the annual winter service plan.
12.1.28.	To monitor, on a quarterly basis, the levels of expenditure incurred against the approved annual road asset replacement programme, funded through the approved capital programme and revenue budgets.
Parking Provision.	
12.1.29.	The establishment and review of policies and schemes in respect of the provision of on-street and off-street parking facilities, including electric vehicle infrastructure.
12.1.30.	The provision of, or substantial improvement to, off-street parking facilities.
12.1.31.	The establishment and review of policies and schemes for parking permits.
Flood Protection.	
12.1.32.	The establishment and review of policies and schemes for the prevention of flooding of non-agricultural land.
Traffic Management and Road Safety.	

12.1.33.	The establishment and review of policies and schemes in respect of traffic management and road safety, including public education and accident investigation and prevention.
Street Lighting.	
12.1.34.	The establishment and review of policies and schemes for the provision of street lighting on public roads and other locations.
Collection, Disposal and Control of Waste and Litter.	
12.1.35.	The establishment and review of policies and schemes for the collection, disposal and control of waste and litter, including street cleaning services.
12.1.36.	The requirement for landfill sites.
Environment.	
12.1.37.	The establishment and review of policies and schemes for the control of pollution.
12.1.38.	The establishment and review of policies and schemes for the improvement of the environment, including recycling schemes.
12.1.39.	The promotion of environmental awareness.
12.1.40.	The establishment and review of policies and schemes relating to the environment, including the rehabilitation of contaminated land, open space and biodiversity issues.
Coastal Protection.	
12.1.41.	The establishment and review of policies and schemes for coastal protection.
Burial Grounds.	
12.1.42.	The requirement for the provision of burial grounds.
12.1.43.	The establishment and review of policies and schemes relating to the maintenance and management of burial grounds.
Public Conveniences.	
12.1.44.	The requirement for the provision and maintenance of public conveniences.
Mineral Extraction.	
12.1.45.	The requirement for the provision of sites for the extraction of minerals to support Council services.
Development Planning.	
12.1.46.	The preparation, monitoring and review of policies and schemes to exercise the Council's functions as planning authority, including conservation areas, listed buildings, ancient monuments, archaeological sites, tree preservation orders and designated nature conservation and landscape interests.
12.1.47.	The preparation and annual update thereafter of a Development Plan Scheme, setting out the programme for preparing and reviewing Local Development Plans.

12.1.48.	The preparation, monitoring and review of statutory Local Development Plans, including supplementary guidance and related non-statutory planning policy and guidance.
	Note. In relation to preparation, monitoring and review of the Local Development Plan, in order to emphasise the corporate nature of the document, although the Development and Infrastructure Committee will lead on this process, Members not on the Committee will be invited to participate in the process. This may require scheduling special meetings of the Development and Infrastructure Committee and the Council, particularly when the Local Development Plan is being submitted for adoption.
Marine Planning.	
12.1.49.	The discharge of marine planning functions delegated to the Council from Scottish Ministers, including the preparation, monitoring and review of the Orkney Islands Regional Marine Plan.
Planning Enforcement.	
12.1.50.	The preparation, monitoring and review of the Planning Enforcement Charter.
Access to the Countryside.	
12.1.51.	The establishment and review of policies and schemes relating to the Council's functions, in terms of legislation, relating to public rights of way and to public access generally, including creation of path agreements and the exemption of land from access rights.
12.1.52.	The establishment and review of policies and schemes for providing a system of core paths for the purpose of giving the public reasonable access throughout the area.
12.1.53.	The establishment of, and review of the operation of, the Local Access Forum.
Historic Buildings.	
12.1.54.	The enhancement of conservation areas, including assisting with safeguarding the future use of historic buildings, by securing external funding sources.
Environmental Health.	
12.1.55.	The establishment and review of policies and schemes to exercise the Council's environmental health functions, including food safety, pollution control, public health, non-Council workplace health and safety and private water supplies.
Antisocial Behaviour.	
12.1.56.	The establishment and review of policies and schemes in relation to antisocial behaviour, including noise nuisance, litter, graffiti and dog fouling.
Port and Public Health.	

12.1.57.	The establishment and review of policies and schemes in relation to port and public health.
Trading Standards.	
12.1.58.	The establishment and review of policies and schemes to exercise the Council's trading standards functions, including animal health and welfare, animal feed, consumer and business advice, consumer safety, fair trading, petroleum and explosives and weights and measures.
Building Standards.	
12.1.59.	The making of arrangements for the granting of building warrants.
National Audit Reports.	
12.1.60.	To consider key messages, findings and recommendations of service specific national audit reports and review how recommendations are being addressed locally.

12.2. Delegated Functions

The following matters are delegated to the Development and Infrastructure Committee:

Economic Development.	
12.2.1.	The determination of applications for assistance, for grant and/or loan up to £500,000, which relate to the promotion of economic development and are not eligible for consideration in terms of approved schemes of assistance, including short-term projects initiated by the Council.
Public Bus Services.	
12.2.2.	The determination of timetables in respect of public bus services.
Airfields and Air Services.	
12.2.3.	The determination of timetables in respect of inter-isles air services.
Internal Ferry Services.	
12.2.4.	The determination of timetables in respect of inter-isles ferry services.
Roads.	
12.2.5.	The establishment and review of the annual road asset replacement programme, funded through the approved Capital Programme and revenue budgets.
Traffic Management and Road Safety.	
12.2.6.	To amend existing or make new traffic orders, whether permanent or experimental, where any objection has been raised through statutory consultation procedures.
Environmental Health.	
12.2.7.	The closure and/or demolition of housing below the tolerable standard, if the dwelling is occupied.

Sub-committees of the Development and Infrastructure Committee

The Development and Infrastructure Committee shall appoint the following Sub-committee:

- Harbour Authority Sub-committee.

13. Harbour Authority Sub-committee

Membership:

Seven members of Orkney Islands Council comprising:

- Chair, Development and Infrastructure Committee (ex officio).
- Vice Chair, Development and Infrastructure Committee (ex officio).
- Three other Members of the Development and Infrastructure Committee.
- Two other Members of the Council.

Quorum:

Three members of the Sub-committee.

Remit:

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 a competent harbour authority should “formally identify and designate the duty holder, whose members are individually and collectively accountable for compliance with the Code, and their performance in ensuring safe marine operations in the harbour and its approaches”.

To exercise the function of Duty Holder, with responsibility for the safety, effectiveness and affordability of all existing harbour activities and for compliance with all appropriate codes and legislation.

Projects included within and associated with the Orkney Harbours Masterplan fall within the remit of the Strategic Projects Project Board and are reported through the Policy and Resources Committee.

The Strategic Projects Project Board was established in October 2018 to provide oversight for the Scale Wind project and other strategic projects, where relevant. In May 2022, Council agreed that the “other strategic projects” should include projects included within and related to the Orkney Harbours Masterplan, given that they have a wider significance for Orkney and not just the Harbour Authority.

13.1. Referred Functions

The following matters stand referred to the Harbour Authority Sub-committee:

Revenue Expenditure.

13.1.1.	To consider the draft annual budgets in respect of the Scapa Flow Oil Port and the Miscellaneous Piers and Harbours accounts, prior to consideration through the budget setting process.
13.1.2.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Sub-committee is responsible.
13.1.3.	To monitor, on a quarterly basis, the levels of expenditure incurred against the approved annual revenue maintenance programmes for assets held on the Scapa Flow Oil Port and the Miscellaneous Piers and Harbours accounts, funded through the approved revenue budgets.
Capital Expenditure.	
13.1.4.	To monitor, on a quarterly basis, the levels of expenditure incurred against the approved annual capital improvement programmes for assets held on the Scapa Flow Oil Port and the Miscellaneous Piers and Harbours accounts, funded through the approved capital programme.
Service Staffing Requirements.	
13.1.5.	The determination of the human resource requirements of services which fall within the remit of the Sub-committee.
Harbour Authority Responsibilities.	
13.1.6.	The establishment and review of policies and schemes to exercise the Council's functions as harbour authority, including pilotage and towage functions.
13.1.7.	The establishment and review of policies and schemes to provide all navigation aids which come under the jurisdiction of the Council as local lighthouse authority.
13.1.8.	The establishment and review of policies and schemes to ensure safe navigation within harbour areas.
13.1.9.	The establishment and review of policies and schemes to control commercial operations within the Council's harbour areas, including ship-to-ship transfers of any cargo.
13.1.10.	The establishment and review of policies and schemes in relation to pollution contingency planning within the Orkney harbour areas.
13.1.11	The establishment and review of policies and schemes for the provision of berthing facilities.
13.1.12.	The provision of, or substantial improvements to, Council-owned harbour infrastructure, including piers, boat slips and jetties, vessels, navigation equipment and surveillance/communications equipment.
13.1.13	The establishment and review of charges for services and facilities in relation to the provision of harbour operations.
13.1.14.	The establishment and review of Bye Laws, General Directions, Enforcement Policies and Pilotage Directions.

Commented [HF7]: To be deleted – P&R, 1.3.22 agreed new delegation regarding staffing establishment

13.1.15.	To consider audit findings and recommendations from the undernoted bodies and to review actions taken on recommendations made: <ul style="list-style-type: none"> • Designated Person. • Maritime and Coastguard Agency. • Northern Lighthouse Board. • Department for Transport. • Accounts Commission. • External Audit. • Internal Audit.
13.1.16.	To receive reports on assurance from the Designated Person in relation to compliance with the Port Marine Safety Code, including an annual compliance audit report.
13.1.17.	To receive an annual performance report in respect of harbour authority activities, including pilotage and towage.
13.1.18.	To receive an annual Competent Harbour Authority report on pilotage matters, including Minutes of Meetings of the Pilotage Examining Body and Incident Investigation Reports.
13.1.19.	To consider business development opportunities, through the Port Master Plan, and ensuring those opportunities are consistent with the Council's broader economic development context, relevant policies and strategies and the Council Plan.

Commented [HF8]: June 2022 – Council determined this should also be reported to P&R Committee – see covering report

13.2. Delegated Functions

The following matters are delegated to the Harbour Authority Sub-committee:

13.2.1.	The establishment and review of the annual capital improvement and revenue maintenance programmes for assets held on the Scapa Flow Oil Port and the Miscellaneous Piers and Harbours accounts, funded through the approved Capital Programme and revenue budgets.
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14. Education, Leisure and Housing Committee

Membership:

Seventeen Members comprising:

- Convener (ex officio).
- Leader (ex officio).
- Depute Leader.
- 9 other Members of Orkney Islands Council.
- Three Religious Representatives (no voting rights).
- Two Teacher Representatives (no voting rights).

Commented [HF9]: Gen Mtg, 3.5.23 removed voting rights

Deleted: with

Quorum:

Four members of the Committee, being one quarter of the voting membership of the Committee.

Deleted: ive

Remit:

The Education, Leisure and Housing Committee shall have responsibility for the directorate planning, performance management reporting and financial monitoring for the following service areas:

- Early Learning and Childcare.
- Primary Education.
- Secondary and Tertiary Education, including Orkney College.
- Support for Learning and Inclusion.
- Housing, Homelessness and Schoolcare Accommodation Services.
- Education Resources.
- Community Learning and Development.
- Leisure and Culture.

14.1. Referred Functions

The following matters stand referred to the Education, Leisure and Housing Committee:

Revenue Expenditure.	
14.1.1.	To consider the draft annual budget in respect of the Housing Revenue Account, prior to consideration through the budget setting process
14.1.2.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Committee is responsible.
Service Staffing Requirements.	
14.1.3.	The determination of the human resource requirements of services which fall within the remit of the Committee.
Education Services.	

Commented [HF10]: To be deleted – P&R, 1.3.22 agreed new delegation regarding staffing establishment

14.1.4.	The establishment and review of policies and schemes for the exercise of the Council's functions as education authority, including the efficient provision of education, early learning and childcare and the provision of education services for the assessment and guidance of children with additional support needs.
14.1.5.	The establishment and review of policies and schemes of delegation to Head Teachers in relation to the preparation of school management plans and other management functions.
14.1.6.	The making of arrangements for religious observance in schools.
Educational Resources.	
14.1.7.	The requirement for the construction of, or major improvement to, schools or other property required for education services, including schoolcare accommodation.
Parent Councils.	
14.1.8.	The establishment and review of schemes for the establishment and operation of parent councils.
School Staffing.	
14.1.9.	The establishment and review of schemes for the provision of staff in schools, including teaching staff.
14.1.10.	The making of arrangements for joint consultation with the Council's teaching staff through the Local Negotiating Committee for Teachers.
Schools Meals.	
14.1.11.	The establishment and review of policies and schemes in relation to the provision of school meals.
School Transport.	
14.1.12.	The establishment and review of policies and schemes in relation to the provision of school transport.
Financial Assistance.	
14.1.13.	The establishment and review of policies and schemes of assistance for educational purposes.
14.1.14.	The establishment and review of policies and schemes of financial assistance to pupils and students to enable them to take advantage of higher and further education.
Orkney College.	
14.1.15.	All matters referred to the College Management Council Sub-committee.
Leisure and Lifelong Learning.	
14.1.16.	The establishment and review of policies and schemes for the exercise of the Council's functions in respect of leisure and lifelong learning services.
14.1.17.	The requirement for the construction of, or major improvements to, public libraries, museums, galleries, theatres, halls, arts and cultural centres, sports

Commented [HF11]: To be amended should recommendation to disestablish CMC be approved (ELH, 7.6.23)

	halls, gymnasiums, playing fields, tracks, courts, swimming pools, outdoor centres, campsites, caravan sites, parks, healthy living centres and other facilities for recreational, sporting, social and cultural services.
14.1.18.	The form of co-operation with national and local statutory bodies and voluntary organisations on the provision of leisure and lifelong learning facilities.
14.1.19.	The establishment and review of policies and schemes of assistance to voluntary organisations and other persons engaged in activities connected with the provision of leisure and lifelong learning services.
14.1.20.	The establishment and review of policies and schemes of assistance for leisure and lifelong learning purposes.
Leisure and Cultural Management.	
14.1.21.	The establishment and review of policies and schemes for the exercise of the client function of leisure and cultural management, including arrangements with the Pickaquoy Centre Trust.
St Magnus Cathedral.	
14.1.22.	The establishment and review of policies and schemes for all matters relating to the fabric and use of St Magnus Cathedral and its curtilage.
Housing Services.	
14.1.23.	The establishment and review of policies and schemes to exercise the Council's functions in respect of housing.
14.1.24.	The declaration of housing action areas and housing renewal areas.
14.1.25.	The requirement for the provision of serviced, self-build housing sites.
14.1.26.	The making of representations to external agencies on the provision of housing.
Council Housing Stock.	
14.1.27.	The requirement for additional Council housing stock.
14.1.28.	The establishment and review of the levels of rent to be charged for Council housing and other housing services.
14.1.29.	To monitor, on a quarterly basis, the levels of expenditure incurred against the approved annual programme for improving and maintaining the existing Council housing stock, held on the Housing Revenue Account, funded through the approved capital programme and revenue budgets.
Council Housing Allocation.	
14.1.30.	The establishment and review of policies and schemes for the allocation of Council housing and conditions of tenancy.
14.1.31.	The establishment and review of policy for taking court action to recover possession of Council houses and the enforcement of orders for repossession.
Sale of Council Housing.	

14.1.32.	The establishment and review of policies and schemes for the sale of Council housing and conditions of sale.
Operation of Businesses from Council Housing.	
14.1.33.	The establishment and review of policies and schemes in relation to the operation of businesses from Council housing.
Furnished Accommodation.	
14.1.34.	The establishment and review of policies and schemes for the provision of furnished accommodation and associated facilities.
Homelessness.	
14.1.35.	The establishment and review of policies and schemes to meet the needs of homeless persons or persons threatened with homelessness.
Financial Assistance.	
14.1.36.	The establishment and review of the levels of support to be afforded to external bodies engaged in activities connected with the provision of affordable housing.
Housing Grants.	
14.1.37.	The establishment and review of schemes for the repair and improvement of non-Council housing, excluding aids and adaptations.
Housing Loans.	
14.1.38.	The establishment and review of policies and schemes in respect of housing loans.
Fuel Poverty.	
14.1.39.	The establishment and review of general policies in respect of fuel poverty.
National Audit Reports.	
14.1.40.	To consider key messages, findings and recommendations of service specific national audit reports and review how recommendations are being addressed locally.

14.2. Delegated Functions

The following matters are delegated to the Education, Leisure and Housing Committee:

Council Housing Stock.	
14.2.1.	The establishment and review of the annual programme for improving and maintaining the existing Council housing stock, held on the Housing Revenue Account, funded through the approved Capital Programme and revenue budgets.
Operation of Businesses from Council Housing.	
14.2.2.	The determination of contentious applications to operate businesses from Council housing.

Sub-committees of the Education, Leisure and Housing Committee

The Education, Leisure and Housing Committee shall appoint the following Sub-committees:

- College Management Council Sub-committee.
- St Magnus Cathedral Sub-committee.

15. College Management Council Sub-committee

Note:

Temporary arrangements are in place pending a review of the composition and operation of the College Management Council Sub-committee, to be reported no later than May 2023.

Membership:

Thirteen Members comprising:

- Five Elected Members of the Education, Leisure and Housing Committee, one of which must be the Chair or Vice Chair of the Committee.
- Three Business Community representatives (with voting rights).
- Three Community/Third Sector representatives (with voting rights).
- Two Student representatives (with voting rights).

Quorum:

Three members of the Sub-committee.

For the avoidance of doubt there must be at least two Elected Members of the Council present.

Remit:

All matters in relation to the management and operation of Orkney College.

15.1. Referred Functions

The following matters are referred to the College Management Council Sub-committee:

Revenue Expenditure.	
15.1.1.	To consider the draft annual budget in respect of Orkney College, prior to consideration through the budget setting process
15.1.2.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Sub-committee is responsible.
Service Staffing Requirements.	
15.1.3.	The determination of the human resource requirements, including the permanent lecturing staff establishment, of Orkney College.

Commented [HF12]: Recommendation to ELH, 7.6.23 is to disestablish CMC and establish Stakeholder Group. Will be updated to reflect decision made and referred functions included in section 14.1.15 above, as appropriate.

15.1.4.	The promotion and development of further and higher education and training, through Orkney College.
15.1.5.	The receipt of an annual report on the activities of Orkney College.
15.1.6.	The establishment and review of the Operational Plan, the Improvement (Strategic) Plan and HMIE/Quality Assurance Agency action plans.
15.1.7.	The establishment and review of policies not covered by Council policies.
15.1.8.	The requirement for the provision of, construction of, or major improvement to, property and other capital projects, prior to progression through the Council's Capital Project Appraisal system.

15.2. Constitution

1. Introduction

1.1. Although Orkney College is part of Orkney Islands Council and is an “unincorporated college” and the College Management Council Sub-committee is therefore bound to follow the Council’s Standing Orders, cognisance requires to be taken of Orkney College’s association with the University of the Highlands and Islands.

1.2. This Constitution is included to provide clarity to the non-elected members on the Sub-committee and the wider UHI structure.

1.3. Orkney Islands Council’s Standing Orders require to be read in conjunction with this Constitution. In the event of any dubiety and/or conflict between interpretation of this Constitution and the Standing Orders, then Orkney Islands Council’s Standing Orders take precedence.

2. Membership

2.1. Membership of the Sub-committee shall comprise the following:

- Elected Members (5) (no less than four plus either the Chair or Vice Chair of Education, Leisure and Housing Committee) (1 vote each).
- Business Community representatives (3) (1 vote each).
- Community representatives/Third Sector representatives (3) (1 vote each).
- Student representatives (2) (1 vote each).

2.2. Employees of Orkney Islands Council (with the exception of Teachers employed in an educational establishment under the management of an education authority) are not eligible to sit on the Sub-committee, as a voting member, be that as a business, community, Third Sector or student representative.

2.3. Students enrolled at Orkney College are not eligible to sit on the Sub-committee, as a voting member, in the capacity as a business, community or Third Sector representative.

3. In attendance

3.1. The following officers (or deutes as appropriate) will be expected to attend meetings of the Sub-committee:

- Orkney College:
 - College Principal.
 - Teaching staff representative.
 - Support staff representative.
 - Other College staff, as appropriate.
- Orkney Islands Council:
 - Committees Officer (Clerk to the Sub-committee).
 - Head of Finance or representative.

- Executive Director of Education, Leisure and Housing or representative.
- Representatives of Estates, Legal, Human Resources, as appropriate.
- Others:
 - Head teacher of an Orkney school.

4. Recruitment of members

4.1. Elected members will be appointed by Orkney Islands Council and can be drawn from any Committee of the Council, but will include the Chair or Vice Chair of the Education, Leisure and Housing Committee.

4.2. Community and Business Community member vacancies shall be filled by advertisement and approved by Orkney Islands Council in accordance with its Standing Orders.

4.3. Student representatives shall be filled at the start of the academic year, in the same format as the election for the Highlands and Islands Student Association representative. One of the student representatives should be the Highlands and Islands Student Association (HISA) representative. Should the HISA representative be a Further Education student, the other representative should, where possible, be a Higher Education student, or vice versa if the HISA representative is a Higher Education student. The minimum age of a student representative should be 16 years old.

5. Term of Office

5.1. The duration of tenure of the Chair and Vice Chair of the College Management Council will comply with Orkney Islands Council's Standing Orders.

5.2. Members appointed by Orkney Islands Council should normally serve for two years.

5.3. Community and Business Community representatives will be appointed, initially, for a maximum period of four years and can be re-appointed for a further term of office.

5.4. Student representatives will be appointed, initially for a maximum period of one year and can be re-appointed for a further term of office.

6. Appointment of Chair and Vice Chair

6.1. The Chair will be appointed by the College Management Council.

6.2. The Chair can be chosen from any of the members with voting rights.

6.3. In the event that the Chair is chosen from among the non-elected members, the Chair or Vice Chair of the Education, Leisure and Housing Committee will hold the position of Vice Chair.

7. Voting

7.1. Whenever possible agreement should be arrived at by consensus but if a vote is necessary this will be undertaken in accordance with Orkney Islands Council's Standing Orders. The Chair will have the casting vote.

8. Meetings

8.1. College Management Council meetings will normally be held at Orkney College.

8.2. To ensure that the time period for making decisions is reduced to a minimum, College Management Council meetings will be arranged to correspond with meetings of the Education, Leisure and Housing Committee.

9. Quorum

9.1. The College Management Council will be quorate if at least one quarter of the membership is present and if there are at least three members of the College Management Council present. For the avoidance of doubt, for the College Management Council to be quorate there must be at least two elected members of Orkney Islands Council present.

10. Declarations of Interest

10.1. Where a member of the College Management Council has personal knowledge of, is related to, is in business with or has any other connection with an item of business that has to be discussed by the College Management Council, then that person shall declare an interest in that item of business, will not listen to and/or participate in any discussions regarding that item of business and will withdraw from the meeting immediately.

10.2. Where a member of the College Management Council discloses an interest including but not exclusively a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting at which the contract or other matter is the subject of consideration, that member shall, after disclosing the fact, withdraw from the meeting.

11. Admission of Press and Public

11.1. Except where specified in Orkney Islands Council's Standing Orders, every meeting of the Sub-committee will be open to the public and the press.

11.2. The public and press must be excluded from a meeting when an item of business is being considered, if the Sub-committee considers it likely that confidential information, as defined in the Local Government (Scotland) Act 1973 (the 1973 Act), would be disclosed. The Sub-committee is not authorised to disclose confidential information, by law. The definitions of confidential information are set out in Appendix 2 to Orkney Islands Council's Standing Orders.

11.3. The public and press may be excluded from a meeting when an item of business is being considered, if it is likely that exempt information, as defined in the 1973 Act, would be disclosed. The definitions of exempt information are set out in Appendix 3 to Orkney Islands Council's Standing Orders.

16. St Magnus Cathedral Sub-committee

Membership:

Nine Members comprising:

- Convener.
- Chair, Education, Leisure and Housing Committee.
- Vice Chair, Education, Leisure and Housing Committee.
- Four other Members of the Education, Leisure and Housing Committee.
- Lord Lieutenant as Chair, Council of Society of Friends of St Magnus Cathedral (no voting rights).
- Minister of St Magnus Cathedral (no voting rights).

Quorum:

Three members of the Sub-committee.

Remit:

The St Magnus Cathedral Sub-committee has responsibility for all matters relating to the upkeep of the fabric of St Magnus Cathedral and uses made of the building and its curtilage, having regard to the architectural character of the building.

16.1. Referred Functions

The following matters stand referred to the St Magnus Cathedral Sub-committee:

16.1.1.	The determination of all matters relating to the fabric and use of St Magnus Cathedral and its curtilage.
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17. Orkney Health and Care Committee

Membership:

Nine Members of Orkney Islands Council comprising:

- Convener.
- Leader.
- Depute Leader.
- 3 Members of the Council, who also act as voting members on the Integration Joint Board.
- 3 other Members of the Council, who also act as proxies for the Integration Joint Board.

The Chair of the Orkney Health and Care Committee also acts as the Chair or Vice Chair of the Integration Joint Board, whichever is the Council appointment.

Quorum:

Three Members of the Committee.

Remit:

The Orkney Health and Care Committee shall have responsibility for the directorate planning, performance management reporting and financial monitoring for the following service areas:

- Social Work and Social Care services for adults.
- Social Work and Social Care services for children.
- Criminal Justice Social Work services.

17.1. Referred Functions

The following matters stand referred to the Orkney Health and Care Committee:

Revenue Expenditure.	
17.1.1.	To monitor, on a quarterly basis, the levels of revenue expenditure incurred against approved budgets, in respect of each of the service areas for which the Sub-committee is responsible.
Service Staffing Requirements.	
17.1.2.	The determination of the human resource requirements of services which fall within the remit of the Committee.
Social Services.	
17.1.3.	The establishment and review of policies and schemes to exercise the Council's functions in respect of social work services.
17.1.4.	The establishment and review of complaints procedures in terms of current legislation.
Children and Families.	

Commented [HF13]: To be deleted

P&R 23.11.21 recommended that the OHAC Committee be disestablished.

Referred and delegated functions, as appropriate, to be transferred to P&R

17.1.5.	The establishment and review of policies and schemes in respect of services for children and families.
17.1.6.	The establishment and review of policies and schemes in respect of fostering and adoption services.
Community Care.	
17.1.7.	The establishment and review of policies and schemes in respect of community care services.
Residential Care.	
17.1.8.	The requirement for construction of, or major improvements to, residential and other establishments required for social work services.
Criminal Justice.	
17.1.9.	The establishment and review of policies and schemes to exercise the Council's functions in respect of criminal justice services.
National Audit Reports.	
17.1.10.	To consider key messages, findings and recommendations of service specific national audit reports and review how recommendations are being addressed locally.

17.2. Delegated Functions

The following matters are delegated to the Orkney Health and Care Committee:

17.2.1.	The arrangements for co-operation with, and support of, national and local statutory bodies, voluntary organisations and private agencies engaged in the provision of services or treatment for persons in need or in the promotion of social welfare.
17.2.2.	The form and level of support to be afforded to voluntary organisations engaged in activities connected with the provision of social work services or the promotion of social welfare.
17.2.3.	The determination of one-off financial contributions, exceeding £5,000, to external bodies connected with the provision of social work services.
17.2.4.	The one-off provision of assistance, in cash or in kind, to persons requiring such facilities for the promotion of social welfare, for sums in excess of £6,000.

18. Licensing Committee

Membership:

Eight Members of Orkney Islands Council.

Orkney Islands Council has determined that membership should be identical to the Orkney Islands Area Licensing Board and that appointments last for the terms of office as Councillor.

Where the Licensing Committee considers an application on more than one occasion, the same members must make up the Licensing Committee each time the application is considered.

Quorum:

Three members of the Committee.

Remit:

The Licensing Committee has responsibility for all matters relating to civic and other licensing roles within the remit of the Council.

18.1. Referred Functions

The following matters stand referred to the Licensing Committee:

18.1.1.	The making of arrangements to exercise the Council's regulatory functions in respect of all current legislation pertaining to civic and other licensing roles, which fall within the remit of the Council.
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18.2. Delegated Functions

The following matters are delegated to the Licensing Committee:

18.2.1.	To oversee the functions of the Council, as licensing authority in terms of the legislation set out below.
18.2.2.	To resolve that any activity, provision for the licensing and regulation of which is made by the "optional provisions" as defined and referred to in the Civic Government (Scotland) Act 1982, shall require or shall not require to be licensed in accordance with the provisions of the 1982 Act relating to that activity.
18.2.3.	The determination of applications for licences, permits, approvals and registrations, including transfers, variations or renewals thereof, in terms of the following Acts and all related legislation, where the authorised officer does not have delegated authority or has chosen not to exercise delegated authority, and to exercise discretion in terms of any condition attached to such licences, permits, approvals or registrations where the approval of the Council, as licensing authority, is required: <ul style="list-style-type: none">• Animal Boarding Establishments Act 1963.

	<ul style="list-style-type: none"> • Breeding of Dogs Acts 1973 and 1991. • Breeding and Sale of Dogs (Welfare) Act 1999. • Caravan Sites and Control of Development Act 1960. • Children and Young Persons Act 1963. • Cinemas Act 1985. • Civic Government (Scotland) Act 1982. • Dangerous Wild Animals Act 1976. • Deer (Scotland) Act 1996. • Explosives Regulations 2014. • Guard Dogs Act 1975. • Housing (Scotland) Act 2006. • Hypnotism Act 1952. • Performing Animals (Regulation) Act 1925. • Pet Animals Act 1951. • Petroleum (Consolidation) Regulations 2014. • Police, Public Order and Criminal Justice (Scotland) Act 2006. • Riding Establishments Acts 1964 and 1970. • Theatres Act 1968. • Zoo Licensing Act 1981.
18.2.4.	To determine standard conditions to which licences, permits, approvals and registrations will be subject, in accordance with the relevant legislation referred to above.
18.2.5.	To suspend, recall any suspension, revoke any licence, permit, approval or registration, so far as permitted in terms of the legislation referred to above, including determination of the period of any such suspension and any conditions to be attached thereto.
18.2.6.	To set fees and charges for those licences, permits, approvals and registrations referred to above where the Council has discretion to do so and to oversee any associated consultations with the public or operators as appropriate or necessary.
18.2.7.	To determine, on behalf of the Council, proposals in relation to contracts for service in connection with the Council's functions arising from the legislation referred to above.

18.3. Hearings Process for Licensing Committee

1. The Chair will identify all parties – applicant and agent (if any) and objector(s) and agent(s) (if any); also members of the Committee and licensing staff.

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2. In addition to any elected member or officer of the Council, any applicant, agent or objector attending remotely must comply with the Council's Standing Orders in relation to remote attendance, including the Protocol for Remote Attendance (Appendix 4 of the Standing Orders). Accordingly, the applicant, agent or objector must confirm that they are in a secure location and cannot be heard by anyone in their vicinity, particularly when Confidential and/or Exempt Information is being considered.

3. Licensing staff introduce report and cover any preliminary legal matters.

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4. Applicants, objectors and their agents will be permitted to speak during the meeting in accordance with the points below, but such participation should normally be limited to 5 minutes in respect of each point below. The Committee reserves the right to permit slightly longer participation in appropriate circumstances in each case.

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5. Applicant/agent to be invited to speak.

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6. Objector(s)/agent(s) (in order if more than one) and the Committee to be invited to ask questions of the applicant/agent. Questions must relate to the spoken information at point 5 above and be asked through the Chair.

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7. Objector(s)/agent(s) (in order if more than one) to be invited to speak. Presentation must not introduce new information and refer solely to the matters raised in the written objection.

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8. Applicant/agent and the Committee to be invited to ask questions of the objector(s)/agent(s). Questions must relate to the spoken information at point 7 above and be asked through the Chair.

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9. Objector(s)/agent(s) in turn to be asked to sum up.

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10. Applicant/agent to be invited to sum up.

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11. Committee to determine application.

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19. Orkney Islands Area Licensing Board

Membership:

Eight Members.

Orkney Islands Council has determined that membership should be identical to the Licensing Committee and that appointments last for the terms of office as Councillor.

Where the Orkney Islands Area Licensing Board considers an application on more than one occasion, the same members must make up the Board each time the application is considered.

Quorum:

Four members of the Board.

Remit:

The Orkney Islands Area Licensing Board has responsibility for all matters relating to the regulation and administration of liquor licensing, gambling and such other activities as provided in terms of legislation.

19.1. Referred Functions

The following matters stand referred to the Orkney Islands Area Licensing Board:

19.1.1.	The making of arrangements to exercise the Council's regulatory functions in respect of all current legislation pertaining to liquor licensing, gambling and other relevant regulatory matters, which fall within the remit of the Board.
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19.2. Delegated Functions

The Orkney Islands Area Licensing Board is an independent statutory entity and derives all its powers from legislation. The Board does not have any delegated functions. However, it can delegate certain functions to officers and these are listed in the Board's Statement of Alcohol Licensing Policy, the Statement of Gambling Policy and in relevant Board minutes. The policy documents can be accessed from the Related Downloads section on [the Council's website here.](#)

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Field Code Changed

19.3. Hearings Process for Orkney Islands Area Licensing Board

1. The Convener will identify all parties – applicant and agent (if any) and objector(s) and agent(s) (if any); also members of the Board and licensing staff.

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2. Should any participant, be that a Board member, an officer, applicant, agent or objector, be attending remotely, it is considered good practice to follow Orkney Islands Council's Standing Orders, including the Protocol for Remote Attendance (Appendix 4 of the Standing Orders). Accordingly, those attending remotely will be asked to confirm that they are in a secure location and cannot be heard by anyone in their vicinity, particularly when confidential information is being considered.

3. Licensing staff introduce report and cover any preliminary legal matters.

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4. Applicants, objectors and their agents will be permitted to speak during the meeting in accordance with the points below, but such participation should normally be limited to 5 minutes in respect of each point below. The Board reserves the right to permit slightly longer participation in appropriate circumstances in each case.

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5. Applicant/agent to be invited to speak.

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6. Objector(s)/agent(s) (in order if more than one) and the Board to be invited to ask questions of the applicant/agent. Questions must relate to the spoken information at point 5 above and be asked through the Chair.

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7. Objector(s)/agent(s) (in order if more than one) to be invited to speak. Presentation must not introduce new information and refer solely to the matters raised in the written objection.

Deleted: 6

8. Applicant/agent and the Board to be invited to ask questions of the objector(s)/agent(s). Questions must relate to the spoken information at point 7 above and be asked through the Chair.

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9. Objector(s)/agent(s) in turn to be asked to sum up.

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10. Applicant/agent to be invited to sum up.

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11. Board to determine application.

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20. Monitoring and Audit Committee

Membership:

Seven Members of Orkney Islands Council.

In order to ensure the formal independence of the Committee and consistency with audit and scrutiny principles, the following members shall be ineligible for membership of the Monitoring and Audit Committee:

- Convener.
- Leader.
- Depute Leader.
- Chairs of Service committees.

As at May 2022, the Service committees comprise the following:

- Development and Infrastructure Committee.
- Education, Leisure and Housing Committee.
- Policy and Resources Committee.

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Quorum:

Three members of the Committee.

Remit:

- To provide independent assurance to the Council and those charged with governance on the adequacy of the Council's performance and risk management frameworks and internal control environment.
- To provide an independent review of the Council's corporate governance and performance, risk management and control frameworks and to oversee the financial reporting and annual governance processes.
- To oversee the Council's internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.

20.1. Referred Functions

The following matters stand referred to the Monitoring and Audit Committee:

Internal Audit.	
20.1.1	To consider Internal Audit's annual audit plan.
20.1.2.	To monitor Internal Audit's performance in completing the annual audit plan.
20.1.3.	To consider Internal Audit findings and recommendations and to review actions taken on recommendations made.
20.1.4.	To receive an annual report from the Chief Internal Auditor on the Council's internal control environment.
External Audit.	

20.1.5.	To review External Audit's annual audit plan.
20.1.6.	To monitor the adequacy and effectiveness of liaison between External and Internal Audit.
20.1.7.	To consider External Audit findings and recommendations and to review actions taken on recommendations made.
National Audit.	
20.1.8.	To consider national audit findings and recommendations and to review actions taken on recommendations made.
Annual Accounts.	
20.1.9.	To consider the unaudited Annual Accounts, as submitted to the auditor, no later than 31 August immediately following the financial year to which the Annual Accounts relate.
20.1.10.	To consider the audited Annual Accounts of the Council no later than 30 September immediately following the financial year to which the accounts relate.
20.1.11.	To review the Annual Audit Report to elected members, including the audit certificate, from External Audit.
20.1.12.	To review implication of recommendations arising from current and previous Annual Audit Reports.
Risk Management.	
20.1.13.	To assess the adequacy and effectiveness of the Council's risk management strategy and associated procedures.
Corporate Governance.	
20.1.14.	To assess the adequacy and effectiveness of the Council's corporate governance framework.
Scrutiny/Performance Management.	
20.1.15.	To assess the adequacy and effectiveness of the Council's strategic planning and performance management arrangements, as outlined in the Strategic Planning Framework.
20.1.16.	To provide an overview of scrutiny implementation and performance management for the Council.
Change Review Framework.	
20.1.17.	To monitor annually the recommendations resulting from high level Change Reviews, as presented to and agreed by the Policy and Resources Committee.
Standards.	
20.1.18.	To encourage the highest standards of probity and public accountability in respect of member standards.

20.1.19.	To assess the adequacy and effectiveness of the Council's policies in respect of anti-fraud, anti-corruption and whistleblowing.
20.1.20.	To assess the adequacy and effectiveness of the Council's arrangements for ensuring proper accountability of funds which have been transferred to arms-length companies or external bodies for the purpose of discharging a Council function.

20.2. Delegated Functions

The following matters are delegated to the Monitoring and Audit Committee:

Annual Accounts.	
20.2.1.	To approve the Annual Governance Statement, for inclusion in the Council's Annual Accounts, ensuring that it properly reflects the risk environment and supporting assurances, taking into account Internal Audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
20.2.2.	To approve for signature the audited Annual Accounts of the Council, as described in The Local Authority Accounts (Scotland) Regulations 2014, no later than 30 September immediately following the financial year to which the accounts relate.

21. Planning Committee

Membership:

Twelve members of Orkney Islands Council, comprising at least one representative from each of the six electoral wards, with one member from each ward not being a member of the Committee.

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The following members are not eligible for membership of the Planning Committee:

- Leader.
- Chair, Development and Infrastructure Committee.

Where the Planning Committee considers an application on more than one occasion, only those members who have been present on each such occasion may participate in the determination of the application.

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Quorum:

Three members of the Committee.

21.1. Remit and Powers

Planning Applications.

- 21.1.1. To determine the following planning applications which cannot be determined by officers:
- Applications for major developments which are not significantly contrary to the Local Development Plan.
 - Applications (other than for national and major developments) which are significantly contrary to the Local Development Plan and are recommended for approval.
 - Applications which attract an objection, which meets the terms of a valid representation, and are recommended for approval (See **Note 1** below).
 - Applications which are subject to an Environmental Impact Assessment.
 - Applications where notice is given to the Appointed Officer by two or more elected members of the Council that they require the application to be referred to the Planning Committee for determination. Such notification will only be valid where it includes a statement of the material planning reasons why the referral is requested (See **Note 2** below).
 - Applications made by or on behalf of the following, including their spouse/partner:
 - An Elected Member of the Council.
 - A member of staff employed within the Planning Service (Development Management or Development and Marine Planning).
 - A member of staff routinely servicing the Planning Committee, including the Clerk to the Committee and the Legal Adviser.
 - The Chief Executive or any other Chief Officer.

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	<p>Note 1. Should the objection be withdrawn, the matter may be withdrawn from the agenda for the Planning Committee and the application thereafter determined by the Appointed Officer.</p>
	<p>Note 2. <u>The member call-in should be made before the expiry of any statutory notification or publication period or, where no such period exists, within 21 days of publication of the weekly list, whichever is the later.</u> Should the call-in be withdrawn, the matter may be withdrawn from the agenda for the Planning Committee and the application thereafter determined by the Appointed Officer.</p>
Works Licences.	
21.1.2.	To determine applications for Works Licences, or variation or transfer of existing licences, which attract an objection and are recommended for approval.
Other Applications.	
21.1.3.	<p>To determine other applications not falling under Section 43a of the Town and Country Planning (Scotland) Act 1997 (as amended) and Section 11 of the Orkney County Council Act 1974, as follows:</p> <ul style="list-style-type: none"> • Consent to display advertisements where an objection has been received or where the application is recommended for refusal. • Consent for the cutting down, topping, lopping or uprooting of a tree protected by a Tree Preservation Order where an objection has been received or where the application is recommended for refusal. • Subject, in appropriate cases, to confirmation by Scottish Ministers, applications for Listed Building Consent, including consent for demolition, Conservation Area Consent for demolition, or to vary or discharge conditions attached to Listed Building Consent or Conservation Area Consent where an objection has been received or where the application is recommended for refusal.
21.1.4.	To make an order to revoke or modify Listed Building Consent or Conservation Area Consent where the owner, lessee or occupier of 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.
21.1.5.	To grant or modify Hazardous Substances Consent where an objection has been received.

21.2. Definitions

To assist with clarity the following are recognised definitions of the principal terms detailed above:

Local Development

“Local development” for the purposes of this Scheme of Delegation will include all development other than national development, as designated in a National Planning Framework document prepared and published by the Scottish Ministers under Part 1A of the Town and Country Planning (Scotland) Act 1997 (as amended); and major development, as identified in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

Appointed Officer

The appointed officer of the Council in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997, is the Corporate Director for Neighbourhood Services and Infrastructure, the Head of Planning and Community Protection or the Service Manager (Development Management).

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Valid representation

A valid representation (letter or statement) shall require to meet the following criteria:

- Be in the form of a signed and dated letter or statement or an e-mail indicating the name and postal address of the sender specifically indicating an objection to the application concerned. The letter/statement shall bear a legible name of the signatory and the signatory's address.
- Be received by the Council before the expiry of any statutory notification or publication period or, where no such period exists, within 21 days of publication of the weekly list, whichever is the later.
- Where more than one letter/statement of representation per household is received this shall be defined as the Council having received one letter/statement.
- Where a letter or petition is received which is signed by more than one person, each signatory must provide a valid postal address, otherwise they will not be considered as a valid representation.
- For the avoidance of doubt pre-printed letters or cards which are not individually addressed and signed will not be entertained as valid and acknowledged as such. Photocopied standard template letters will be valid as long as they are signed and dated and bear the postal address of the sender.
- To be valid a representation must contain matters which relate to the application involved and raise matters material in planning terms to the application concerned.
- The content of invalid letters/statements will not be referred to in Corporate Director's reports and similarly non-material matters referred to in valid letters of representation will not be referred to or taken into account in the determination of the application.
- The Corporate Director for Neighbourhood Services and Infrastructure shall, in cases of doubt, determine whether an objection or other representation is valid or timeous.

Deleted: no later than ten working days prior to the date of the meeting of the relevant committee or full Council to which the application is being reported with the exception of any that may be received in a

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Significantly contrary

A proposed development is “significantly contrary to the development plan” if the departure concerned, in the judgement of the Corporate Director for Neighbourhood Services and Infrastructure, is directly related to the achievement of the core objectives of any element of the development plan and the approval of the application would seriously compromise

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the achievement of the development plan's objectives and compromise its other policies and proposals. For the avoidance of doubt a proposal will not necessarily be significant if, for example, it fails to meet the terms of one or more policies or one or more of the criteria in any criteria based policy.

21.3. Hearings Process for Determination of Planning Applications

Terms of Reference

1. The following procedure shall be adopted for the conduct of all meetings of the Planning Committee involving the 'hearings process' in respect of the determination of planning applications. The 'hearings process' will operate in any circumstances where it has been deemed that an application should be determined by the Committee.

Order of Business

2. At the start of the meeting, and thereafter as necessary, the Chair will outline the 'hearings process' by explaining the procedure to be followed.

3. Officers representing the Corporate Director for Neighbourhood Services and Infrastructure will present the application as submitted, by giving a description of the proposed development and site, together with a brief summary of the relevant statutory and Development Plan provisions, and any other material considerations relevant to the application.

4. Objectors will then be given an opportunity to present their case; thereafter members of the Committee may ask questions of objectors for clarification. Where no objectors are present, this condition shall not apply.

5. The applicants will then be given an opportunity to present their case, which may include a response to any matter raised by objectors; again, members of the Committee will have the opportunity to ask questions of the applicants for clarification. Where no applicants are present, this condition shall not apply.

6. The officer representing the Corporate Director for Neighbourhood Services and Infrastructure will then provide the detailed appraisal of the application, in relation to relevant Development Plan provisions and other material considerations, and including any valid representations and/or any salient points raised during the meeting. The officer will thereafter present the recommendation and clarify any planning conditions and/or reasons for refusal. Members of the Committee will then have the opportunity to ask any final questions for clarification.

7. Thereafter the 'hearings process' will be complete. Committee members will then proceed to determine the application.

Notes for Guidance and Information

10. Certain objections are not valid in planning terms, and cannot be considered by Councillors when determining the outcome of a planning application. Examples of these are:

- Issues covered by other laws, such as Licensing or Building Standards.
- Private legal disputes over boundary or access rights, or feu superior's consent.
- The background or motives of the developer.
- Concerns that the proposal is speculative, or only to make money.
- Loss of financial value of property.

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Deleted: 4. At the discretion of the Executive Director of Development and Infrastructure, in consultation with the Chair, officers from Council services, and/or representatives of agencies such as NatureScot (formerly Scottish Natural Heritage), Historic Environment Scotland, Scottish Environment Protection Agency and Scottish Water, may be invited to provide additional professional guidance in respect of technical matters.¶
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Deleted: 7. Members of the Committee will then have the opportunity to ask any final questions, and may give any party present the opportunity to comment further on relevant matters raised during the hearings process.¶

8. If necessary, and at the discretion of the Chair, officials will be given the opportunity to address any salient points raised by any party present.¶

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- Loss of a view.

Commented [HF17]: Delete – not a definitive list and could lead to confusion

8. The standard approach for planning applications is that applicants and objectors will each be allotted five minutes to make their presentation, which should focus on matters that have already been raised in writing and should not introduce any new material. The five minute period is the total time available to each side and must be divided amongst those wishing to speak for that side.

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9. In exceptional circumstances, and at the discretion of the Chair, the time allotted to applicants and objectors for making presentations may be extended depending, for example, on whether the applications are of a particularly complex nature or where there are large numbers of objectors present. The Chair's discretion, if applicable, can only be notified at the start of each item during the meeting. In the case of developments defined as "National" and "Major", it is expected that this provision will be necessary due to the level of interest which is likely to be generated for the projects concerned.

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13. Applicants and objectors who wish to circulate photographs and/or drawings, or to show PowerPoint slides, as part of their presentation at the meeting, must submit the information to the Clerk to the Committee no later than 16:00 two working days prior to the meeting (e.g. 16:00 on Monday for a meeting on Wednesday). In exceptional circumstances, and at the discretion of the Corporate Director for Neighbourhood Services and Infrastructure, this deadline may be extended on request. Applicants and objectors may submit information to the Clerk by e-mail (details below), or in person at the Council's Customer Services Reception. It is the responsibility of applicants and objectors to ensure that all such information is received personally by the Clerk, who will confirm receipt.

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10. At the discretion of the Corporate Director for Neighbourhood Services and Infrastructure, in consultation with the Chair, officers from Council services, and/or representatives of agencies such as NatureScot, Historic Environment Scotland, Scottish Environment Protection Agency and Scottish Water, may be invited to provide additional professional guidance in respect of technical matters.

11. In cases where key agencies, such as NatureScot, Historic Environment Scotland, Scottish Environment Protection Agency and Scottish Water, have formally objected to an application and have sent representatives to the meeting, they will normally be afforded additional time to present their objections and the applicants will normally be afforded additional time to respond to any points raised.

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12. In order to avoid repetition, objectors who wish to be heard are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them.

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13. Applicants and objectors must address all remarks through the Chair. Cross-examination of any party present shall not be permitted.

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14. Applicants and objectors may present their case personally to the Committee, or may be represented by any person of their choice, other than an elected member (i.e. a Councillor) of Orkney Islands Council. In the event that a Councillor is an applicant or objector in his/her own right, this condition shall not apply.

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14.1. In the event that a Councillor is an applicant or objector in his/her own right, he/she shall attend the meeting as an applicant or an objector, and not as a Councillor/member of the Planning Committee, and shall only be present for deliberation of the application for which they are the applicant or the objector.

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14.2. In the event that a member of staff, as defined in Section 21.1.1 of the Scheme of Administration, is an applicant or an objector in his/her own right, he/she shall attend the meeting as an applicant or an objector, and not as a member of staff, and shall only be present for deliberation of the application for which they are the applicant or the objector.

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15. If applicants (and/or their agents, if applicable) or objectors are unable to attend the meeting, they should ask someone to represent them at the meeting and speak on their behalf. Anyone other than a Councillor is eligible to represent applicants or objectors in this way. For example, both applicants and objectors can ask friends, relatives, neighbours, solicitors, architects, agents, etc. to represent them, although professional representation, such as by a solicitor, may result in a financial cost.

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18.2. In addition to their original objection submitted during the initial consultation period, objectors can submit a further letter, of unrestricted length, detailing their objections. Applicants may also submit a letter of representation outlining the reasons why they feel the application should be granted. All such representations should be received as early as possible. For the avoidance of doubt, all such representations or objections must be submitted to, and marked for the attention of, the Clerk to the Planning Committee.

Commented [HF19]: Delete – all relevant information should have already been submitted by this point, as well as being assessed by officers which results in the committee report?

18.3. For planning applications, objectors, or applicants, can submit a further written representation, limited to 250 words, summarising their case. Such representations would be read out by the Clerk to the Committee at the meeting at the point where the applicants or objectors would, if present, be asked to make their representations. All such representations must be received by the Clerk no later than 16:00 on the day prior to the meeting. With reference to paragraph 11 above, objectors who are present at the meeting will be entitled to make full use of the time available, and any additional time taken for the Clerk to read out short statements on behalf of objectors who are not present would be added to the time made available to the applicants to make their presentation. In the case of “national developments”, it is expected that a large number of representations may be received. In such circumstances, the Clerk will collate the key issues raised by written representations and ensure those are presented to the meeting. However, each individual written representation will be made available to all Members of the Committee and published in public, with time allowed for Members to review these as part of the decision making process if this is considered by the Chair to be prudent and necessary.

Commented [HF20]: Delete – for same reasons above – potential to raise new information.

16. The Council reserves the right to edit all letters of objection or representation received in respect of all planning applications under consideration to ensure that applicants, objectors, and indeed the Council, do not breach any legislation in respect of libel or slander. Please also note that further objections in terms of the issues detailed at paragraph 10 above will not be made available to Councillors or read out to them at the meeting.

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20. For the avoidance of doubt, information supplied to the Clerk, in terms of paragraphs 13 and 18.2 above, will be circulated to Councillors, applicants, agents and objectors in advance of the meeting.

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Should applicants or objectors have any queries in respect of the hearings process, advice is available from the Clerk to the Committee:

[insert details: name, telephone number and extension number, email address].

21.4. Planning Committee – Site Visits

Site visits form part of the formal decision making process and the Council's Standing Orders and Members' interests provisions will apply.

1. Purpose of Site Visit

- To view the site of the planning application under consideration together with all surrounding land.
- To assist the appraisal of the constraints and opportunities afforded by the proposed development, and its potential impact on surrounding land.
- To allow the officers to point out material considerations and answer questions from members of the Committee.

2. Sites to be visited, when and by whom

2.1. Generally, site visits will only be undertaken where there are anticipated benefits over and above the assessment of the information presented to Committee, and where the majority of the Committee support the need for a site visit. In addition, in instances where the application is of a particularly complex or contentious nature, at the discretion of the ~~Corporate~~ Director of ~~Neighbourhood Services~~ and Infrastructure, in consultation with the Chair and Vice Chair of the Planning Committee, a site visit may be arranged prior to the first meeting of the Committee to determine the application. The site visit will be undertaken as close as possible to the date on which the Committee will meet to determine the application.

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2.2. The site visit will be attended by the following:

- All members of the Planning Committee who are available to attend and who have been present on each prior occasion when the Committee has considered the application.
- The Clerk to the Planning Committee.
- The Head of Planning and ~~Community Protection~~.
- The ~~Service~~ Manager (Development Management).
- The Planning Case Officer.
- The Solicitor.
- Any other relevant officer of Orkney Islands Council, where necessary.

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2.3. In a very limited number of cases, it may be necessary for the applicant (or agent) to be present on site, eg for safety or access reasons, but at no time will they be allowed to discuss the merits of the planning application with members of the Planning Committee or seek advice or comment from Council Officers other than matters of fact.

3. Site Visit Arrangements

3.1. Committee Services will give notice to members of the Planning Committee and relevant officers advising that an unaccompanied site visit will take place. The notice will identify an unambiguous meeting point and indicate the time when parties are to meet. The date, time and place of the meeting at which the Committee will determine the planning application will also be included in this notice. Interested parties (applicant,

consultees and those parties lodging representations) will also be informed of the site visit but will not be invited to attend.

3.2. Where arrangements require to be made for a site visit to take place on land which does not form part of the application site, Committee Services will make sure that the occupier of the land is made aware in advance of the proposed site visit.

3.3. If any detailed travel arrangements are necessary, for example visits to the Isles, these will be intimated by Committee Services to Members and Officers in advance of the site visit.

4. Site Visit Procedure

4.1. Members of the Committee shall arrive at the meeting point at or just before the appointed time. If one or more of the expected participants is/are not present on time, any delay to the start of the site visit will be at the Chair's discretion.

4.2. The Clerk to the Committee will note the names of those members of the Committee present at the site visit as only those members will be able to take part in the determination of the planning application.

4.3. The Chair will call Members of the Planning Committee present to order. The Chair will explain the purpose of the site visit and remind all parties present that it is not possible to discuss the merits of the proposed development during the visit.

4.4. The Chair will then ask the Planning Case Officer to describe the proposal to Members, identifying relevant features of the site, including site boundaries, access arrangements, location of neighbouring properties etc. Through the Chair, Members may seek clarification from the Planning Case Officer on relevant site features.

4.5. Members may want to view the application site from neighbouring land or buildings but throughout the formal business of the site visit the visiting party will stay together as a group. When pointing out the location of the proposed development/ physical features on site, participants must address the Committee as a group (not as individual Members) through the Chair.

4.6. On conclusion of the site visit, the Chair will thank everyone for their attendance and remind participants of the place and time of the meeting when the Committee will determine the review. The Chair will then indicate that the site visit has concluded.

5. Planning Committee

5.1. On occasions when the site of the planning application under consideration is remote from the Council Offices, School Place, Kirkwall, the meeting of the Planning Committee to determine the application may take place in an alternative location from the Council Chamber immediately following the site visit.

5.2. In accordance with Standing Orders [8.6 and 8.7](#) – “Meetings conducted by Hearings”, a member of the Committee may only participate and/or vote on the determination of an application if s/he has been present throughout consideration of the whole item of business, which includes the site visit.

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5.3. If Members identify issues during the site visit that may be decisive but have not been addressed in the report to Committee, in the interests of natural justice the applicant and other interested parties will require to be invited to comment on these matters before a final decision is reached.

22. Local Review Body

Membership:

Identical to the Planning Committee, namely Twelve Members of Orkney Islands Council, comprising at least one representative from each of the six electoral wards, with one member from each ward not being a member of the Committee.

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The following members are not eligible for membership of the Local Review Body:

- Leader.
- Chair, Development and Infrastructure Committee.

Where the Local Review Body considers a Notice of Review on more than one occasion, only those members who have been present on each such occasion, including attendance at any site inspection, may participate in determination of the Notice of Review.

Quorum:

Three Members of the Review Body.

22.1. Remit and Powers

The Local Review Body, will exercise delegated powers, on behalf of the Council, to conduct reviews in accordance with Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 as amended, where the appointed officer, for the purposes of determining applications for "local developments" as defined in the Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009;

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- Has refused an application for planning permission or for consent, agreement or approval.
- Has granted it subject to conditions.
- Has not determined it within the period allowed for determination of the application.

The Local Review Body shall, at all times, conduct its affairs in accordance with the provisions of the Town and Country Planning (Scheme of Delegation and Local Review Procedures)(Scotland) Regulations 2013.

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Meetings

Meetings of the Local Review Body will be held in public.

A Planning Adviser and a Legal Adviser shall attend all meetings of the Local Review Body to provide planning and legal advice relevant to the business before the Local Review Body. The Planning Adviser and the Legal Adviser should not have had direct prior involvement with the application that is subject to review.

The Local Review Body may, other than where they consider that the review documents provide sufficient information to enable them to determine the review without further procedure, determine the review by:

- Means of written submissions under Regulation 15 of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

- Holding one or more hearing sessions [under the Hearing Session Rules set out in Schedule 1 of the Town and Country Planning \(Scheme of Delegation and Local Review Procedure\) \(Scotland\) Regulations 2013](#).
- A combination of these procedures.

Site Inspections

The Council has adopted a policy of undertaking unaccompanied site inspections for all planning applications subject to a local review, prior to meeting to consider the review.

22.2. Local Review Body – Site Inspections

Site visits form part of the formal decision making process and the Council's Standing Orders and Members' interests provisions will apply.

1. Purpose of Site Inspection

- To view the site of the planning application under review together with all surrounding land.
- To assist the appraisal of the constraints and opportunities afforded by the proposed development, and its potential impact on surrounding land.
- To allow the Planning Adviser to point out material considerations and answer questions from members of the Local Review Body.

2. Sites to be visited, when and by whom

2.1. A site inspection will be undertaken of all planning applications subject to a review, with the inspection being undertaken before the meeting of the Committee.

2.2. The site inspection will be attended by the following:

- Members of the Local Review Body.
- The Clerk to the Local Review Body.
- The Planning Adviser.
- The Legal Adviser.

2.3. In a very limited number of cases it may be necessary for an applicant (or agent) to be present on site e.g. for safety or access reasons, but at no time will they be allowed to discuss the merits of the planning application with members of the Local Review Body.

3. Site Inspection Arrangements

3.1. Committee Services will give notice to members of the Local Review Body and relevant officers advising that an unaccompanied site inspection will take place. The notice will identify an unambiguous meeting point and indicate the time when parties are to meet. The date, time and place of the meeting at which the Local Review Body will determine the review will also be included in this notice. Interested parties (applicant, consultees and those parties lodging representations) will be informed of the site inspection but will not be invited to attend.

3.2. Where arrangements require to be made for a site inspection to take place on land which does not form part of the review site, Committee Services will make sure that the occupier of the land is made aware in advance of the proposed site inspection.

3.3. If any detailed travel arrangements are necessary, for example visits to the Isles, these will be intimated by Committee Services to Members and Officers in advance of the site inspection.

4. Site Inspection Procedure

4.1. Members of the Local Review Body shall arrive at the meeting point at or just before the appointed time. If one or more of the expected participants is not present on time, any delay to the start of the site inspection will be at the Chair's discretion.

4.2. The Clerk will note the names of those members of the Local Review Body present at the site inspection as only those members will be able to take part in the determination of the review.

4.3. The Chair will call the Members of the Local Review Body present to order. The Chair will remind those present that it is not possible to discuss the merits of the proposed development during the inspection, and that the site inspection shall not be used as a forum for debate on the review.

4.4. The Chair will then ask the Planning Adviser to describe the proposal to Members, identifying relevant features of the site, including site boundaries, access arrangements, location of neighbouring properties etc. Through the Chair, Members may seek clarification from the Planning Adviser on relevant site features.

4.5. Members may want to view the site from neighbouring land or buildings but throughout the formal business of the site inspection the visiting party will stay together as a group. When pointing out the location of the proposed development/ physical features on site, Members must address the Local Review Body as a group (not as individual Members) through the Chair.

4.6. On conclusion of the site inspection, the Chair will thank everyone for their attendance and remind participants of the place and time of the meeting when the Local Review Body will determine the review. The Chair will then indicate that the site inspection has concluded.

5. Local Review Body meeting

5.1. On occasions when the site of the planning application under review is remote from the Council Offices, School Place, Kirkwall, the meeting of the Local Review Body to determine the review may take place in an alternative location from the Council Chamber immediately following the site inspection.

5.2. In accordance with Standing Orders [8.6 and 8.7](#), the Local Review Body to determine the review will comprise only those members who attended the site inspection. This is because it is those members who have received information from the site inspection in order to assist in the determination of the review.

5.3. If Members identify issues during the site inspection that may be decisive but have not been addressed by the applicant in their review submission, in the interests of natural justice the applicant and other interested parties (including the relevant Development Management Case Officer) will require to be invited to comment on these matters [under the written submissions procedure detailed in Regulation 15 of the Town and Country Planning \(Scheme of Delegation and Local Review Procedure\) \(Scotland\) Regulations 2013](#) before a final decision is reached.

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