

Agenda Item	
Report No	

27 October 2016

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

**Report by the Depute Chief Executive/Director of Corporate Development**

**Summary**

This report outlines proposals for amendment to the Council's Scheme of Delegation and Administration to Committees and Sub Committees and to Officers. Annual Review of the Scheme is a requirement of the Council's Code of Corporate Governance.

**1. Main Amendments**

The main changes to the Scheme of Delegation – which are highlighted below – are in relation to:-

Part II – Terms of Reference of Headquarters Committees

Part III – Functions Referred/Powers and Duties Delegated to Planning Application Committees, Highland Licensing Committee, Planning Review Body, City/Local Committees and the Gaelic Implementation Group from the Council and Headquarters Committees

Part IV – Powers Delegated to Officers

**1.1 Part II – Terms of Reference of Headquarters Committees**

**Resources Committee/Planning, Development & Infrastructure Committee**

**Transfer** the following wording from the Resources Committee (Corporate Development section) to the Planning, Development & Infrastructure Committee (Land Reform and Environment section) –

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

*Reason for Change - The Climate Change team now sits within the Environment team in the Development & Infrastructure Service after transfer from the Chief Executive's Service in April 2016. Reports on Climate Change (including the Carbon Clever Capital Allowance) were previously presented to the Resources Committee but will now be presented to the Planning, Development and Infrastructure Committee as part of the Development & Infrastructure programme.*

## **Resources Committee**

**Include** wording as follows –

To consider and advise the Council on the review of Contract Standing Orders.

*Reason for Change – transfer of responsibility from Audit & Scrutiny Committee to reflect current responsibility.*

## **Education, Children & Adult Services Committee**

**Delete** wording as follows –

Paragraph 1.12 – delete reference to Culture and Leisure Contracts Sub Committee.  
Paragraph 1.13 – delete reference to Inverness Leisure.

*Reason for Change – to reflect current arrangements.*

## **Planning, Development & Infrastructure Committee**

**Include** wording as follows –

### **General**

Include reference to Climate Change.

**Amend** wording as follows –

### **Economic Development and Regeneration**

Current version – To receive annual reports on the following companies – Beinn Tharsuinn Wind Farm Community Limited, Highland Historic Buildings Trust, Highland Opportunity Limited, Highland Opportunity (Communities Limited), Highland Opportunity (EBS) Limited, Highland Opportunity (Investments) Limited, Inverness Airport Business Park Limited and Ness Horizons.

Proposed Version – To receive annual reports on the following companies – Beinn Tharsuinn Wind Farm Community Limited, Highland Historic Buildings Trust and Inverness Airport Business Park Limited.

*Reason for Change – Highland Opportunity Limited has been wound up and there is no longer a need to receive annual reports for this, Highland Opportunity (Communities Limited), Highland Opportunity (EBS) Limited or Ness Horizons. Highland Opportunity (Investments) Limited continues as a company within the Council and hence will be reported as part of the Council's Annual Accounts to the Resources Committee.*

**Include** wording as follows -

Planning etc (Scotland) Act 2006 – to determine under Part 9 – Business Improvement Districts – whether the Council should exercise its power of veto over a BID proposal and hence whether a ballot shall be held or not. The Council is required to consider a BID proposal within a prescribed period (70 days before the day of the ballot) and give notice that it is or is not going to veto the proposal. If exercising a veto, the local authority must set out the reason why and give details of the right of

appeal. If not exercising a veto, the local authority must set out its reasons for not doing so.

*Reason for Change – a review identified that the Scheme of Delegation did not correctly record this as an action to be undertaken by the Committee.*

### **Land Reform and Environment**

Current version – To carry out environmental works in accordance with the Council's approved capital and revenue programmes.

Proposed version – To carry out environmental and climate change work in accordance with the Council's approved capital and revenue programmes.

### **Community Services Committee**

**Include** wording as follows –

Section 1 – Paragraph 1.10 – include reference to Traffic Management, Car Parking, On-Street Traffic Management and Control and Off-Street Regulated Parking Management.

*Reason for Change – there is currently no specific reference within the Committee remit to these public facing functions but there is reference within the Scheme of Delegation to these powers. However, as they are now enforced under Decriminalised Parking Enforcement they should be included.*

Section 2 – include the following –

Paragraph 2.1.2 - To approve the scale of charges required under Roads legislation.

*Reason for Change – this refers to powers relating to all charges that can be levied by the Roads Authority and clarifies that these would be approved by the Committee.*

Paragraph 2.1.3 – To promote Road Traffic Regulation Orders where there are statutory objections.

*Reason for Change – this specifically addresses the need for Traffic Regulation Orders promoted by the Service to be referred back to Committee if there are unresolved objections. Hearings could be heard by the Local Committee (such as the City Committee) if the Order solely related to the geography of their remit. Council wide Orders would have to be heard at Strategic Committee level.*

**Delete** wording as follows –

Paragraph 2.8.2 – To scrutinise and approve the distribution of funds in relation to improving unadopted roads where there is need to address social inclusion.

*Reason for Change – in the past there was an 'unadopted roads' budget and a 'social inclusion' budget (social need) which could be used to upgrade roads not adopted by the Roads Authority. These budgets no longer exist and the Service does not allocate funding to unadopted roads. It therefore seems logical for the removal of this paragraph from the Scheme of Delegation.*

## **Audit & Scrutiny Committee**

**Amend** wording as follows –

Current Version – To consider and advise the Council on the review of Financial Regulations and Contract Standing Orders.

Proposed Version – To consider and advise the Council on the review of Financial Regulations.

Reason for Change – *to reflect the fact that responsibility for Contract Standing Orders rests with the Resources Committee rather than the Audit & Scrutiny Committee.*

Current Version – To oversee the Council's risk management policies and strategies and receive reports annually from the Director of Finance on Risk Management Plans for all Services, including an update on Corporate and Cross Cutting Risks on a six monthly basis.

Proposed Version – To oversee the Council's risk management policies and strategies and receive reports, including an update on the Corporate Risks on a six monthly basis.

Reason for Change – *to reflect current practice.*

Current Version – To review periodically the Council's non statutory complaints systems.

Proposed Version – To receive reports on the Corporate Complaints process on a six monthly basis.

Reason for Change – *to reflect current practice and the fact that the Committee previously agreed that the complaints would be reported every six months.*

## **1.2 Part III – Functions Referred/Powers and Duties Delegated**

### **Highland Licensing Committee**

#### **Section 2**

**Amend** wording as follows –

Current Version – To consider and determine applications for licences, relaxations and exemptions under Part 5 of the 2006 Act.

Proposed Version – To consider and determine applications for licences, relaxations and exemptions and to make rent suspension orders under Part 5 of the 2006 Act.

Reason for Change – *to reflect the inclusion of additional responsibilities.*

### **Section 3**

**Delete** wording as follows –

- (a) To consider and determine applications for the approval of places for civil marriages under the Marriage (Scotland) Act 1977 and, in granting such approvals, (i) to impose the standard conditions approved by the Resources Committee subject to such variations as are considered appropriate and (ii) to impose additional conditions where considered appropriate;
- (b) To order the revocation, suspension or variation of an approval held under the 1977 Act; and
- (c) To set fees and charges applicable in terms of the 1977 Act.

*Reason for Change – no longer applicable.*

### **Local Committees**

**Amend** wording as follows – Paragraph 2.21 –

Current Version – To prioritise between the various reactive and planned cyclic road and bridge maintenance activities in accordance with Council policy and the national Code of Practice.

Proposed Version – To prioritise between the various reactive and planned cyclic road and bridge maintenance activities in accordance with Council policy, the Road Asset Management Plan and appropriate national guidance.

*Reason for Change – to reflect the inclusion of additional responsibilities.*

**Include** wording as follows –

For the Caithness Committee and the Sutherland County Committee – to appoint Members to the Caithness and North Sutherland Fund as required.

## **1.3 Part IV – Powers Delegated to Officers**

### **Corporate Development**

**Amend** wording as follows -

Replace references to the ‘Legal Manager (Regulatory Services)’ with ‘Solicitor (Regulatory Services)’ under the following - Civic Government (Scotland) Act 1982 – Setting of Dates for Christmas and New Year Period; Sections 24-27 and Schedule 1; Section 42; Temporary Suspension of Licences; Applications for Renewal of Licences; Gambling Act 2005; Housing (Scotland) Act 2006 – Part 5; and Fireworks (Scotland) Regulations 2004

Replace references to the ‘Legal Manager (Regulatory Services)’ with ‘Principal Solicitor (Regulatory Services)’ under the following – Civic Government (Scotland) Act 1982 – Sections 62 and 63

Replace references to the ‘Legal Manager (Regulatory Services)’ with ‘Principal Solicitor (Regulatory Services) and Solicitor (Regulatory Services)’ under the following – Civic Government (Scotland) Act 1982 - Section 119; Roads (Scotland) Act 1984 – Section 59; and Anti-Social Behaviour etc (Scotland) Act 2004, Part 8

(Registration of Landlords)

Replace references to the 'Legal Manager (Regulatory Services)' and 'Principal Solicitor (Regulatory Services)' with 'Head of Corporate Governance and practising Solicitors authorised by him' under the following – Local Government (Scotland) Act 1973.

*Reason for Change – to reflect changes in the staffing structure.*

**Delete** wording as follows –

Marriage (Scotland) Act 1977 – to grant but not refuse applications for approval of places for marriage.

*Reason for Change – no longer applicable.*

### **Finance Service**

**Delete** wording as follows –

Social Security Administration Act 1992 – Section 110A – to authorise Officers for the purposes of Part VI – investigation of Housing Benefit and Council Tax Benefit fraud and related matters.

**Include** wording as follows –

The Local Government and Rating Act 1997 – to determine applications for mandatory and discretionary non domestic rates rural relief in accordance with the Council's policy – delegated to Head of Revenues and Business Support.

*Reason for Change – to reflect the inclusion of additional responsibilities.*

### **Community Services**

**Include** wording as follows –

Road Traffic Act 1991 (Amendment of Schedule 3) (Scotland) Order 1998 – designation of a Special Parking Area or a Permitted Parking Area – delegated to Head of Roads & Transport.

Road Traffic Act 1991 (as amended) – Schedule 3 – issue of Penalty Charge Notices within a Special Parking Area and Permitted Parking Area. A penalty charge shall be payable with respect to the vehicle by the owner of the vehicle – delegated to Parking Enforcement Officers.

Road Traffic Act 1991 (as amended) – Schedule 6, Part 6 – where a notice to owner is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period, the Authority serving the notice may serve on that person a statement (a 'charge certificate') to the effect that the penalty charge in question is increased by 50% - delegated to Principal Transport Officer.

*Reason for Change – to take account of new responsibilities.*

**Amend** wording as follows –

Housing (Scotland) Act 1987 and Housing (Scotland) Act 2006

Current Version – To approve applications for grants, insofar as the applications relate to financial assistance in respect of the improvement of property or the repair of property, to determine housing improvement orders and revoke closing orders – delegated to Area Environmental Health Manager/Principal Environmental Health Officer.

Proposed Version - To approve applications for grants, insofar as the applications relate to financial assistance in respect of the improvement of property or the repair of property, to sign Notice of Payment of Grant, to determine housing improvement orders and revoke closing orders and to issue Houses in Multiple Occupation (HMO) amenity notices – delegated to Senior Environmental Health Officer.

Reason for Change – *to reflect additional responsibilities and changes in the staffing structure.*

**Development and Infrastructure Service**

**Amend** wording as follows –

Current Version - “To determine all applications\*, with the exception of the following:

Applications for “national development” (designated as such under s3A(4)(b) of the Town and Country Planning (Scotland) Act 1997 (as amended));

Applications for “major developments” designated as such under s26A(1)&(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) which are recommended for approval or irrespective of the recommendation are significantly contrary\*\* to the development plan.”

Proposed Version – “To determine all applications\*, with the exception of the following:

Applications for “national development” (designated as such under s3A(4)(b) of the Town and Country Planning (Scotland) Act 1997 (as amended)); and consultations under the Electricity Act 1989 (as amended) equivalent in scale to “national development”;

Applications for “major developments” designated as such under s26A(1)&(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) which are recommended for approval; or, irrespective of the recommendation, are significantly contrary\*\* to the development plan; and

Consultations under the Electricity Act 1989 (as amended) equivalent in scale to “major developments”; where the recommendation is that no objection is to be raised; or, irrespective of the recommendation, are significantly contrary\*\* to the development plan.”

Current version – “\*Unless otherwise stated, the term “applications” includes: .... ii. All consultations under the Electricity Act 1989 (as amended), including those made

under s36, s36C and s37. For the purposes of this scheme of delegation, such consultations shall be treated as if they were applications for planning permission and categorised a local, major or national developments accordingly; and...”

Proposed version – “\*Unless otherwise stated, the term “applications” includes: .... ii. All consultations under the Electricity Act 1989 (as amended), including those made under s36, s36C and s37; and...”

*Reason for change - Legislation requires **national scale planning applications** to be subject to pre-determination hearings and then determined by full Council. These requirements do not apply to consultations under the Electricity Act – even if they relate to national scale developments – presumably because the Council is not the decision maker in such applications.*

*The current Scheme of Delegation includes in its definition of “applications”, “all consultations under the Electricity Act 1989” and goes on to state “For the purposes of this scheme of delegation, such consultations **shall be treated as if they were applications for planning permission** and categorised as local, major or national developments accordingly;” The consequence of this Scheme of Delegation wording is that, to categorise an Electricity Act consultation as a national development and treat it as a planning application, means it would require to be reported to Council, even though there is no statutory requirement to do so. The proposed changes seek to regularise this and ensure that these types of applications are dealt with by the appropriate Planning Applications Committee (PAC).*

*Officer delegation, as it stands, allows determination of **all** applications (the definition of application includes “all consultations under the Electricity Act 1989”). The exceptions to this delegation include (I) - where it is proposed to raise an objection and where a majority of ward members call in the determination of a s36/s36C/s37 application by PAC. Under the current Scheme, s36/7 consultations that are equivalent to major scale planning applications are being referred to the PAC if the recommendation is ‘no objection’. The suggested revisals to the Scheme make it clear that these types of consultations will still go to the PAC.*

**Include** wording as follows –

#### Miscellaneous/Non Statutory Powers –

To determine applications for loan finance up to the value of £50,000

To prepare reports and recommendations to the Board of Highland Opportunity Investments Limited for loan finance over the value of £50,000

To determine applications for grant for business development, land and building regeneration and employability support initiatives up to the value of £50,000

To prepare reports and recommendations to the Planning, Development & Infrastructure Committee for applications for grant for business development, land and building regeneration and employability support initiatives over the value of £50,000

To enter into Service Level Agreements with external bodies to deliver business, land and building regeneration and employability activities, projects and programmes.

(All of the above to be delegated to the Head of Development & Regeneration).

Reason for Change – *Linked to the decision to wind up Highland Opportunity Limited and to transfer its activities to the Council and the Planning, Development & Infrastructure Committee, it was agreed that the loan approvals should be delegated*



*to the Director of Development & Infrastructure. The opportunity was also taken to clarify the wider range of activity included in delegated authority.*

#### Miscellaneous/Non Statutory Powers – Housing

All references to the 'Head of Property Partnerships' to be changed to 'Head of Development & Regeneration'.

#### Miscellaneous/Non Statutory Powers – Property

All references to the 'Head of Property Partnerships' and 'Corporate Property Asset Manager' to be changed to 'Head of Development & Regeneration'.

**Amend** wording as follows –

Current Version – to approve, negotiate and undertake by disposal, sale, lease, assignation, sub-letting, lease surrender, licence or excambion of General Fund property interests up to a value not exceeding £200,000 or £25,000 pa subject to demonstrating the asset is surplus to the operational requirements of the Highland Council services and further subject to the sale price/rent not being below market value and consultation with the Ward Members (excluding industrial and investment transactions).

Proposed version – to approve, negotiate and undertake by disposal, sale, lease, assignation, sub-letting, lease surrender, licence or excambion of property interests up to a value not exceeding £200,000 or £25,000 pa subject to demonstrating the asset is surplus to the operational requirements of the Highland Council services and further subject to the sale price/rent not being below market value and consultation with the Ward Members.

Current version – to acquire or lease assets up to a value of £150,000 for acquisitions or £15,000 pa for leases after consultation with Local Members (for industrial and investment purposes only).

Proposed version – to acquire or lease assets up to a value of £150,000 for acquisitions or £15,000 pa for leases after consultation with Local Members.

**Delete** wording as follows –

To acquire or lease assets up to a value of £100,000 for acquisitions or £15,000 pa for leases, subject to consultation with Ward Members (excluding industrial and investment transactions).

To lease and dispose of land and property at below market value with a value up to £10,000 or less or where the marginal difference between the proposed price and the best consideration price is 25% or less, subject to a maximum marginal difference of £10,000 (after consultation with Ward Members)(excluding industrial and investment transactions).

In order to release the Council from their interests in land and property to approve, negotiate and undertake by disposal, sale, lease surrender, assignation or excambion of General Fund property interests up to a value not exceeding £250,000 subject to demonstrating the asset is surplus to the operational requirements of Highland Council services and further subject to the sale price not being below market value and after consultation with Local Members (for industrial and

investment properties only).

*Reason for Change – as part of the Council reorganisation earlier this year, the new post of Head of Development and Regeneration was created and took over responsibility for the Estates team. The revised delegated approvals are an amalgamation of the previous delegated approvals for the managers of the Industrial Investment team and the Estates team.*

## **Care and Learning**

### **Statutory Powers/Duties**

Since the scheme of delegation was previously submitted to the Council, the Director of Care & Learning and Legal Manager have been able to complete a full review of the legislation across education and social care services, including new legislation that has only recently been commenced. This revised set of amendments takes account of this, including the impact on earlier legislation and means that there is a similar approach across all Council Services with regard to the detail in the scheme. This includes taking account of commencement of parts of the Children & Young People (Scotland) Act 2014, as well as looking ahead to the Community Justice (Scotland) Act 2016, and Education (Scotland) Act 2016.

The proposed amendments also take account of:

- further management changes and changed responsibilities, or changes that are about to take place;
- some changes to responsibilities across Council Services
- consolidation of the partnership arrangements for delegated services with High Life Highland and NHS Highland.

In addition, the Service has sought to place management responsibility as close as possible to service delivery, while ensuring that senior officers are accountable for more complex decision making, including where there is greatest risk, and for strategy.

### **Non-Statutory Powers**

In some cases, the wording has been amended, to better describe the responsibility.

(The revised amendments are circulated as **Appendix 1** to the report).

## **2. Other Administrative Changes**

- 2.1 A number of minor administrative changes have also been made to remove duplication and to clarify existing arrangements.

## **3. Implications Arising from the Report**

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

#### **4. Recommendation**

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

Designation: Depute Chief Executive/Director of Corporate Development

Date: 18 October 2016

**Care and Learning Service:****Statutory Powers and Duties of the Council which are Exercisable by Officers of the Authority**

<b>Statute</b>	<b>Description of Power or Duty</b>	<b>Title of Officer to whom/level of post to which delegated</b>
<b><u>Education</u></b>		
Standards in Scotland's Schools, etc Act 2000		
	Section 2 - to secure that Education is directed to development of a child or young person to their fullest potential.	Director of Care and Learning
"	Section 3 - to endeavour to secure improvements in the quality of school education.	Director of Care and Learning
"	Section 6 - preparation of school development plans.	Headteachers.
"	Section 6 - Report on implementation of school development plans.	Education Quality Improvement Managers/ Headteachers
"	Section 7 - Report on measures and standards of performance.	Head of Education
"	Section 8 - preparation of scheme of delegation to Headteachers.	Head of Education
"	Section 37 - decisions concerning transport of children attending nursery classes or schools.	Director of Community Services
"	Section 38 - admission of child under school age to primary school.	Area Care & Learning Managers
Education (Scotland) Act 1980	Section 14 - to provide education elsewhere than at an educational establishment for children unable to attend school.	Area Care & Learning Managers
"	Section 18 - to do work to improve access to premises for pupils' safety.	Heads of Service; Area Care & Learning Managers; Headteachers
"	Section 23 - to provide	Director or Area Care &

	education for pupils belonging to area of another Education Authority.	Learning Managers
"	Section 28A - determination of placing requests.	Area Care & Learning Manager; Heads of Service
"	Section 34 - to grant exemption from school attendance.	Area Care & Learning Manager
"	Sections 36-39, 41, 43 – exercise of powers in respect of non-attendance (where not otherwise delegated to or exercised by Parent Council	Area Additional Support Manager
"	Section 49 - to assist persons to take advantage of educational facilities by the award of bursaries to make special arrangements.	Headteachers or Area Care & Learning Manager
"	Section 50 - powers in respect of education of pupils in exceptional circumstances.	Head of Additional Support
"	Section 51 - arrangements for provision of transport and other facilities.	Director of Community Services
"	Section 52 - power to recover costs of board and lodging.	Area Care & Learning Manager
"	Sections 54, 55 and 56 - powers in respect of provision of clothing and food/drink and school meals for pupils.	Area Care & Learning Manager
"	Section 87 - suspension of teaching and non-teaching staff from exercise of their duties.	Area Care & Learning Managers
"	Sections 87, 89 - appointment of teachers to non-promoted posts and to certain promoted posts.	Headteachers
Education (Additional Support for Learning) (Scotland) Act 2004	Section 4 – to make adequate and efficient provision for each child having additional support needs including nursery school age children	Headteachers, Area ASN Managers
	Section 9-10 to prepare and review a Coordinated Support	Area ASN Managers

	Plan where appropriate	
	Section 15 to make arrangements for mediation where necessary to resolve disagreements in relation to the provision of education	Area ASN Managers
Scottish Schools (Parental Involvement) Act 2006	Section 11(2) – advice to Parent Council	Headteacher
Children and Young Persons (Scotland) Act 1937 as amended	Section 34 - grant, revocation and variation of licences in respect of children under 12 undergoing training to take part in theatrical and other performances.	Head of Resources
Children's and Young Persons Act 1963	Sections 37-39 - determination of applications for licences to perform in public.	Head of Resources
Highland Council Employment of Children Byelaws	Exercise of powers under the Byelaws.	Head of Resources
<b><u>Culture and Sport</u></b>		
"	Section 53(2) - to dispose of records not considered worthy of preservation.	Heads of Service and other Service Managers, Archivist
Local Government and Planning (Scotland) Act 1982	Sections 14-19 – to award grants in accordance with Council policies, not exceeding £1,500 per application.	Head of Resources
Council Byelaws and Management Rules in respect of Care and Learning Facilities	To enforce such byelaws and management rules.	Director of Care and Learning and Chief Executive of HLH (where delegated)
<b><u>Health and Social Care</u></b>		
Social Work (Scotland) Act 1968	Section 6B – to cause enquiries to be held into the Council's functions under the Children (Scotland) Act 1995, insofar as those functions relate to children in terms of this Section and Section 100 of the 1995 Act.	Director of Care and Learning
"	Sections 12 and 13 - to promote social welfare by giving help in kind or in cash.	District Managers/Practice Leads/Social Workers
"	Section 12A - to assess the ability of carers to provide	District Managers/Practice Leads/Social Workers

	care.	
"	Section 12B - to determine the amount of and to make direct payments.	Area Care & Learning Managers
"	Section 13A - to make arrangements with voluntary or other organisations or persons for provision of residential accommodation where nursing is provided.	Delegated as part of Partnership Agreement with NHS Highland
"	Section 13ZA – to provide services to adults who lack capacity to consent to receive that service in certain circumstances	Principal Mental Health Officers, and Mental Health SW delegated as part of Partnership Agreement with NHS Highland
"	Section 14 - to provide home help and laundry facilities.	Area Care & Learning Managers and delegated as part of Partnership Agreement with NHS Highland
"	Section 27 - to supervise and care for persons put on probation, released from prison or subject to a Community Service Order and to provide social background reports and other reports to the Court.	Principal Officer (Criminal Justice Services)
"	Section 28 - to arrange burial or cremation of any person who was in the care of, or receiving help from, the Council immediately before their death, or who was a child being looked after by the Council, and to recover expenses.	Area Care & Learning Managers and delegated as part of Partnership Agreement with NHS Highland
"	Section 29 - to defray expenses of parents, relatives or other connected persons in respect of visits to a person, other than a child, in the care of the Council, or receiving assistance from the Council, or a child who is being looked after by the Council, or attending the funeral of such a person.	Area Care & Learning Managers and delegated as part of Partnership Agreement with NHS Highland
"	Section 78A - 82 - to recover contributions in respect of	Area Children's Services Managers

	looked after children and to deal with all matters pertaining thereto including applications to court for Contribution Orders	
"	Section 83 - to make application to the Court for payment from Trusts in respect of supervised children.	"
"	Section 86 - to recover expenditure from other Local Authorities.	Area Care & Learning Managers
"	Section 87 - to recover charges for services provided under this Act, under the Mental Health (Scotland) Act 1984 or under the Children (Scotland) Act 1995 and to exercise discretion in respect of ability to pay.	Area Care & Learning Managers and delegated as part of Partnership Agreement with NHS Highland
Chronically Sick and Disabled Persons Act 1970	Section 1 - to provide information on Council Services and any relevant services of other Authorities or organisations.	Heads of Service/Area Care & Learning Managers/District Managers/Unit Managers/Headteachers
"	Section 2 - to provide services to chronically sick and disabled persons.	"
Disabled Persons (Services, Consultation and Representation) Act 1986	Section 4 - to assess needs, when requested to do so, by a disabled person or their carer, and to decide whether needs of the disabled person call for the provision of services.	District Managers/Practice Leads/Social Workers and delegated as part of Partnership Agreement with NHS Highland
"	Section 8 - to have regard to the abilities of carers in deciding on provision of services.	"
Adults with Incapacity (Scotland) Act 2000	Part IV - to do all things necessary in relation to the management, on behalf of a resident in a Council establishment, of the resident's finances and affairs.	Delegated as part of Partnership Agreement with NHS Highland
"	Section 10 - to supervise guardians, to consult with the Public Guardian and the Mental Welfare Commission,	Principal MHO and delegated as part of Partnership Agreement with NHS Highland



	to receive and investigate complaints, to investigate circumstances in which the personal welfare of an adult may be at risk, and to provide information and advice to guardians, welfare Attorneys and persons authorised under Intervention Orders.	
"	Section 12 - to take steps to safeguard the property, financial affairs, or personal welfare of adults and to provide information and assistance to facilitate investigations.	Delegated as part of Partnership Agreement with NHS Highland
"	Section 14 - to appeal decisions taken as to the incapacity of an adult, where the Council claims an interest in the adult's property, financial affairs or personal welfare.	Principal MHO and delegated as part of Partnership Agreement with NHS Highland
"	Section 53 - to make application to the Court for an Intervention Order, where necessary for the protection of the property, financial affairs or personal welfare of an adult.	Principal MHO and delegated as part of Partnership Agreement with NHS Highland
"	Sections 57 - 64 - to make application to the Court for Guardianship Orders, where considered necessary for the protection of the property, financial affairs or personal welfare of an adult and if appointed to act as Welfare Guardian and to discharge all such functions and further to renew such appointment where appropriate	Principal MHO and delegated as part of Partnership Agreement with NHS Highland
"	Section 68 - to seek reimbursement of outlays from the Adult's Estate, in particular circumstances.	Principal MHO and delegated as part of Partnership Agreement with NHS Highland
"	Section 70 – to apply to the Court in cases of non compliance of third parties with orders granted in respect of an Adult	Principal MHO and delegated as part of Partnership Agreement with NHS Highland

“	Section 71 – to apply to the court for the replacement or removal of a guardian	Principal MHO and delegated as part of Partnership Agreement with NHS Highland
Mental Health (Scotland) Act 1984	Section 10 - to arrange for visits to be made to a child or young person in relation to transfer of parental rights and responsibilities.	Area Children’s Services Managers
Mental Health (Care & Treatment)(Scotland) Act 2003	Section 32 – to appoint Mental Health Officers	Director of Care & Learning
“	Sections 292 -294 – to authorise Mental Health Officers to enter and inspect premises and to provide information for warrants to search for and remove patients	Principal MHO
“	To make arrangements for the exercise by the Council of its functions in terms of the 2003 Act including the supervision and provision of services for people who are the subject of Compulsory Treatment Orders	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland
Adult Support and Protection (Scotland) Act 2007	Section 4 and 7-10 – To make inquiries and exercise investigatory powers	Principal MHO and delegated as part of Partnership Agreement with NHS Highland
“	Section 6 – To provide services to Adults in need of support and protection	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland
“	Section 11 – To apply for an Assessment Order	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland
“	Section 14 – To apply for a Removal Order	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland
“	Section 22 – To apply for a Banning Order	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland
“	Section 38 – To apply for a Warrant for Entry	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland
National Assistance Act 1948	Section 48 - to provide temporary protection for moveable property of people admitted to hospital, residential	Principal MHO, MHOs and delegated as part of Partnership Agreement with NHS Highland

	establishments and other places.	
Social Care (Self Directed Support)(Scotland) Act 2013	To make provision for and enable access to self directed support where appropriate	Head of Children's Services, Area Care & Learning Managers and delegated as part of Partnership Agreement with NHS Highland
Criminal Procedure (Scotland) Act 1995	Section 217 - to provide supervision to assist and advise offenders in regard to payment of fines.	Principal Officer (Criminal Justice and Team Managers (CJS)
"	Schedule 1 – sets out the list of offences against Children Under the Age of 17 Years to which Special Provisions Apply	Director of Care & Learning
Criminal Justice & Licensing (Scotland) Act 2010, which amended the Criminal Procedure (Scotland) Act 1995	Insertion of Sections 227A -Z - to supervise people placed on Community Payback Orders where a person (the "offender") is convicted of an offence punishable by imprisonment	Social Workers (CJS)
"	Section 209 – requires a person subject to a supervised release order to be supervised by the local authority	Social Workers (CJS)
Prisoners & Criminal Proceedings (Scotland) Act 1993	Section 12(2) – provides that all prison licences require the person to be under the supervision of a relevant officer from a local authority and to comply with requirements; this includes Section 26A of the Crime and Disorder Act 1998 inserted after Section 26 in respect of Extended Sentences	Social Workers (CJS)
Crime and Disorder Act 1998	Section 234(7) – provides for the supervision of a person subject to a Drug Treatment & Testing Order	Social Workers (CJS)
Criminal Proceedings etc. (Reform) (Scotland) Act 2007, which amended the Criminal Procedure (Scotland) Act 1995	Insertion of Sections 303ZA (8) – provides for the supervision of an alleged offender of the terms of a (Fiscal) Work Order	Social Workers (CJS)
Criminal Justice (Scotland) Act 2003	Section 9 – sets out the local authority responsibilities in respect of the Order of Lifelong	Principal Officer (Criminal Justice)

	Restriction	
The Management of Offenders etc. (Scotland) Act 2005	Sections 10 and 11 place a statutory duty on the responsible authorities in a local authority area, including the local authority (s10[7]) to jointly establish arrangements for assessing and managing the risk posed by certain categories of offenders	Director of Care & Learning
Community Justice (Scotland) Act 2016	Section 13(1) sets out the statutory partners for governance arrangements, including the local authority	Director of Care & Learning
Children (Scotland) Act 1995	Section 17 - to safeguard and promote the welfare of looked after children and to provide advice and assistance to prepare children for when they are no longer looked after by the Council.	Heads of Service/Area Care & Learning Managers/District Managers/Unit Managers/Headteachers
"	Section 19 - to prepare and publish a plan for the provision of services for or in respect of children.	Director of Care & Learning
"	Section 20 - to prepare and publish information about services for children.	Director of Care & Learning
"	Section 21 - to seek help from specified persons in the exercise of functions under Part II of the Act.	District Managers
"	Section 22 - to provide services for children in need and to promote the upbringing of such children by their families, including giving assistance in kind or, in exceptional circumstances, in cash.	District Managers
"	Section 23 - to ensure that services provided to a child with, or affected by, a disability are designed to minimise the affect of the disability or to minimise the effect of the disability of a family member on the child; to carry out	"

	assessments to ascertain the child's needs so far as attributable to disability.	
"	Section 24 - to assess a carer's ability to provide care for a child.	Social Workers
"	Section 25 - to provide accommodation for children to promote or safeguard welfare and to provide accommodation to persons over the age of 18 but not yet 21, in the interests of that person's welfare.	Head of Children's Services
"	Section 26 and 26A - to provide accommodation and maintenance for looked after children.	"
"	Section 27 - to provide day care for children in need who are aged 5 or under and who have not yet started school, and to provide care for school children in need outside school hours or during school holidays.	Area Care & Learning Managers
"	Section 29 as amended by the 2014 Act - to provide advice and assistance for young persons under 26 but over school age, and formerly looked after by the Council.	Principal Officer (LAC & CP)
"	Section 30 - to provide financial assistance towards expenses of education or training of a young person under 21, formerly looked after by the Council, including contributions to accommodation and maintenance.	Principal Officer (LAC & CP)
"	Section 31 - to review cases of looked after children.	Quality Assurance & Reviewing Officers
"	Section 32 - to remove children from residential establishments.	Director of Care & Learning
"	Section 36 - to determine whether a child's welfare is	Area Children's Services Managers

	adequately safeguarded, and to exercise any necessary functions.	
"	Section 38 - to provide short-term refuge for children who appear to be at risk of harm and who request refuge; to designate residential establishments and households as short-term refuges for children.	Head of Children's Services and Area Children's Services Managers
"	Section 76 – to apply to a Sheriff for an Exclusion Order	District Managers
"	Section 78 - to apply for the attachment of a Power of Arrest at any time while an Exclusion Order has effect.	"
Children Act 1989	Section 19 - to review child minding, day care and education services for children under 8.	Area Care & Learning Managers
Children's Hearing (Scotland) Act 2011	Section 35 – to apply to a sheriff for a Child Assessment Order	District Managers
	Section 37 – 38 – to apply to a sheriff for a Child Protection Order	District Managers
"	Section 55 – to apply to a Justice of the Peace for emergency child protection measures	District Managers
"	Section 60 & 66 to cause enquiries to be made and to provide information to the Principal Reporter where compulsory measures of supervision may be necessary in respect of a child	District Managers/Practice Leads/Social Workers
"	Section 131 – to recommend reviews of Supervision Orders made by Children's Hearings by referral of the case to the Principal Reporter	District Managers/Practice Leads/Social Workers
"	Section 141 – to have the power in any case of urgent necessity to direct that a child	Director of Care & Learning

	required to reside in a particular place be transferred to another place in his or her interests	
“	Section 144-145 - to give effect to Supervision Orders made by Children’s Hearings	Area Care & Learning Managers
“	Section 151 – to agree with the person in charge of an establishment the period during which a child shall be liable to be placed and kept in secure accommodation	Director of Care & Learning/Head of Children’s Services
Adoption and Children (Scotland) Act 2007	Sections 1,9,10,45 & 47 – to assess plan and provide a post adoption support service.	Head of Children’s Services
“	Section 4 – to provide and publish a plan for the provision of an adoption service	Director of Care & Learning
“	Section 14 – to consider whether adoption is in the best interests of a child or whether there may be any practicable alternative to adoption	Head of Children’s Services
“	Sections 17 &19 – to investigate the circumstances and thereafter submit a report to court in respect of a child for whom an Adoption Order is being sought	District Managers
“	Sections 80 &83 – to apply for a Permanence Order or a Permanence Order with authority to adopt	District Managers
“	Sections 81 -82 – to exercise rights and fulfil responsibilities in respect of a child for whom a Permanence Order has been granted	District Managers
Children and Young People (Scotland) Act 2014	Section 33 – To prepare a Child’s Plan where appropriate	Health Visitors/Social Workers/ Headteachers
“	Sections 46 -50 – To provide an early learning and child care service to extend to 2 year olds who are looked after by the Council and to consult	Senior Manager (Early Years)

	on the delivery of the plan for Services	
“	Sections 54 -55 – To consult and plan in relation to the provision of school education for pre school children and the provision of day care and out of school care	Senior Manager (Early Years)
“	Section 58 – To fulfil the duties of corporate parent where required	All Service Officers
Adoption Agencies (Scotland) Regulations 2009	To accept or not accept a person for assessment as an adopter and thereafter to assess prospective adopters in accordance with the Regulations	Head of Children’s Services
“	Regulation 3 – To establish an Adoption Panel and to make appointments to that Panel	Head of Children’s Services
Looked after Children (Scotland) Regulations 2009	To assess and approve foster carers in accordance with the provisions of the Regulations	Head of Children’s Services
“	To place a child in a foster placement	District Manager/Resource Manager (Fostering)
“	Regulation 17 – to establish a fostering panel	Head of Children’s Services
Matrimonial Proceedings (Children) Act 1958	Section 11 - to provide Reports to the Court, on request, where the Court is considering any question relating to the care and upbringing of a child.	District Managers/Practice Leads/Social Workers
<b>Non-Statutory Powers</b>		
<b><u>Education</u></b>		
To promote the welfare of children residing in school residences.		Area Care & Learning Manager and Residence Manager
<b><u>Culture and Sport</u></b>		
To renew subscriptions to appropriate bodies provided the expenditure is within budget, the Committee has originally approved membership, and membership continues to be assessed positively.		Director of Care and Learning and Chief Executive of HLH (where delegated)



<b>Social Work</b>	
To ensure that the corporate parenting responsibilities of the Council are addressed, including through the Children's Services planning process	Director of Care & Learning
To administer the operation of the Complaints Procedure and to publicise it.	Director of Care & Learning
To manage and ensure the provision of social work services within the Criminal Justice system, in accordance with the National Outcomes and Standards for social work services in the criminal justice system, set by the Scottish Government (2010) and in accordance with the budget provided by the Scottish Government.	Director of Care & Learning
To enter into and conclude social work contracts on behalf of the Council	Director of Care & Learning
To set charges on a cost basis for other local authorities where Highland Council is commissioned and agrees to perform duties on behalf of those local authorities.	Heads of Service