

# **Scottish Borders Code of Governance**

## **The Scheme of Delegation**

*Openness*

*Accountability*

*Responsiveness*

*Democracy*

Scottish Borders Council

29 March 2018 – Amended 21 July 2023

## INDEX

Section I	Introduction	Page 3
Section II	Provisions applicable to the Chief Executive and all Directors	Page 4
Section III	Chief Executive Emergency Planning Officer	Page 6 Page 7
Section IV	Director – Finance & Procurement Chief Officer – Audit & Risk	Page 8 Page 10
Section V	Director - Corporate Governance Assessor and Electoral Registration Officer Clerk to the Council	Page 12 Page 15 Page 15
Section VI	Director – People, Performance & Change	Page 17
Section VII	Director – Strategic Commissioning & Partnerships	Page 19
Section VIII	Director – Social Work & Practice	Page 20
Section IX	Director Infrastructure & Environment Chief Officer – Roads Chief Planning Officer	Page 22 Page 27 Page 27
Section X	Director – Education & Lifelong Learning	Page 31
Section XI	Director – Resilient Communities Chief Officer – Economic Development	Page 33 Page 35
Section XII	Chief Officer – Health and Social Care Integration	Page 36
Appendix	Protective Services – Authorised Officers legislation	Page 37

## **SECTION I INTRODUCTION**

This revised Scheme of Delegation is approved by Scottish Borders Council on 29 March 2018 (amended 23 September 2021) to meet the requirements of Section 50G(2) of the Local Government (Scotland) Act 1973. The Scheme contains details of those functions, both statutory and non-statutory, which Council has chosen to delegate to Officials.

This Scheme of Delegation needs to be read and used alongside the Council's Standing Orders, Financial Regulations, and Scheme of Administration, which together make up the wider framework of governance within the Borders, and collectively encapsulate and define the 'Scottish Borders Code of Governance'. That Scottish Borders Code of Governance is based on the principles of:-

- Openness
- Accountability
- Responsiveness
- Democracy

The Scheme of Delegation contributes to the Code of Governance and these fundamental principles by defining a route for certain decisions which enables the Council to be:-

- Speedy and responsive: in the taking of decisions;
- Efficient: by freeing the formal decision-making structures of the Council to focus on other key decisions which have to be taken under full public scrutiny;
- Accountable: by holding appropriate staff fully accountable for the decisions they take.

Officers exercising delegated powers in terms of this Scheme will be expected, wherever appropriate, to consult with and keep advised the relevant Executive Member(s) and Local Members.

Scottish Borders Council authorises any Officer with specific delegated powers, duties or responsibilities referred to within this Scheme - with the approval of the Chief Executive or Director - to further delegate any of these powers etc. to other appropriate officers, as long as a written record of such further delegation(s) is kept within the relevant Service. Any Officer using delegated powers will be fully accountable to Scottish Borders Council for their actions.

The Chief Executive or any of the other Directors are also authorised to act in the absence of any Director.

The authority delegated to Officers through this Scheme must be used not only in accordance with the terms of the Council's Standing Orders, Financial Regulations, and Scheme of Administration, but also in accordance with all relevant Council Policies, Procedures and Guidelines.

## **SECTION II**

### **PROVISIONS APPLICABLE TO CHIEF EXECUTIVE AND ALL DIRECTORS**

The Chief Executive and all Directors are authorised to:

1. Amend the organisational structure of their Services, including the number and designations of posts, and any compulsory redundancy, subject to the following conditions:
  - (a) the appropriate Executive Member(s) has/have been consulted and give approval;
  - (b) the costs of the amendments are within the existing Revenue or Capital Budget(s) and this is confirmed by the Director – Finance & Procurement or representative;
  - (c) the Director - People, Performance & Change or representative approves the grading and designation of posts;
  - (d) the Executive Committee notes any pension and other termination costs falling on the Council, arising from any compulsory redundancy;
  - (e) the Executive Committee approves any pension and other termination costs falling on the Council, arising from the termination of any employment contracts, other than compulsory redundancy.
2. Appoint all employees, within their respective Services and agreed Service Budgets, below the level of Director, except any Teacher whose appointment is subject to parental involvement legislation.
3. Dismiss all employees within their respective Services.
4. Set the salary placing of all new employees on appointment within the grade applicable to the post.
5. Action virement within the overall Revenue Budget for their Services, in accordance with Financial Regulations, and subject to confirmation by the Director – Finance & Procurement or representative.
6. Appoint consultants and other third parties, within approved policy and budget, to provide services in accordance with Standing Orders and Financial Regulations.
7. Consult and negotiate with recognised Trades Unions in consultation with Human Resources.
8. Approve attendance of any employee within their respective services at conferences or other similar events within the UK.
9. Sign contracts for works and the supply of goods and services in accordance with Standing Orders and Financial Regulations and in compliance with the Council's approved Procurement Strategy and Procedures.

10. Bid for external work in accordance with relevant Council policies and legislation.
11. Sign off responses to Scottish Government, UK Government, and other relevant consultations which relate to operational processes where a professional or technical response is required, on the proviso that the response is:
  - (a) consistent with the Council's existing policy position; and
  - (b) complies with Officers' duty of political impartiality.

## SECTION III

### CHIEF EXECUTIVE

#### A. General

1. The Chief Executive is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for all Services, and in particular:
  - Communications, Media & Marketing
  - Strategic Planning & Policy
  - Elections Management (planning)
  - Emergency Planning
  - Business continuity
  - Safety Advisory Group (SAG)
2. The Chief Executive also holds the appointment of Returning Officer for the Scottish Borders Council area, and is entitled to exercise all functions relevant to that post, including the determination of arrangements for local government elections and the fees payable to persons carrying out duties in that connection, without further reference to or authorisation from the Council. In the absence of the Chief Executive, these functions shall be exercised by the Depute Returning Officer(s).

#### B. Specific Delegated Functions

The following specific functions of Council are delegated:-

##### **Chief Executive**

1. Maintain list of politically restricted posts. (*Local Government and Housing Act 1989*)
2. Act as Head of Paid Service. (*Local Government and Housing Act 1989*)
3. Authorise the implementation of National and Local Agreements relating to pay and conditions of service, in consultation with the Director - People, Performance & Change.
4. Appoint an acting Director or second-tier Officer when a Director or second-tier officer is absent or if the post is vacant, in consultation with the Leader of the Council and the appropriate Executive Member(s).
5. Take any appropriate measures which may be required, either in response to emergency situations, or in the event of a Major Incident being declared and the procedures in the Major Incident Plan invoked, subject to informing the Leader and appropriate Executive Member(s). This will include the authorisation of expenditure in accordance with the Financial Regulations.
6. Authorise civic hospitality within agreed budget in consultation with the Convener or Vice Convener of the Council.

7. Take Emergency Powers in compliance with Procedural Standing Order No. 49 of the Scottish Borders Code of Governance.
8. Review, where an Appeal is requested, the Complaints Review Group's decision to apply the Managing Customer Engagement Policy.
9. Act as Authorising Officer. (*Regulation of Investigatory Powers (Scotland) Act 2000*)
10. Convene meetings as required of the Members Sounding Board: Political Management Arrangements, in consultation with the Convener, in the following terms:
  - (a) Constitution: Convener, Leader, and one member from each of the constituted political groups in the Council;
  - (b) Quorum: 3 members of the Board
  - (c) Function: to consider any matters requiring broad political input prior to consideration by Council.

#### **EMERGENCY PLANNING OFFICER**

1. In the absence of the Chief Executive and Director, and in the event of an emergency that involves or threatens danger to life or substantial damage to property, take action and incur expenditure to mitigate the effects of that emergency. (*Local Government (Scotland) Act 1973, Section 84 as amended*).
2. Act on decisions of the Regional Resilience Partnership or the Local Resilience Partnership groups in relation to emergency planning issues.
3. Undertake tasks on behalf of the Lothian and Borders Local Resilience Partnership in relation to emergency planning issues.
4. Incur expenditure, within policy and budget, in providing training to members of recognised voluntary groups who would be involved in the response to major emergencies (e.g. Salvation Army, Red Cross).

#### **NOTE**

In the absence of the Chief Executive, the above delegated functions may be carried out by one of the Directors.

## **SECTION IV**

### **DIRECTOR – FINANCE & PROCUREMENT (S.95 Officer)**

#### **A. General**

1. The Director – Finance & Procurement is designated by Council as the officer responsible for the administration of the Council's financial affairs in terms of Section 95 of the Local Government (Scotland) Act 1973.
2. The Director – Finance & Procurement is authorised to carry out all functions and responsibilities in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Key capital projects  
Financial Services  
Revenue monitoring and reporting  
Capital monitoring  
Credit control  
Corporate Accounting Services  
Pensions investments  
Trusts and charities  
Treasury and banking  
Financial systems  
Procurement  
Budgeting & funding  
Insurance

Note: In the absence of the Director – Finance & Procurement, the Chief Officer - Financial & Procurement Services is authorised to undertake the delegated functions of the Section 95 Officer.

3. The Director – Finance & Procurement is authorised to execute formal Agreements, Orders and other documents, including Financial Instruments and Loan Agreements on behalf of the Council and Pension Fund.

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

##### Financial Services

1. Discharge Section 95 duties. (*Local Government (Scotland) Acts*)
2. Approve the terms of purchasing works and service supply contracts to be undertaken for the Council and partner organisations in furtherance of the Council's Procurement Strategy.
3. Authorise all non-competitive action for procurement solely by the Council for the Council e.g. contract extensions and single tenders.



4. Develop and manage the capital financial planning processes in accordance with Corporate Financial Strategy and associated codes of practice.
5. Produce the Council's annual accounts in accordance with codes of practice.
6. Take and/or authorise all operational decisions regarding the Council's investments and borrowing, in accordance with approved Treasury Management Policy and Strategy.
7. Responsible for execution and administration of treasury management decisions in accordance with the Council's Treasury Management policy statement and Treasury Management Practice, and if (s)he is a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*.
8. In terms of Treasury Management, from time to time, formulate suitable criteria for assessing and monitoring the credit risk of investment counterparties and construct a lending list defining appropriate limits.
9. Borrow, in advance of need, where, for instance, a sharp rise in interest rates is expected, and so borrowing early at fixed interest rates will be economically beneficial or meet budgetary constraints. Adopt a cautious approach to any such borrowing, and a business case to support the decision-making process must consider:
  - (a) the benefits of borrowing in advance,
  - (b) the investment risks created by the existence of investments at the same time as additional borrowing being outstanding; and
  - (c) how far in advance it is reasonable to borrow, considering the risks identified. Any such advance borrowing shall be reported through the mid-year or annual Treasury Management reporting mechanism.
10. Take the most appropriate form of borrowing depending on the prevailing interest rates at the time, taking into account the risks shown in the forecast contained in the Treasury Management Strategy.
11. Maintain a counterparty list consistent with the Investment Counterparty Selection Criteria and revise the criteria and submit them to Committee for approval as necessary, and in addition, set out the types of investment to be made (Permitted Investments).
12. Accept and reclaim grants from the Scottish Government and other parties in consultation with the relevant Director(s).
13. Complete and return all grant claims, subsidy returns and statistical returns relative to the service.
14. Authorise the necessary financial checks on proposed suppliers and contractors to the Council.

15. Make determinations regarding ex gratia payment proposals up to £1,000.
16. Write off un-presented cheques and other payments.
17. The amendment of Financial Regulations as required to take account of new or amended legislation, Council policies and procedures, Council decisions, etc.
18. Develop and manage the revenue financial planning processes in accordance with Corporate Financial Strategy and associated codes of practice.
19. Authorise the necessary financial checks on proposed customers to the Council.
20. Write off individual debts which are irrecoverable up to a maximum of £100,000 and report annually to the Executive Committee on the aggregate amount written off, in accordance with Financial Regulations.
21. Determine the recovery and enforcement of arrears procedures for external invoices issued by the Council, including the instruction of Actions for Payment, and the appointment and instruction of Sheriff Officers and debt recovery agents in accordance with policy and statute.
22. Dispose of Education Maintenance Award (EMA) Appeals via the EMA Panel within the terms of the Scottish Government's policy and guidance.
23. Make suitable arrangements for the Council's insurance matters, including claims handling and approve settlement proposals.
24. Determine the recipient of any benefit under the Life Assurance Scheme.
25. Authorise the allocation of Affordable Housing Policy funding collected by the Council to assist the delivery of individual projects.

#### General

1. Act as Chair of the Asset Transfer Officer Group in the absence of the Chair (Director – Infrastructure & Environment) and Vice-Chair (Director – Resilient Communities).

## **SECTION V**

### **DIRECTOR – CORPORATE GOVERNANCE**

#### **A. General**

1. The Director – Corporate Governance acts as the Council’s Chief Legal Officer.
2. The Director – Corporate Governance is authorised to carry out all functions and responsibilities in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Assessor & Electoral Registration  
Audit & Risk  
Democratic Services, including election staff  
Clerk to the Council  
Legal Services  
Health & Safety  
Protective Services  
Licensing  
Information management  
Data Protection Officer  
Monitoring Officer  
RIPSA Responsible Officer

3. The Director – Corporate Governance is authorised to execute formal Agreements, Orders and other documents, including Financial Instruments and Loan Agreements on behalf of the Council and Pension Fund.

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

1. Act as Monitoring Officer. (*Local Government and Housing Act 1989*)
2. Act as the Council’s Data Protection Officer. (*General Data Protection Regulations*)
3. Act as the Senior Information Risk Owner. (*Data Protection Act*)
4. Act as Chair of the Freedom of Information Advice Group. (*Freedom of Information (Scotland) Act 2002*)
5. Act as Senior Responsible Officer in terms of the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA), including the power to amend the Council Policy and Procedure on RIPSA, together with the associated forms as required, and to ensure that appropriate and adequate training is given to staff in respect of the Policy and Procedures.

##### Legal Services & Licensing

6. The administration of all Civic Government licensing; public procession notices; street names and house numbers; public charitable collections. (*Civic Government (Scotland) Act 1982*)

7. The grant of licences in the absence of objections, and, where appropriate, the revocation of licences with immediate effect. (*Civic Government (Scotland) Act 1982*)
8. The grant, in the absence of objections, of licences for marriage venues, and, where appropriate, the revocation of licences with immediate effect. (*Marriage (Scotland) Acts*)
9. The grant, in the absence of objections, of licences for Caravan Sites and, where appropriate, the variation or revocation of such licences. (*Caravan Sites Acts*)
10. The determination of applications for the display of signs and advertisements on private hire cars and taxis.
11. The periodic revision of fees chargeable in respect of the licensing of marriage venues.
12. The periodic revision of fees chargeable in respect of licensing functions under the Civic Government (Scotland) Act and miscellaneous licensing fees.
13. The consideration of applications and authorisation of payments from miscellaneous Trusts under the control of the Council, in consultation with the Director – Finance & Procurement, the Local Member(s) and the Chair or Vice-Chair of the Area Partnership.
14. The revisions periodically of the fees payable for Civic Government and Miscellaneous licences.
15. Payment of expenses of members of the Scottish Borders Licensing Board and the Local Licensing Forum. (*Licensing (Scotland) Acts*)
16. Act as Clerk to the Scottish Borders Licensing Board. (*Licensing (Scotland) Acts*)
17. Appoint Members of the Local Licensing Forum.
18. Transact, by way of acquisition, disposal, lease etc. of interests in heritage on the basis of terms recommended by the Director – Infrastructure & Environment subject to compliance with the terms of the Council's Scheme of Administration.
19. Conclude leases, servitudes, etc. in consultation with the Director – Infrastructure & Environment and relevant Director.
20. Act as Chair of a Panel comprising 3 Directors or Chief Officers to determine appeals. (*Smoking, Health and Social Care (Scotland) Act 2005*).
21. Institute and defend proceedings on behalf of the Council.

22. Obtain the Opinion or other services of Counsel and or external legal practitioners and appoint Parliamentary Agents when required.
23. Revise periodically fees for legal services.
24. Grant licence applications to which no objections have been lodged.
25. Vary the standard conditions applicable to licences.
26. Attach such conditions as deemed appropriate to any licence.
27. Grant landowner's consent on land and property subject to payment of an appropriate fee.
28. Submit prosecution reports to the Procurator Fiscal.
29. Execute formal Agreements, Orders and other documents, and the advertisement of Public Notices. In the absence of the Chief Legal Officer, the Principal Solicitor has the authority to execute such documents and place such advertisements.
30. Approve all matters relating to street naming and numbering, where not delegated to officers, subject to the agreement of at least 50% of the Members in the relevant Wards.
31. Approve all ceremonial matters, including the use of former and current Robes and Regalia.
32. Be responsible for rights of entry and inspection of licensed premises, vehicles or vessels. (*Civic Government (Scotland) Act 1982*)
33. Act as Chair of the Asset Transfer Officer Group in the absence of the Chair (Director – Infrastructure & Environment) and Vice-Chair (Director – Resilient Communities).
34. Determine and administer the policy regarding the recruitment and appointment and review of appointees to the Panel of Curators ad Litem.

#### Protective Services

35. Authorise Protective Services personnel (or such other appropriate personnel) to discharge the Council's statutory duties in relation to public health, contaminated land, air quality, anti-social behaviour, noise, pest control, dogs, animal health, public health/ nuisance, food safety, food standards, health and safety at work, age restricted products, weights and measures, consumer safety, consumer protection, animal health and welfare in terms of current legislation and any new and/or subsequent or amending legislation as detailed in the list of statutes in the Appendix to this Scheme, and linked to Protective Services staff authorisation cards. Such powers shall include the powers of entry, inspection (including the inspection of documents), sampling, purchase of goods and services, opening of containers, seizure serving notices where appropriate and including the power to issue Notices (including Suspension Notices, Improvement Notices, Prohibition Notices, Emergency Notices, Remediation Notices) on behalf of the Council in terms of the Acts and

Regulations/Orders made thereunder listed in the Appendix to this Scheme.

36. Appoint a duly qualified officer to act as Chief Inspector of Weights and Measures. (*Weights and Measures Act 1985*)
37. Authorise Trading Standards personnel for the purpose of issuing fixed penalty notices. (*Section 27, Tobacco and Primary Medical Services (Scotland) Act 2010*)
38. Authorise the Protective Services Manager to be the person to whom representation should be sent as to why a fixed penalty notice ought not to have been given, and the person who may give notice withdrawing any fixed penalty notice issued. (*Section 27 and Schedule (paragraph 8), Tobacco and Primary Medical Services (Scotland) Act 2010*)
39. Authorise relevant officers to refer matters to the Procurator Fiscal and/or initiate proceedings under primary or secondary legislation relating to consumer protection, trading standards or environmental health.
40. Arrange for the waiving of stray dog service charges in whole, or in part, in appropriate cases, in consultation with the Director – Finance & Procurement.
41. Waive pest control service charges in whole, or in part, in appropriate cases, in consultation with the Director – Finance & Procurement.
42. Make charges for consultancy work.
43. Add or remove Consultants, Contractors and Suppliers from the Approved Lists as necessary.
44. Maintain statutory registers and lists. (*Environment and Safety Information Act 1988*)
45. Maintain statutory registers and lists. (*European Communities Act 1972*)

#### **ASSESSOR AND ELECTORAL REGISTRATION OFFICER**

1. The Assessor is authorised to carry out all functions and responsibilities, within policy and budget, to compile and maintain the Valuation Roll (Non-Domestic Rates) and the Council Tax Valuation List. (*Valuation Acts & Local Government Finance Act 1992*)
2. The Electoral Registration Officer is responsible for the maintenance and annual publication of the revised Register of Electors. (*Representation of the People Act 1983*)

#### **CHIEF OFFICER – AUDIT AND RISK**

1. Act as the chief audit executive for the provision of internal audit services in accordance with the Local Authority Accounts (Scotland) Regulations 2014 and the Public Sector Internal Audit Standards.

2. Determine the appropriate action to be taken on alleged frauds dependent upon the circumstances which caused the fraud and in accordance with counter fraud policies and procedures.
3. Act as Authorising Officer. (*Regulation of Investigatory Powers (Scotland) Act 2000*)

#### **CLERK TO THE COUNCIL**

1. The determination of Members' rights of access to Council documents which disclose exempt information. (*Local Government (Scotland) Acts*)
2. The determination of public rights of access to agendas, reports, etc. (*Local Government (Scotland) Acts*)
3. The receipt of Members' Declarations of Acceptance of Office and Notices of resignation. (*Local Government (Scotland) Acts*)
4. The receipt of Members' disclosures of pecuniary, etc. interest and the maintenance of the Register of such disclosures. (*Local Government (Scotland) Acts*)
5. The appointment of suitable persons as River Tweed Commissioners. (*River Tweed Acts*)
6. The approval of the constitutions, standing orders and other related documents of community councils in accordance with the Scheme for the Establishment of Community Councils.
7. The preparation and adjustment as necessary of the calendar of meetings for Council committees/holidays in consultation with the Convener and/or Leader of the Council, as appropriate.
8. The execution of formal Agreements, Orders and other documents, and the advertisement of Public Notices. In the absence of the Clerk to the Council, the Democratic Services Team Leader has authority to execute such documents and place such advertisements.
9. The amendment of the Scheme of Delegation and Scheme of Administration as required to take account of new or amended legislation, Council policies and procedures, Council decisions, etc.
10. The review of Polling Districts and Polling Places under the Council's Polling Scheme. (*Representation of the People Act 1983*)
11. The registration of Political Groups in the Council.

## **SECTION VI**

### **DIRECTOR – PEOPLE, PERFORMANCE & CHANGE**

#### **A. General**

1. The Director – People, Performance & Change is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Case management  
HR Advisory Service  
HR Policies  
Change Management  
Organisational Development  
Organisational Design  
Workforce Planning  
Corporate training, learning & development  
HR Equalities  
Pensions  
Payroll  
HR Administration  
HR Systems Development  
HR Helpdesk  
Corporate Shared Services  
Corporate ERP  
Business Planning  
Corporate Performance  
Transformation and business change/programme management  
Service improvement  
Research and Information

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

1. Determine the grade/remuneration and designation of all posts, in consultation with the Chief Executive and Directors as appropriate.
2. Consult and negotiate with recognised Trades Unions and conclude Local Agreements in consultation with the Chief Executive and Directors as appropriate, subject to approval by the Executive Committee of significant Local Agreements.
3. Negotiate and agree individual compromise agreements with employees as required in consultation with the Chief Executive, appropriate Director, Leader, and Convenor.
4. Determine the recipient of any benefit under the LGPS Death Grant in consultation with the Director – Finance & Procurement as required.
5. Determine payroll frequencies and payment methods.



6. Negotiate terms and operate staff loans and leasing schemes.
7. Authorise the implementation of nationally agreed allowances, including travel and subsistence allowances, for Elected Members.
8. Implement Arrestment Orders and over-payment recovery action.

## **SECTION VII**

### **DIRECTOR – STRATEGIC COMMISSIONING & PARTNERSHIPS**

#### **A General**

1. The Director – Strategic Commissioning & Partnerships is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:

Lead for Partnerships:

- Live Borders
- RSLs

Corporate Partnerships

Sport

ICT and lead for partnership with CGI

Commissioning lead

SB Cares

#### **B. Specific Delegated Functions**

The following specific functions of Council are further delegated:-

##### Information Technology

1. Secure, maintain and develop the provision of the Council's Information Technology infrastructure, within agreed policy and budget.
2. Negotiate and agree the supply of IT services to the Council and relevant external organisations, including framework agreements.

##### Community Services and Sports Trusts

1. Negotiate partnership and service level agreements and disburse grant funding to organisations and individuals.
2. Make grants, within policy and budget, to relevant local Sports Councils and the Borders Sports Development Group to enable them to make grants to local Sports Clubs, individuals and Borders Sports Associations.
3. Authorise payments to Live Borders, the Jedburgh Leisure Trust, BREST, and other relevant Trusts or Organisations within the contractual terms and approved budget.

## **SECTION VIII**

### **DIRECTOR – SOCIAL WORK & PRACTICE**

#### **A. General**

1. The Director – Social Work & Practice is the designated Chief Social Work Officer of the Authority and will carry out all duties and functions in accordance with Principles, Requirements and Guidance pursuant to Section 5(1) of the Social Work (Scotland) Act 1968, as amended.
2. The Director – Social Work & Practice is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Social Work professional leadership  
Adult Social Work  
Children's Social Work  
Adoption & Fostering  
Strategic relationship of Children & Family Social Work  
Out of Hours Service (incl. Emergency Duty Team)  
Criminal Justice Services (whole systems approach)  
Statutory Mental Health Officer  
Public Protection (governance)  
MAPPA (Governance)  
Statutory Quality, Standards and Inspections  
Safer Communities  
Youth Justice  
Homeless Support  
Health & Social Care Partnership

#### **B. Specific Delegated Functions**

The following specific functions of Council are further delegated:-

1. Carry out all functions of Chief Social Work Officer. (*Social Work (Scotland) Act 1968, as amended; Local Government etc (Scotland) Act 1994; etc*).
2. Appointment of Mental Health Officers. (*Mental Health (Care and Treatment) (Scotland) Act 2003*)
3. Consider and determine recommendations made by the Adoption and Fostering Panel.
4. Approve grants to voluntary organisations within policy and budget.
5. Approve Guardianship applications. (*Mental Health (Care and Treatment)(Scotland) Act 2003; Adults with Incapacity (Scotland) Act 2000*)

6. Authorise all secure accommodation placements for children. (*Children (Scotland) Act 1995*)
7. Transfer of a child subject to supervision requirement in case of necessity. (*Children (Scotland) Act 1995*)
8. Provision of services and after-care services for people with a mental disorder. (*Mental Health (Care and Treatment)(Scotland) Act 2003*)
9. Welfare of certain hospital patients. (*Mental Health (Care and Treatment)(Scotland) Act 2003*)
10. Training and occupation for people with learning disabilities. (*Mental Health (Care and Treatment)(Scotland) Act 2003*)
11. Consider and determine recommendations made by the Adoption and Fostering Panel for assistance with legal fees (in consultation with the Chief Legal Officer) and medical expenses.

#### Community Justice

1. Ensure oversight and management of Registered Sex Offenders.
2. Oversee and ensure the required provision of supervision on all offenders referred to the Criminal Justice Team under the specific legislation and in accordance with the National Minimum Standard and Requirement, as may vary from time to time.

## **SECTION IX**

### **DIRECTOR – INFRASTRUCTURE & ENVIRONMENT**

#### **A. General**

1. The Director – Infrastructure & Environment is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Engineering Design  
Estates and Disposals  
Architects  
Facilities Management  
Asset & Facilities management  
Highways/Transport and Fleet  
Waste Services  
Parks and Environment  
Property Management  
Key Capital Projects & Monitoring  
Homelessness Property  
Project Management  
Green Space Team  
Roads and Infrastructure  
Flood and Coastal Management  
SB Contracts  
Environment lead  
Strategic planning  
Development Management  
Building Standards  
Built & Natural Heritage  
Housing strategy  
Passenger Transport

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

1. Conduct, or authorise staff to conduct, in consultation with local Members, the following activities as appropriate in order to promote a CPO and subsequent acquisition of land in terms of relevant legislation and regulations
  - (i) Instruct legal searches to identify owners and others with legal interest in the land to be acquired;
  - (ii) Prepare a scheme for intended use of the Land;
  - (iii) Procure a development partner to provide delivery of the desired use of the land through the competitive tendering process;
  - (iv) Negotiate a "framework agreement" with the Development partner for the delivery of the desired use of the land;
  - (v) Prepare a "Statement of Reasons" to promote a CPO;
  - (vi) Draft Compulsory Purchase Order;

- (vii) Give Notice of Making of the Order by Advertisement and Service;
  - (viii) Submit the Order to the Confirming Authority;
  - (ix) Attend and submit evidence at any Public Local Inquiry which may be called;
  - (x) Give Notice of Confirmation of the Order by advertisement and Service on interested parties;
  - (xi) Follow statutory procedure to take title and entry of the land; and
  - (xii) Conduct any other activity necessary for successful promotion of a CPO and subsequent acquisition of land.
2. Act as the Council's representative on the Hub South East Territory Partnering Board, with delegated authority to make any decisions on the Council's behalf - in consultation with the Leader, Depute Leader (Finance), Chief Executive and the Director – Finance & Procurement - which require to be taken by the Territory Partnering Board pursuant to its constitution.
  3. Approve local traffic management schemes after consultation with local Members, or consultation with Area Partnerships for major changes.
  4. Approve the making of temporary, permanent or experimental orders for the regulation of traffic, including stopping-up orders, after consultation with local Members, or consultation with Area Partnerships for major changes.
  5. After consultation with local Members, the Director – Finance & Procurement and the Chief Legal Officer, declare play parks obsolete or those surplus to community requirements and arrange for the removal of equipment and disposal, if appropriate.
  6. Act as chair of the Asset Transfer Officer Group.

#### Facilities and Estates

1. Seek external work within the scope of current legislation.
2. Act as corporate client for Council property.
3. (a) In consultation with the Director – Finance & Procurement, the Chief Legal Officer, and where appropriate, operational departments, undertake:-
  - Disposals of land and/or buildings.
  - Acquisitions of land and/or buildings.
  - Negotiations for leases of land and/or buildings to or from the Council including new leases, lease renewals, lease variations and associated consents/permissions for alteration works, assignments and sub-lettings etc.
  - The negotiation of charges for the use of open spaces for fairgrounds, circuses and other outdoor events.
  - Rent reviews affecting land and/or buildings, including charges associated with the use of public parks and open spaces.
  - Negotiations for wayleaves, rights of way, servitudes, and deeds of dedication etc. affecting land and/or buildings.
  - The negotiation of excambions and part exchanges involving land and/or buildings.

- The negotiation of compensation claims arising from compulsory purchase orders and other legislation entitling the Council to take entry onto land and/or buildings.
- (b) In doing the above, the Director – Infrastructure & Environment is authorised to negotiate and agree provisional heads of terms at market value up to a capital value of £500,000, and conclude land and/or buildings related transactions and/or agreements in consultation with the Director – Finance & Procurement, the Chief Legal Officer and where appropriate, operational departments.
4. For land and/or buildings with a capital value of less than £500,000 declared surplus, and not required by any other department, the Director – Infrastructure & Environment shall consult with local Members, the appropriate Executive Member, the Director – Finance & Procurement and the Chief Legal Officer to determine the future of the property.
  5. Terminate leases and initiate the recovery of property and rent arrears, in consultation with the Director – Finance & Procurement, the Chief Legal Officer and where appropriate, operational departments,; and allow the surrender of leases where a business intends to expand into larger Council premises or allow the surrender of a lease when a tenant runs into serious financial difficulties.
  6. Undertake maintenance works that are not the responsibility of the Council under lease agreements or title obligations, to protect the Council's position, where the liable party is unable to meet its obligations.
  7. Seek work to balance work load within the scope of current legislation.
  8. Seek work within the current scope of legislation.

#### Engineering Infrastructure

1. After consultation with the Chief Executive, agree terms for Bridge Agreements with Rail Property Ltd, Railtrack PLC or their successors and terms of discharge of the Council's liability for annual maintenance and renewal charges in that connection.
2. After consultation with the Chief Constable consider and, where acceptable in road safety terms, approve locations for advertisements on road safety barriers and similar structures.
3. Act as "Engineer" or appoint an "Engineer" in accordance with the terms and conditions appropriate to Council roads and transportation contracts, or other client contracts.
4. Seek external work to balance workload within the scope of current legislation
5. Make charges for consultancy work.
6. Authorise the Temporary Traffic Regulation Orders. (*Road Traffic Regulations Act 1984*)

7. Instruct the relevant officers to grant wayleaves in respect of public utilities and utility companies.
8. Seek external work to balance workload within the scope of current legislation.
9. Subject to funds being available, acquire "Bargain" used or ex-demonstration plant and equipment in conjunction with the Director – Finance & Procurement.
10. Authorise staff, in consultation with local Members, to promote Traffic Regulation Orders.
11. Make arrangements for the management of car parks, etc.
12. Approve the use of car parks, or part thereof, by other persons or bodies, and, following consultation with the Director – Finance & Procurement, determine the imposition or waiving of charges for such use.
13. Erect and keep in position barriers on roads for the purposes of securing public order or public safety.
14. Authorise location of and the maintenance of bus shelters, bus stops and timetable cases.

#### Neighbourhood Operations and Waste Services

1. Arrange for the deployment of services or staff to other local authorities or statutory bodies in serious emergencies where the protection of public health is at risk, or where such services are essential
2. Approve the use of Pay Parking income (restricted to specific towns only), subject to the agreement of at least 50% of the Members in the relevant Ward(s).
3. Seek external work within the scope of current legislation.
4. Arrange for the collection of household, commercial and industrial waste. (*Environmental Protection Act 1990*)
5. Specify the types of waste receptacles. (*Environmental Protection Act 1990*)
6. Arrange for the safe treatment and disposal of waste. (*Environmental Protection Act 1990*)
7. Arrange for the cleansing of highways and open spaces in accordance with Environmental protection act - Code of practice for litter and refuse 2006
8. Arrange for the cleansing of parks and open spaces in accordance with the Environmental Protection Act – Code of Practice for Litter and Refuse 2006.



9. Serve exclusion orders for people who persistently break Management Rules for Parks. (*Civic Government (Scotland) Act 1982*)
10. Instruct the relevant officers to dispose of small areas of open space at market value.
11. Instruct the relevant officers to agree wayleaves and charges.
12. Instruct the relevant officers to negotiate charges for the use of open spaces for fairgrounds, circuses and other outdoor events, and, in consultation with other relevant officers, arrange appropriate lets for such events.
13. Arrange for the provision, maintenance and emptying of litter/dog fouling bins sited on highways and open spaces. (*Litter Act 1983*)
14. Arrange education and enforcement regarding littering (*Environmental Protection Act 1990*)
15. Arrange education and enforcement regarding dog fouling (*Dog Fouling (Scotland) Act 2003*)
16. Seek grants from outside agencies.
17. Dispose of the Dead. (*Burial Grounds (Scotland) Act 1855*)
18. Maintain Statutory burial registers. (*Section 31 - Burial Grounds (Scotland) Act 1855*)
19. Sell exclusive right of burial. (*The Church of Scotland (Property and Endowments) Act 1925, section 32*)
20. Authorise Service Level Agreements with internal and external clients.

#### Passenger Transport

1. Authorise school transport services to carry fare paying passengers. (*Public Passenger Vehicles Act 1981*)
2. Authorise not-for-profit community groups to make use of Council minibuses. (*Transport Acts*)
3. Enter into agreements with neighbouring authorities for passenger transport route planning across the Council's boundaries.
4. Manage the poor performance of transport providers within the conditions of contract. Failure to comply with any contract may result in the termination of the contract.
5. Authorise Service Level Agreements with internal and external clients.
6. Authority to respond to government and other passenger transport related consultations, surveys and enquiries on behalf of the Council.

## **CHIEF OFFICER - ROADS**

1. Carry out all functions and responsibilities in terms of relevant legislation and regulations, and within policy and budget, for SB Contracts, operating as a Trading Organisation. SB Contracts is designated a Significant Trading Organisation (STO). (*Local Government in Scotland Act 2003*)

## **CHIEF PLANNING OFFICER**

1. Authorise grants, within policy and budget, for Listed Buildings, properties in Conservation Areas, and externally supported Schemes.
2. Authorise grants, within policy and budget, for improvements to landscape and the environment.
3. Authorise grants, within policy and budget, to improve access to the Countryside.
4. Act as the Council's representative for functions of the Register General of Scotland as regards statistics and Census.
5. Bid for external work in accordance with relevant Council policies and legislation.
6. Authorise staff, contractors or others to act on behalf of Scottish Borders Council under the terms of Section 13 [Uphold Access Rights], Section 14 [Prohibitions signs, obstructions, dangerous impediments, etc.], Section 15 [Measurers for safety protection, guidance and assistance] and Section 23 [Ploughing, etc.] of the Land Reform (Scotland) Act 2003.
7. Authorise or refuse applications to exclude land from Access Rights. (*Section 11 of the Land Reform (Scotland) Act 2003*)
8. Authorise staff, contractors or others operating on behalf of Scottish Borders Council to enter land. (*Land Reform (Scotland) Act 2003; town & Country Planning (Scotland) Act 1997; Building (Scotland) Act 2003; Roads (Scotland) Act 1984*)
9. Respond to Scottish Government, UK Government, EU/EC and other consultations as appropriate.
10. Exercise the functions of the Council in relation to dangerous buildings, unauthorised works, or works not in accordance with a warrant and in relation to continuing requirement enforcement notices; reporting contraventions of the Act to the Procurator Fiscal and requiring existing buildings to comply with Building Standards Regulations as directed by Scottish Ministers up to the point of issuing instructions for the authorisation of direct works by the Council in excess of £30,000 (tender price)(*Building (Scotland) Acts*)
11. Exercise the function of the Council in relation to building operations to secure building sites and demolition sites against entry, including any direct action works which may be required to secure compliance under Regulation 13 of the Building (Scotland) Regulations.

12. Exercise the functions of the Council in relation to repairs to buildings and to the safety of temporary platforms and licensing of Houses in Multiple Occupation. (*Civic Government (Scotland) Act 1982*)
13. Comment on behalf of the Council on Notices of Requirements served by the Firemaster. (*Fire Precautions Act 1971*)
14. Exercise the functions of the Council in relation to the safety of covered spectator viewing facilities at or within sports grounds. (*Fire Safety and Safety of Places of Sport Act 1987*)
15. Exercise the functions of Planning and Building Standards in relation to Section 50 of the Licensing (Scotland) Act 2005.
16. Exercise the functions of the Council in relation to the safety of spectator viewing facilities at or within sports grounds. (*Safety at Sports Grounds Act 1975*)
17. Determine applications for building warrants. (*Building (Scotland) Acts*)
18. Extend the validity period of building warrants and period of use of limited life buildings as deemed appropriate. (*Building (Scotland) Acts*)
19. Accept or reject completion certificate submissions. (*Building (Scotland) Acts*)
20. Impose, discharge, and variation of, continuing requirements for compliance with Building Regulations.
21. Act as the Council's Access Officer in terms of the needs of the disabled in relation to access to and facilities within buildings.
22. Evacuate buildings and carry out works in case of immediate danger.
23. Decline to determine an application in accordance with Section 39 – relates to identical applications submitted within 2 years of a refusal or appeal dismissal. (*Town and Country Planning (Scotland) Act 1997*)
24. Vary planning permissions granted where the variation sought is not material. (*Town and Country Planning (Scotland) Act 1997*)
25. Determine applications for the display of advertisements.
26. Determine applications for Listed Building consent and Conservation Area consent and approve applications for Listed Building Consent or Conservation Area Consent which have raised no objections nor substantive comments from Scottish Ministers or Historic Environment Scotland.
27. Determine applications for variation or modification of planning obligations submitted under Section 75A or the Town and Country Planning (Scotland) Act 1997 (as amended).

28. Authorise minor amendments to Section 75 Agreements where the changes sought is not considered material and where such a change accords with any policy or decision of Council.
29. Issue decision notices where Scottish Ministers have made a Direction requiring the planning authority to refuse an application and where the planning authority has no alternative.
30. Determine whether or not to grant prior approval of the siting, design, or appearance of development which would otherwise constitute permitted development under the terms of the General Permitted Development Order 1992 (as amended).
31. Evaluate applications and determine whether an Environmental Impact Assessment is required.
32. Determine applications for certificates of lawful use.
33. Determine applications for hazardous substance consent.
34. Make observations on behalf of the planning authority on proposals by statutory undertakers, or on consultations to the Council as planning authority.
35. Serve the following Enforcement Notices –
  - Section 125 – Planning Contravention Notices
  - Section 127 – Enforcement Notices
  - Section 136A – Penalty Notices where enforcement notice has not been complied with
  - Section 140 – Stop Notices
  - Section 144A - Temporary Stop Notice
  - Section 145 – Breach of Conditions Notices
  - Section 145A - Fixed Penalty Notice where breach of condition notice has not been complied with
  - Section 168 – Enforcement Action in relation to Trees
  - Section 179 – Proper Maintenance of Land (*Town and Country Planning (Scotland) Act 1997*)
  - Section 27 – Building Warrant Enforcement Notice
  - Section 28 - Defective Building Notice
  - Sections 29 & 30 – Dangerous Buildings
  - Regulation 13 – Protective Works (*Building (Scotland) Act 2003*)
36. Exercise the functions of the Council in relation to all breaches of planning control, reporting contraventions of the Planning Acts to the Procurator Fiscal up to the point of issuing instructions for the authorisation of direct works by the Council in excess of £30,000 (Tender price). (*Town and Country Planning (Scotland) Act 1997, Planning etc. (Scotland) Act 2006*)
37. Determine applications to fell, lop or top trees protected by Tree Preservation Orders or by virtue of their inclusion within conservation areas.

38. Confirm provisional Tree Preservation Orders, where no objections have been received.
  39. Serve Tree Preservation Orders that are considered necessary to ensure the immediate protection of trees.
  40. Respond to Scottish Government, UK Government, EU/EC and other consultations, as appropriate.
  41. Prepare and issue documents as part of the Strategic Development Plan process, except at the stage of Notice of Intention to Prepare; Consultative Draft; and Finalised Plan.
  42. Prepare and issue documents as part of the Local Development Plan process, except at the stage of Consultative Draft; Finalised Plan; Local Inquiry; and Notice of Intention to Adopt.
  43. Determination of High Hedges Notices.
  44. Determination of all applications for Road Construction consent, except where there are unresolved technical or engineering objections, and to enforce the terms and conditions of such consents.
  45. Keep, manage, maintain and update the List of Public Roads; adding and removing roads from the List, including through the use of appropriate stopping up orders, and determine the extent of public roads for the purposes of the List of Public Roads.
  46. Determination of applications for the formation of vehicular accesses on to the public road.
  47. Award and manage contracts, in accordance with Council procedures, in relation to security associated with road construction.
  48. Exercise the functions of the Council in relation to all breaches of roads planning control, reporting contraventions of the Roads (Scotland) Act to the Procurator Fiscal.
  49. Keep, maintain, and update Public Registers as they relate to building standards, planning and roads planning functions.
- NB Powers delegated to the Chief Planning Officer for determining planning applications are specified in the separate scheme of delegation prepared in accordance with Section 43A of the Town and Country Planning (Scotland) Act 1997 and Part 2 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008.

## **SECTION X**

### **DIRECTOR – EDUCATION & LIFELONG LEARNING**

#### **A. General**

1. The Director – Education & Lifelong Learning is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Schools & Education Services  
Early Years' Service  
Education Psychologists  
Teacher training, learning & development  
Corporate parenting  
Holistic children's mental health & wellbeing  
Pathways to employment/employability and positive destinations  
Education intervention  
Social inclusion  
Supporting housing  
Additional Learning Support  
Youth Work & Adult Learning  
Learning communities  
Transition to adulthood  
Integrated Locality Services  
Integration of external services support  
Nursery/Childcare  
Child & young people equality & diversity  
Statutory Quality standards and inspections

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

1. Duty to secure provision of education. (*Standards in Scotland's Schools etc. Act 2000*)
2. Determine school session arrangements.
3. Approve minor variations to the School for the Future Policies for Primary and Secondary Schools and associated Accommodation Schedules.
4. Determine and implement, on behalf of the Council, all matters within the terms of the Local Recognition and Procedure Agreement for Teachers.
5. Exclusion of pupils from school.
6. Authorise placement requests and early admission requests.
7. Authorise and approve educational excursions.

8. Disposal of appeals by parents on school transport.
9. Make payments to individuals from education trusts and SBC Education Trust according to set criteria.

## **SECTION XI**

### **DIRECTOR – RESILIENT COMMUNITIES**

#### **A. General**

1. The Director – Resilient Communities is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following services/areas of work:-

Customer Services (internal/external)  
Customer relations  
Administration of Council Tax, Business Rates and Grants  
Business Support  
Community Planning & Engagement  
Revenues, Benefits, and Financial Inclusion  
Registration Service  
City Deal  
South of Scotland Enterprise  
Corporate partnership  
Economic Development  
Business Gateway Regeneration  
Employment Support Service  
Rural development  
Employment infrastructure  
Tourism & events  
Low carbon economy  
COVID Recovery

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

1. Act as Authorising Officer. (*Regulation of Investigatory Powers (Scotland) Act 2000*)
2. Approve applications for funding up to the value of £500 from the SBC Community Enhancement Trust and SBC Welfare Trust;
3. Approve applications for grants from £501 to £2,500 to the SBC Welfare Trust, subject to the agreement of at least 50% of the Members in the relevant Wards; and
4. Approve applications for grants from £501 to £5,000 to the SBC Community Enhancement Trust, subject to the agreement of at least 50% of the Members in the relevant Wards.
5. Act as Vice-Chair of the Asset Transfer Officer Group.
6. Approve “fast track” applications for grants up to and including £1,500 to the Community Fund, subject to the agreement of at least 50% of the



Members in the relevant Ward(s), and where the application cannot wait for the next suitable Area Partnership meeting.

7. Determine all applications for reliefs, remissions, exemptions and discounts for Council Tax in accordance with policy and statute.
8. Determine the recovery and enforcement of arrears of Council Tax, including making application for Summary Warrants; instructing Actions for Payment; requesting deductions from Income Support/JSA and Pension Credit; appointment and instruction of Sheriff Officers and debt recovery agents; and instructing execution of diligence, actions for sequestration or liquidation and letter so inhibition in accordance with policy and statute.
9. Determine all reliefs, remissions, and exemptions for Non-Domestic Rates in accordance with policy and statute.
10. Determine the recovery and enforcement of arrears of Non-Domestic Rates, including making application for Summary Warrants; instructing Actions for Payment; requesting deductions from Income Support/JSA and Pension Credit; appointment and instruction of Sheriff Officers and debt recovery agents; and instructing execution of diligence, actions for sequestration or liquidation and letters of inhibition in accordance with policy and statute.
11. Represent the Council at Appeal Tribunal Hearings for Housing and Council Tax Benefits.
12. Determine all applications for Housing and Council Tax Benefits in accordance with policy and statute.
13. Determine whether overpayments of Housing and Council Tax Benefits are recoverable and whether, and from whom, recovery should be sought.
14. Determine the recovery and enforcement of all outstanding housing benefit overpayments; instructing Actions for Payment; requesting deductions from state benefits; appointment and instruction of Sheriff Officers and debt recovery agents; and instructing execution of diligence.
15. Determine to whom, and at what level, Discretionary Housing Payments and Scottish Welfare Fund payments should be made.
16. Write off individual debts which are irrecoverable up to a maximum of £1,000.
17. Accept and reclaim grants from the Scottish Government and other parties in consultation with the relevant Director(s).
18. Complete and return all grant claims, subsidy returns and statistical returns relative to the service.
19. Calculate and award, within budget, bursaries/grants to individuals to a limit of £1,600, including clothing and footwear.

20. The periodic revision of the discretionary fees for Registration Services and consequent payments to Registrars.

**CHIEF OFFICER - ECONOMIC DEVELOPMENT**

1. Authorise economic grants, within budget, according to current Council policy.
2. Respond to Scottish Government, UK Government, and other consultations relevant to economic development as appropriate.

## **SECTION XII**

### **CHIEF OFFICER – HEALTH AND SOCIAL CARE INTEGRATION**

#### **A. General**

1. The Chief Officer – Health and Social Care Integration is authorised to carry out all functions and responsibilities (except where a specific professional qualification is required to be held) in terms of all relevant legislation and regulations, and within policy and budget, for the following Council services:-

Health and Social Care Integration, including:  
Adults and Older People Social Care  
Services and support for adults with physical or learning disabilities  
Mental Health Services  
Drug and Alcohol Services  
Support to Carers  
Community Care Assessment  
Support services including Housing Support  
Residential Care  
Occupational Therapy, Re-ablement, Equipment and Assistive  
Technology  
Day Services  
Respite  
Health Improvement

#### **B. Specific Delegated Functions**

The following specific functions of Council are delegated:-

## APPENDIX

### Authorised Officers - Protective Services

Sub delegation of these functions is by the Protective Services Manager to carry out the duties appropriate to the designation under the legislation hereinafter referred to and under any amending Acts, Regulations or Orders made thereunder.

- 1) Consumer Advice and Fair Trading  
Accommodation Agencies Act 1953  
Advanced Television Services Regulations 2003  
Business Protection from Misleading Marketing Regulations 2008  
Cancer Act 1939  
Companies Act 2006  
Companies (Trading Disclosures) Regulations 2008  
Consumer Contracts (Information, Cancellations and Additional Charges) Regulations 2013  
Consumer Protection (Distance Selling) Regulations 2000  
Consumer Protection Act 1987  
Consumer Rights Act 2015  
Consumer Protection from Unfair Trading Regulations 2008  
Consumer Rights (Payment Surcharges) Regulations 2012  
Enterprise Act 2002  
Estate Agents Act 1979  
European Communities Act 1972  
Electronic Commerce (EC Directive) Regulations 2002  
Footwear (Indication of Composition) Labelling Regulations 1995 Package  
Travel, Package Holidays and Package Tours Regulations 1992  
Provision of Services Regulations 2009  
Radio Equipment and Telecommunications Terminal Equipment Regulations 2000  
Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013  
Single Use Carrier Bags Charge (Scotland) Regulations 2014 Textile Products (Labelling and Fibre Composition) Regulations 2012  
Unsolicited Goods and Services Act 1971
- 2) Consumer Credit and Prices  
Consumer Credit Acts 1974 and 2006  
Debt Arrangement and Attachment (Scotland) Act 2002  
Development of Tourism Act 1969  
European Communities Act 1972  
Prices Act 1974  
Price Indications (Bureau de Change) (No. 2) Regulations 1992 Price Marking Order 2004  
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010  
Financial Services Act 2012  
Financial Services Act 2012 (Consumer Credit) Order 2013 Financial Services (Distance Marketing) Regulations 2004 Financial Services and Markets Act 2000  
Legal Services Act 2007

3) Petroleum and Dangerous Substances

Clean Air Act 1993  
Civic Government (Scotland) Act 1982  
European Communities Act 1972  
Explosives Acts 1875 and 1923  
Explosives Regulations 2014  
Fireworks Act 2003  
Fireworks Regulations 2004  
Health and Safety at Work etc. Act 1974 (sections 20, 21, 22 and 25) and, by virtue of section 19(1) of the Act, any other related Health and Safety Regulation for which Scottish Borders Council is responsible  
Petroleum (Consolidation) Regulations 2014  
Pyrotechnic Articles (Safety) Regulations 2015  
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012

4) Consumer Safety and Poisons

Aerosol Dispensers Regulations 2009  
Antisocial Behaviour etc. (Scotland) Act 2004  
Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013  
Biofuel (Labelling) Regulations 2004  
Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008  
Chemicals (Hazard Information and Packaging for Supply) Regulations 2009  
EC No. 1272/2008 Classification, Labelling and Packaging Regulations  
Children and Young Persons (Protection from Tobacco) Act 1991  
Cigarette Lighter Refill (Safety) Regulations 1999  
Construction Products Regulations 2013  
Cosmetic Products Enforcement Regulations 2013  
Consumer Protection Act 1987  
Detergents Regulations 2010  
Electrical Equipment (Safety) Regulations 2016  
Electromagnetic Compatibility Regulations 2016  
Energy Act 1976  
Energy Conservation Act 1996  
Energy Information Regulations 2011  
Food Imitations (Safety) Regulations 1989  
Furniture and Furnishings (Fire)( Safety) Regulations 1988 as Appliances (Safety) Regulations 1995  
General Product Safety Regulations 2005  
Household Appliances (Noise Emission) Regulations 1990  
Medical Devices Regulations 2002  
Motorcycle Noise Act 1987  
Motor Fuel (Composition and Content) Regulations 1999  
Motor Vehicle Tyres (Safety) Regulations 1994  
Nightwear (Safety) Regulations 1985  
N-nitrosamines and N-nitrosatable Substances in Elastomer or Rubber Teats and Dummies (Safety) Regulations 1995  
Oil Heaters (Safety) Regulations 1977  
Packaging (Essential Requirements) Regulations 2015  
Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001  
Pedal Bicycles (Safety) Regulations 2010

- Personal Protective Equipment Regulations 2002
  - Pesticides (Fees and Enforcement) Act 1989
  - Plant Protection Products Regulations 2011
  - Plugs & Sockets etc. (Safety) Regulations 1994
  - Poisons Act 1972
  - Pressure Equipment (Safety) Regulations 2016
  - REACH Enforcement Regulations 2008
  - Recreational Craft Regulations 2004
  - Regulation 765/2008/EC on Accreditation and Market Surveillance
  - Road Traffic Act 1988 (sections 17 and 18)
  - Road Vehicles (Brake Linings Safety) Regulations 1999
  - Standardised Packaging of Tobacco Products Regulations 2015
  - Tobacco Advertising and Promotion Act 2002
  - Tobacco for Oral Use (Safety) Regulations 1992
  - Tobacco and Primary Medical Services (Scotland) Act 2010
  - Tobacco and Related Products Regulations 2016
  - Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002
  - Toys (Safety) Regulations 2011
  - Simple Pressure Vessels (Safety) Regulations 2016
  - Supply of Machinery (Safety) Regulations 2008
- 5) Trade Descriptions and Hallmarking
- Copyright, Designs and Patents Act 1988
  - Copyright, etc. and Trade Marks (Offences and Enforcement) Act 2002
  - Energy Conservation Act 1996
  - European Communities Act 1972
  - Hallmarking Act 1973
  - Housing (Scotland) Act 2006
  - Intellectual Property Act 2014
  - Olympic Symbol etc. (Protection) Act 1995
  - Trade Descriptions Act 1968
  - Trade Marks Act 1994
  - Registered Designs Act 1949
  - Video Recording Acts 1984 and 2010
- 6) Quality Control, Food and Agriculture
- Agriculture Act 1970
  - Animal By-Products (Enforcement) (Scotland) Regulations 2013
  - Animal Feed (Scotland) Regulations 2010
  - EC Fertilisers (Scotland) Regulations 2006
  - European Communities Act 1972
  - Feed (Hygiene and Enforcement) (Scotland) Regulations 2005
  - Food and Environment Protection Act 1985
  - Genetically Modified Animal Feed (Scotland) Regulations 2004
  - Medicines Act 1968
  - Official Feed and Food Controls (Scotland) Regulations 2009
  - Trade in Animals and Related Products (Scotland) Regulations 2012
- 7) Quantity Control
- European Communities Act 1972
  - Measuring Container Bottles (EEC Requirements) Regulations 1977
  - Measuring Instruments Regulations 2016
  - Measuring Instruments (EEC Requirements) Regulations 1988

Non-automatic Weighing Instruments Regulations 2016  
Weights and Measures Acts 1976 and 1985

8) Animal Health (TS)

Animal Boarding Establishments Act 1963  
Animal Health Act 1981  
Animal Health and Welfare (Scotland) Act 2006  
Animals (Scotland) Act 1987  
Anthrax Order 1991  
Avian Influenza (Preventive Measures in Zoos) (Scotland) Regulations 2005  
Avian Influenza (Preventive Measures) (Scotland) Order 2007  
Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006  
Avian Influenza (Slaughter and Vaccination) (Scotland) Regulations 2006  
Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007  
Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007  
Breeding of Dogs Act 1973  
Breeding and Sale of Dogs (Welfare) Act 1999  
Cattle Identification (Scotland) Regulations 2007  
Dangerous Wild Animals Act 1976  
Disease Control (Interim Measures) (Scotland) Order 2002  
Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008  
Diseases of Poultry (Scotland) Order 2003  
Diseases of Swine Regulations 2014  
Foot-and-Mouth Disease (Scotland) Order 2006  
Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006  
Horse Identification (Scotland) Regulations 2009  
Importation of Animal Pathogens Order 1980  
Importation of Animals Order 1977  
Infectious Diseases of Horses Order 1987  
Non-Commercial Movement of Pet Animals Order 2011  
Pet Animals Act 1951  
Pigs (Records, Identification and Movement) (Scotland) Order 2011  
Rabies (Control) Order 1974  
Rabies (Importation of Dogs, Cats and other Mammals) Order 1974  
Riding Establishments Act 1964  
Sheep and Goats (Records, Identification and Movement) (Scotland) Order 2009  
Sheep Scab (Scotland) Order 2010  
Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010  
Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005  
Tuberculosis (Scotland) Order 2007  
Welfare of Animals at Markets Order 1990  
Welfare of Animals (Transport) (Scotland) Regulations 2006  
Welfare of Farmed Animals (Scotland) Regulations 2010  
Welfare of Horses at Markets (and Other Places of Sale) Order 1990  
Wildlife and Countryside Act 1981  
Zoo Licensing Act 1981

9) Environmental Health

Air Quality Standards (Scotland) Regulations 2010  
Air Quality (Scotland) Regulations 2000, as amended 2002 and 2016  
Agriculture Act 1970

Antisocial Behaviour etc. (Scotland) Act 2004  
 Building (Scotland) Act 2003  
 Caravan Sites and Control of Development Act 1960  
 Civic Government (Scotland) Act 1982  
 Clean Air Act 1993  
 Control of Pollution Act 1974  
 Control of Pollution (Amendment) Act 1989  
 Dog Fouling (Scotland) Act 2003  
 Environment Act 1995  
 Environmental Noise (Scotland) Regulations 2006  
 Health and Safety at Work etc. Act 1974  
 Housing (Scotland) Act 1987  
 Housing (Scotland) Act 2006  
 Housing (Scotland) Act 2014  
 Licensing (Scotland) Act 2005  
 Local Government (Scotland) Act 1973  
 National Assistance Act 1948 (Section 50)  
 Noise and Statutory Nuisance Act 1993  
 Prevention of Damage by Pests Act 1949  
 Private Housing (Tenancies) Scotland Act 2014  
 Private Rented Housing (Scotland) Act 2011  
 Private Water Supplies (Scotland) Regulations 2006  
 Public Health etc. (Scotland) Act 2008  
 Refuse Disposal (Amenity) Act 1978  
 Reservoirs Act 1975  
 Reservoirs (Scotland) Act 2011  
 Sewerage (Scotland) Act 1968  
 Water Services etc. (Scotland) Act 2005

10) Environmental Protection

Civic Government Scotland Act 1982  
 Dog Fouling Scotland Act 2003  
 Environmental Protection Act 1990  
 Environmental Protection (Duty of Care)(Scotland) Regulations 2014  
 Public Health etc (Scotland) Act 2008  
 Refuse Disposal Amenity Act 1978  
 Road Traffic Act 1991  
 Road Traffic (Vehicle Emissions)(Fixed Penalty)Scotland Regulations 2003  
 Smoking, Health and Social Care Scotland Act 2005

11) Food Safety

Contaminants in Food (Scotland) Regulations 2003  
 Country of Origin of Certain Meats (Scotland) Regulations 2016  
 Deer (Scotland) Act 1996  
 European Communities Act 1972 (and Regulations made thereunder)  
 Food Safety Act 1990 (And Regulations made thereunder)  
 Food Hygiene (Scotland) Regulations 2006  
 Food and Environment Protection Act 1985  
 Food (Hot Chilli and Hot Chilli Products) (EmergencyControl)(Scotland) Regulations 2003  
 Food Information (Scotland) Regulations 2014  
 Game Licences Act 1860  
 Imported Food Regulations 1997  
 Official Feed and Food Control (Scotland) Regulations 2005



Products of Animal Origin (Import and Export) Regulations 1996, as amended  
Products of Animal Origin (Third Country Imports)(Scotland) Regulations 2007  
The Spirit Drinks Regulations 2008

12) Food Safety

Service of Hygiene Emergency Prohibition Notices under Regulation 8 of the  
Food Hygiene (Scotland) Regulations 2006

Service of Emergency Prohibition Notices under Section 12 of the Food Safety  
Act 1990

Service of Remedial Action Notices and or Detention Notices (Regulation 9 of  
the Food Hygiene (Scotland) Regulations 2006

13) Health and Safety at Work etc. Act 1974

The officer is empowered to authorise any person to accompany him/her, if  
necessary on visits to premises for the purpose of carrying out his/her  
duties in terms of the Health and Safety at Work, etc. Act 1974. This officer  
is also hereby authorised to exercise the power of an inspector specified  
in:-

(a) Sections 20, 21, 22 and 25 of the Health and Safety at Work etc Act  
1974;

(b) Any health and safety regulations made under the above Act; and

(c) The provisions specified in the third column of Schedule 1 of the Act  
which and of the regulations, orders or other instruments of a legislative  
character made or having effect under any provision so specified.

14) Animal Welfare

Animal Health Act 1981

Animal Health and Welfare (Scotland) Act 2006

Civic Government (Scotland) Act 1982

Control of Dogs (Scotland) Act 2010

Dog Fouling (Scotland) Act 2003

Environmental Protection Act 1990

Local Government (Scotland) Act 1992

Microchipping of Dogs (Scotland) Regulations 2016

The Control of Dogs Order 1992

15) Pest Control

Prevention of Damage by Pests Act 1949

16) Contaminated Land

Contaminated Land (Scotland) Regulations 2000

Contaminated Land (Scotland) Regulations 2005

Environment Act 1995

17) Health Protection

The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020