

Scheme of Delegated Functions

Section 1 Introduction and Powers Reserved to Council

1 Introduction

1.1 Like every other local authority, Renfrewshire Council is only able to do what statute empowers it to do. In the absence of a decision by the Council to the contrary, all powers are exercisable by the Council itself. Recognising that such a requirement would be so cumbersome as to be unworkable, the Council has chosen to exercise one of the powers available to it - the power to delegate. This Scheme describes the delegations that have been agreed by the Council and it explains how these delegations are expected to be exercised.

1.2. Extent of delegations

1.2.1 Certain of the Council's powers cannot be delegated, but subject to these exceptions all other powers can be delegated. However, the Council may only delegate to a committee, (which this Council has referred to as a "Board") or a Sub-Committee, or an officer of the Council, or a Joint Committee with one or more other Councils.

1.2.2 Where a responsibility has been delegated, there is nothing to prevent the delegator from dealing with the responsibility delegated, or from withdrawing or amending the delegation granted. Exercise by a delegate of a delegated responsibility is as if it had been done by the Council itself.

1.2.3 It is virtually impossible to specify comprehensively all of the powers that are available to the Council and then to assign these, in whole or in part, to a variety of delegates. To overcome this problem, the Council has decided that except for matters which must be dealt with at the level of the Council itself (because statute requires this, or because the Council has so decided); all other powers should be delegated.

1.2.4 The Council has adopted the principle that decisions should be made at the lowest or most local level consistent with the nature of the issues involved. Functions, therefore, have been delegated to

- Boards
- the Chief Executive
- Directors and Heads of Service
- other officers

1.2.5 In respect of powers which have been delegated, those not specifically delegated to Boards or officers, are the responsibility of the appropriate Board.

1.2.6 Unless otherwise specified in the Scheme, where the Convener is not available for consultation, the Depute Convener should be consulted.

1.2.7 Any powers delegated to officers in terms of this Scheme must be exercised in accordance with the Council's Standing Orders relating to Contracts, Financial Regulations and Financial Codes. The Scheme of Delegation does not permit any action which is prohibited in terms of said Standing Orders, Regulations and Codes.

1.3. Powers reserved to Council

1.3.1 In terms of statute, certain responsibilities must be exercised at the level of the Council itself. However, in addition, there are certain matters which the Council has chosen to deal with at Council level. Section one itemises these statutory and non-statutory reservations. These matters can be the subject of advice from other sources, but the power to take decisions and initiate action rests with the Council and has not been delegated.

1.4 Delegations to Boards

1.4.1 The Council has established a small number of "themed" Boards, reflecting the Council's wish to focus on policy priorities and to develop a multi-functional approach to the issues intended to be addressed. The objective is to have Boards that have a strategic role, focusing on policy development, service review, and strategic management of the Council's services.

1.4.2 Subject to the provisions of the Local Government (Scotland) Act 1973, and the Local Government etc. (Scotland) Act 1994, and to the special delegations and limitations provided for in this Scheme and in the Council's Standing Orders, the Council has delegated to the respective Boards all the functions, matters, services or undertakings contained in the Terms of Reference of those Boards set out in section two; and also in any Minute of the Council making a specific delegation to a Board.

1.4.3 Each Board may exercise and perform on behalf of the Council all powers and duties of the Council in relation to the functions, matters, services or undertakings included in the appropriate Terms of Reference. However, delegations to a Board are subject to the following restrictions and conditions:-

(1) each Board, in carrying out the functions, powers and duties referred or delegated to it, must observe and comply with the Standing Orders of the Council and with any resolutions, directions or instructions passed by the Council with reference to its business generally; and

(2) a Board may in any case direct that the matter be reported to the Council for decision or that their resolution be submitted to the Council in the form of a recommendation.

1.4.4 Because Boards are "themed", occasional difficulties can be encountered in determining the particular Board that has responsibility for a specific matter. To assist the accurate identification of the relevant Board, details of the broad remit of each Board and of the general and specific delegations available to each Board are set out in section two. However, it should be borne in mind that whilst the information detailed in section two is accurate, it is not necessarily comprehensive. Any powers that are available to the Council, but which have not been reserved by the Council nor delegated to an officer are delegated to the relevant Board.

The relevant Board may be identified by referring to the respective terms of reference of each Board.

1.4.5 Reports will only be submitted to one Board for determination. Where a report has implications which would otherwise require the approval of more than one Board, the Board having the primary interest will be able to reach a decision on such reports without the requirement to remit the report to other Boards.

1.4.6 In the event of doubt in relation to which Board should consider a report the matter will be determined by the Head of Corporate Governance.

1.5. Statutory appointments of officers

1.5.1 In terms of various statutes, the Council is required to appoint officers for a variety of particular purposes. Occasionally, officers so appointed are other than the Chief Executive or a Director. Officers appointed to perform these statutory roles are empowered to take such action as is implicit in their roles. The statutory appointments that have been made by the Council are detailed in section four.

1.6 Powers delegated to officers

1.6.1 Delegations that have been agreed for the Chief Executive, Directors, Heads of Service and other officers are a mix of general delegations (i.e. each of the officers listed is similarly empowered) and specific delegations (i.e. the delegations are peculiar to individual officers). When exercising any delegated authority, officers are bound to have regard to a variety of stipulations that the Council has decided should govern and influence the exercise of powers delegated to officers. Details of general delegations and specific delegations to officers and of the stipulations relevant to them are contained in section five.

1.6.2 In addition to any specific officer delegation referred to within this Scheme, the Chief Executive, Directors and Heads of Service may authorise other officers to carry out their duties in their absence or with their authority.

1.7 Interpretation of the Scheme

1.7.1 Any reference to an enactment (whether primary legislation or not) is a reference:

(i) to the enactment as amended, and

(ii) to any enactment which makes similar provision to the provisions of that enactment, whether or not it repeals the named enactment,

and the authority conferred by this Scheme of Delegation shall operate notwithstanding the repeal, amendment, re-enactment or substitution of the named amendment.

1.7.2 interpretation of the Scheme is to be determined by the Head of Corporate Governance.

2 Powers reserved to Council

2.1 The powers which are reserved to the Council are a mixture of those which must, in terms of statute, be reserved, and those which the Council has, itself, chosen to reserve. Powers which are not reserved are delegated, in accordance with the provisions of this Scheme.

2.2 The following is a comprehensive list of what is reserved to the Council, categorised as statutory and non statutory:-

2.2.1 Statutory Reservations

- a. To change the name of the Council in terms of section 23 of the Local Government (Scotland) Act 1973.
- b. To appoint the Convener and Depute Convener of the Council and to decide on their titles, in terms of section 4 of the Local Government etc. (Scotland) Act 1994.
- c. To appoint Committees (Boards) in terms of section 57 of the Local Government (Scotland) Act 1973.
- d. To promote and oppose private legislation in terms of section 82 of the Local Government (Scotland) Act 1973.
- e. To set Council tax in terms of section 56(6) of the Local Government (Scotland) Act 1973.
- f. To consider reports by the Head of Paid Service made under section 4 of the Local Government and Housing Act 1989.
- g. To consider reports by the Monitoring Officer under section 5 of the Local Government and Housing Act 1989.
- h. To decide whether or not to divide the Council's area into licensing divisions and to appoint members to the Licensing Board in terms of the Licensing (Scotland) Act 2005.
- i. To determine planning applications for national developments as specified in the National Planning Framework.
- j. To determine planning applications for major developments which are significantly contrary to the local development plan.
- k. Approval of the annual investment strategy and annual investment report.
- l. To consider findings of the Standards Commission for Scotland in terms of the Ethical Standards in Public Life (Scotland) Act 2000.

2.2.2 Non Statutory Reservations

- a. To deal with all matters relating to the election of Councillors, where these are not the responsibility of the Returning Officer.
- b. To establish such Boards as may be considered appropriate to conduct business and to appoint and remove Conveners, Depute Conveners and members of Boards.
- c. To make and amend Procedural Standing Orders, Standing Orders relating to Contracts and Financial Regulations.
- d. To make and amend a Scheme of Delegated Functions detailing terms of reference and delegations to Boards, and delegations to officers.
- e. To fix and amend a programme of Council and Board meetings, subject to the provisions of the Council's Procedural Standing Orders.
- f. To appoint to a Board persons who are not members of the Council.
- g. To determine the Council's annual revenue budget and capital programme.
- h. To determine the level of Council house rents.
- i. To raise money by Council Tax or loan and to issue Council stock.
- j. To incur any expenditure not provided for in the annual estimates of the Council unless and until such expenditure has been reported to and approved by the Council.
- k. To determine the process for selection, appointment and dismissal of the Chief Executive.
- l. To consider matters relating to the fixing or amendment of the Council's geographic boundaries, its electoral boundaries and wards, or matters relating to the fixing or amendment of the boundaries of the parliamentary constituencies lying wholly or partly within the Renfrewshire Council area.
- m. To deal with matters reserved to the Council by Standing Orders, Financial Regulations and other Schemes approved by the Council.
- n. To consider the unaudited Annual Accounts as submitted to the auditor and, subsequently, to consider the audited Annual Accounts and if it is satisfied that it is appropriate to do so, to approve those accounts for signature, all in terms of the Local Authority Accounts (Scotland) Regulations 2014.
- o. To agree the Partnership Agreement between Children's Hearings Scotland and Renfrewshire Council under the terms of the Children's Hearings (Scotland) Act 2011.