
Report To:	Inverclyde Council	Date:	18 April 2019
Report By:	Head of Legal & Property Services	Report No:	SL/LP/059/19
Contact Officer:	Sharon Lang	Contact No:	01475 712112
Subject:	Scheme of Delegation (Officers) - Update		

1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Council of an update required to the Scheme of Delegation (Officers).

2.0 SUMMARY

- 2.1 The new Shared Head of Service Roads (Strategic Lead Wider Shared Services) is now in post with responsibility for all roads matters.
- 2.2 To regulate the position, amendments are required to the Scheme of Delegation to reflect this change. There are no actual changes to the powers or delegations themselves, only to the identity of the Responsible Officer.

3.0 RECOMMENDATIONS

- 3.1 The Council is asked to approve the changes to the Scheme of Delegation (Officers) as set out in Appendix 1 to the report.

Gerard Malone
Head of Legal & Property Services

4.0 BACKGROUND

- 4.1 The Scheme of Delegation (Officers) was last updated in June 2018.
- 4.2 Since that time, the Shared Head of Service Roads has taken up post with responsibility for all roads matters.
- 4.3 The roads functions previously under the remit of the Head of Environmental & Public Protection have been transferred following the restructuring to the Shared Head of Service Roads and require to be reflected in the Scheme of Delegation (Officers).
- 4.4 There are no changes to the powers or delegations, only to the responsible Officer.

5.0 IMPLICATIONS

5.1 Finance

There are no financial implications

Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

5.2 Legal

The legal implications are set out in the report.

5.3 Human Resources

The HR implications are set out in the report.

5.4 Equalities

There are no equalities implications arising from this report.

- (a) Has an Equality Impact Assessment been carried out?

	YES (see attached appendix)
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required

5.5 Repopulation

There are no repopulation implications arising from this report.

6.0 CONSULTATIONS

6.1 Not applicable

7.0 BACKGROUND PAPERS

7.1 None.

Powers to be transferred from Head of Environmental & Public Protection to Shared Head of Service Roads

- 17 Authorised to carry out the following functions of the Council in terms of the Roads (Scotland) Act 1984:
- (a) Under Section 1(4), in relation to Notices of Intention to add a private road to the List of Public Roads or delete a public road from the List of Public Roads;
 - (b) Under Section 12, in relation to the stopping up or diversion of roads crossing or entering public roads or proposed roads;
 - (c) Under Section 13, in relation to the imposition on frontagers of the requirements to make up and maintain private roads including the service of appropriate notices;
 - (d) Under Section 15, in relation to the completion of necessary work on private roads occasioned by an emergency (other than an emergency constituted by a danger as defined in Section 91);
 - (e) Under Section 16 (1) (b), in relation to the consideration and determination of applications for the adoption of private roads as public;
 - (f) Under Section 18, in relation to the adoption of footpaths associated with development;
 - (g) Under Section 21, in relation to applications for construction consent for new roads built by a person other than the roads authority;
 - (h) Under Section 23, in relation to stopping up or temporarily closing any new road constructed by a person other than the roads authority, without consent or in contravention of or in non-compliance with, a condition imposed by a construction consent;
 - (i) Under Section 30, in relation to the serving of notices subject to Section 31(3) in connection with carrying out works for protecting roads against hazards of nature;
 - (j) Under Section 31 (3), in relation to the service of notices in connection with the drainage of public roads or proposed public roads, on the owner and occupier of the land affected;
 - (k) Under Section 35 (1) and (4), and after giving notice in terms of Section 35 (5) in relation to the provision of road lighting and related structures;
 - (l) Under Section 51, in relation to the authorisation and withdrawal of authorisation for the planting and maintenance of trees, shrubs, grass or other plants by a person other than the roads authority within the boundaries of a public road;
 - (m) Under Section 56, in relation to the authorisation of works and excavation in or under a public road;
 - (n) Under Section 57, in relation to the prevention or termination of dangerous works or excavations in or under a public road;
 - (o) Under Section 58, in relation to the granting of permission for the deposit of building materials on roads;
 - (p) Under Section 59, in relation to the control of obstructions in roads;
 - (q) Under Section 60, in relation to the issuing of consent for marking, lighting and fencing of obstructions or roadworks and for shoring buildings requiring protection in similar circumstances;
 - (r) Under Section 61, in relation to granting permission to place and thereafter maintain apparatus in or under a public road;

- (s) Under Section 62, after consultation with the Chief Constable and the Chief Executive and after informing the Convener and Vice-Convener of the Environment & Regeneration Committee and the local Members, in relation to the temporary prohibition or restriction of traffic on roads for reasons of public safety or convenience;
- (t) Under Section 63, in relation to the imposition of the requirement to construct new accesses across road verges or footways where appropriate;
- (u) Under Section 64 (2), in relation to the issue of consent to statutory undertakers for work on footways, footpaths or cycle tracks maintainable by the roads authority in connection with their apparatus in terms of Section 64 (1) (b);
- (v) Under Section 66, in relation to enforcing maintenance of vaults, arches, cellars, tunnels and related structures within the vicinity of a road;
- (w) Under Section 67, in relation to enforcing safety provisions countering outward opening doors, gates, windows, window shutters or bars interfering with the safety or convenience of road users;
- (x) Under Section 78 (2), in relation to the service of notices prior to the diversion of waters where necessary in connection with the construction, improvement or protection of a public road;
- (y) Under Section 79, and after consultation with the Chief Financial Officer, to negotiate terms and enter into agreements with bridge owners in relation to future maintenance obligations;
- (z) Under Section 83, in relation to the prevention of obstruction of the view of road users at or near corners, bends and junctions;
- (aa) Under Section 85, in relation to granting permission for the location of builders' skips on roads;
- (bb) Under Section 86, in relation to the removal or repositioning of any builders' skip which is causing or is likely to cause a danger or obstruction;
- (cc) Under Section 87, in relation to the removal from roads of unauthorised structures and the consequent reinstatement of the site;
- (dd) Under Section 88, in relation to the removal of projections interfering with safe or convenient passage along a road;
- (ee) Under Section 89, in relation to the removal of accidental obstructions from roads;
- (ff) Under Section 90, in relation to the granting of consent for fixing or placing over, along or across a road any overhead bridge, beam, rail, pipe, cable, wire or other similar apparatus;
- (gg) Under Section 91, in relation to the prevention of danger to road users and the prevention of obstructions caused by roadside vegetation, fences or walls;
- (hh) Under Section 92, in relation to granting consent for planting trees or shrubs within five metres of the edge of the made up carriageway;
- (ii) Under Section 93, in relation to the protection of road users from dangers near a road;
- (jj) Under Section 94, in relation to the infill of dangerous ditches adjacent to or lying near a public road;
- (kk) Under Section 96(1), in relation to the issue of a certificate in respect of extraordinary expenses in repairing roads damaged by heavy vehicles etc.;
- (ll) Under Section 96 (1), to act as the Proper Officer to issue a certificate as provided in the said Section;
- (mm) Under Section 97, in relation to the issue of consent for trading;

- (nn) Under Section 99 (2), in relation to the issue of consent to persons undertaking works or excavations necessary to ensure compliance with Section 99 (1) (prevention of the flow of water, filth, dirt or other offensive matter onto the road);
 - (oo) Under Section 99 (3), in relation to the service of notices on owners or occupiers requiring works or excavations to be undertaken to ensure compliance with Section 99 (1);
 - (pp) Under Section 140, in relation to authorising persons to enter land to take any action or execute any work authorised or required to be taken or executed by the roads authority under the Act;
 - (qq) To exercise the functions of the Council under Section 152 (2) to redetermine the means of exercise of a public right of passage over a road;
- 18 Authorised to carry out the following functions of the Council in terms of the Road Traffic Regulation Act 1984:-
- (a) Under Section 14, in relation to the temporary prohibition or restriction of traffic on roads;
 - (b) Under Section 71 (1), in relation to the power to enter land in connection with the placing, replacing, converting and removing of traffic signs;
- 19 Authorised after consultation with the Chief Constable and the Chief Executive and after informing the Convener and Vice-Convener of the Planning Board, and the local Members to arrange for the advertisement of any proposal for the making, revocation, or variation of Orders and Schemes under Sections 68, 69, 70 and 71 of the Roads (Scotland) Act 1984;
- 20 Authorised to carry out the functions of the Council under the New Roads and Street Works Act 1991 in relation to roads for which the Council is responsible, including but not limited to the issuing of fixed penalty notices in relation to Part IV of the Act;
- 21 Authorised after consultation with the Chief Financial Officer to agree terms for Bridge Agreements with the relevant Railway Body and terms of discharge of the Council's liability for annual maintenance and renewal charges in that connection;
- 22 Authorised, after consultation with the Chief Constable, to consider and, where acceptable in road safety terms, approve locations for advertisements on road safety barriers and similar structures;
- 23 Authorised to make arrangements for the management of piers, harbours, car parks, etc., including, subject to consultation with the Head of Legal and Property Services, granting use of part thereof to other persons or bodies, and following consultation with the Chief Financial Officer, the imposition or waiving of charges for such use;
- 24 Authorised, in conjunction (where appropriate) with the Head of Legal & Property Services, to carry out the following functions of the Council in terms of the Coast Protection Act 1949:
- (a) Under Section 4, to enter into an agreement with any other person for the carrying out by that person or the Council of any coast protection work which the Council has the power to carry out;
 - (b) Under Section 5, to arrange for the publication of notices relating to proposed works in local newspapers and the serving of like notices on affected harbour and other relevant authorities;
 - (c) Under Section 8, to arrange for the publishing of notices relating to a works scheme and the serving of like notices on affected harbour and other relevant authorities;
 - (d) Under Section 12, to serve notice on owners of land where protection works are necessary;
 - (e) Under Section 25, in relation to the authorisation of persons taking entry to land for the purposes specified therein;
- 25 Authorised to carry out the functions of the Council under the following Acts:-
- (a) Reservoirs (Scotland) Act 2011;
 - (b) Flood Prevention & Land Drainage (Scotland) Act 1997;

- (c) Flood Risk Management (Scotland) Act 2009;
 - (d) The Road Humps and Traffic Calming (Scotland) Amendment Regulations 2002;
 - (e) Transport (Scotland) Act 2005.
- 26 Authorised, in terms of existing contracts and subject to consultation with the Head of Legal & Property Services, to negotiate Service Level Agreements with Scottish Power;
- 27 In terms of the Construction (Design & Management) Regulations 2015 (CDM 2015) for roads projects:
- (a) To act as Client's Agent and appoint Designer, Planning Supervisor, Principal Contractor and/or Contractor;
 - (b) In the case of contracts in which the Council acts as agent of the Scottish Ministers in terms of Section 4 of the Roads (Scotland) Act 1984, to consent to the Council being appointed as Client's Agent;
 - (c) In the case of contracts where the Council is appointed as Client's Agent, Designer, Planning Supervisor, Principal Contractor and/or Contractor to carry out the duties appropriate to each such appointment;
- 28 Authorised to carry out the following functions of the Council in terms of the Roads (Scotland) Act 1984:-
- (a) Under Sections 36 and 37, after consultation with the Chief Constable and the Chief Executive and after informing the Convener and Vice-Convener of the Planning Board and the local Members in relation to the construction of road humps;
 - (b) Under Section 51, in relation to the authorisation and withdrawal of authorisation for the planting and maintenance of trees, shrubs, grass or other plants by a person other than the roads authority within the boundaries of a public road;
- 29 Authorised to carry out the following functions of the Council in terms of the Road Traffic Regulation Act 1984:-
- (a) Under Section 23, in relation to pedestrian crossings on roads other than trunk roads;
 - (b) Under Section 65, in relation to the placing of traffic signs;
 - (c) Under Section 68, in relation to the placing of traffic signs in connection with the exercise of other powers of the Authority as defined in sub-section (1) thereof;
 - (d) Under Section 69, in relation to the removal of signs;
 - (e) Under Section 71 (1), in relation to the power to enter land in connection with the placing, replacing, converting and removing of traffic signs;
- 30 Authorised after consultation with the Chief Constable and the Chief Executive and after informing the Convener and Vice-Convener of the Planning Board, and the local Members to arrange for the advertisement of any proposal for the making, revocation, or variation of Orders and Schemes under :-
- (a) The Road Traffic Regulation Act 1984; and
 - (b) Sections 68, 69, 70 and 71 of the Roads (Scotland) Act 1984;
- 31 Authorised to carry out the functions of the Joint Road Safety Officer in conjunction with the Chief Constable;
- 32 Authorised, subject to consultation with the Chief Constable and the authorised representative of Strathclyde Partnership for Transport, to make requests to the Traffic Commissioner to determine and attach to operators' licences, traffic regulation conditions restricting the operations of local services, all in terms of Section 7 of the Transport Act 1985;

- 33 Authorised, after consultation with the Chief Constable, to consider and, where acceptable in road safety terms, approve locations for advertisements on road safety barriers and similar structures;
- 34 Authorised where appropriate, to enter objections on behalf of the Council to applications for Goods Vehicles Operators' Licences, under Section 12 of the Goods, Vehicles (Licensing of Operators) Act 1995;