

**A Guide to Glasgow City Council's
Statutory Duties and Powers**

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the Glasgow City Council website

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INTRODUCTION

Disclaimer

This document is designed to provide a brief overview of Glasgow City Council's statutory powers and duties as a local authority in Scotland. It is not an exhaustive list and should not be used as a substitute for legal advice. Where a description is given of a piece of legislation only a brief summary is provided. This document was developed for internal use within Glasgow City Council and to help inform the elected members of the council as to the statutory duties to which the council is subject and powers available to it.

The council has decided to make this version available on our website in order to be more transparent – data protection law requires us to explain why we process personal data, and most personal data processed by the council is processed in order to allow us to carry out the statutory functions described in this document. It is not intended to constitute legal advice, however, and the council gives no warranties, express or implied, as to the accuracy or completeness of the information contained in the guide. The council can accept no liability in respect of use of the information contained in this guide.

Glasgow City Council is also subject to obligations under the Re-use of Public Sector Information Regulations 2015. The statutory duties set out in this guide can be considered to be the council's "public task" in terms of those Regulations – see <https://www.glasgow.gov.uk/index.aspx?articleid=18012> for details of how the council approaches requests for re-use of information under these Regulations.

Using the Guide

For ease of reference, descriptions of legislation have been grouped under the service area to which they are most relevant. Please note, however, that the legislation may be applicable to more than one service area. The document also indicates where the council has elected to deliver some or part of those powers / duties via one of its Arms-Length External Organisations (ALEOs). Some powers and duties may also be delivered by the council via contractual arrangements with third parties. While the major items of legislation have been covered, there may be other pieces of legislation not included in this document that also apply to council service departments or ALEOs.

A separate Coronavirus Legislation section has been included in this version of the Guide summarising the relevant legislation passed as a result of the COVID-19 pandemic. This section seeks to highlight how some of the functions and legislation in the other sections of the Guide have been impacted. An asterisk* indicates where further reference may need to be made to the Coronavirus Legislation section.

Duties and powers – understanding the difference:

At its most basic level, a statutory duty means that the Council must comply with the requirements of the relevant legislation. A statutory power means that the Council has discretion whether or not to exercise the power.

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In practice statutory duties and powers are used to provide a range of services which combine both mandatory and discretionary elements.

The Council's duties are in **bold** typeface in the Guide, whereas its powers are in ordinary typeface. The document reflects the legislation as at May 2021, unless otherwise stated.

NB - This guide is for internal use by Glasgow City Council only. The information contained within the Guide does not constitute legal or professional advice and must not be relied upon as such.

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CHIEF EXECUTIVE'S DEPT

1

The Chief Executive's Department is at the core of the Council's corporate governance and plays a key role in support of its strategic aims, key objectives and policies.

It includes the following:

- Legal and Administration, including the Corporate Procurement Unit
- Corporate Governance and Asset Management
- Corporate HR
- Economic Development and Inward Investment
- Strategic Information and Technology
- Democratic Services
- Licensing
- Community Empowerment and Community Planning

Key activities include:

- ensuring that legislative requirements are met and that the interests of the Council are safeguarded
- provision of legal services to the Council and its Arms-Length External Organisations (ALEOs)
- provision of Licensing and Registrar functions
- administration of local and parliamentary elections
- facilitating democratic arrangements including Council meetings and committees, arranging civic events and hospitality
- providing support services to elected members, including the Lord Provost and International Office
- monitoring IT contract performance
- driving economic development and inward investment in the city of Glasgow as well as the wider City Region
- leading development of community planning at city-wide and local levels
- developing policy for the use and disbursement of grants
- monitoring and reporting on the Council's ALEOs
- administering customer care complaints system
- providing a reliable and flexible Human Resources framework
- assisting the Council in meeting its Freedom of Information and Data Protection responsibilities
- its Director of Legal and Administration has a statutory responsibility as 'monitoring officer' to make sure the Council acts in compliance with its legal framework

CHIEF EXECUTIVE'S DEPT

1

Function	Power to make Byelaws; Land Transactions; Finance and Public Expenditure; Community Councils
Act	Local Government (Scotland) Act 1973
Content	
<p><u>Power to make Byelaws</u></p> <ul style="list-style-type: none"> The Council has power to make byelaws for the good rule and government for the prevention and suppression of nuisances for the whole or part of their area. Byelaws cannot be made if there is a provision for that purpose under another piece of legislation. Before a byelaw can come into force the Council must apply to the Scottish Ministers for the byelaw to be confirmed. <ul style="list-style-type: none"> Scottish Ministers can confirm a byelaw with or without amendments or they can refuse to confirm a byelaw Scottish Ministers may also fix a date for the byelaw coming into force but if no date is set then the byelaw will come into force one month after the date it is confirmed by the Scottish Ministers The Council must review each byelaw at least every 10 years and must keep a register of all byelaws made. The Council also has power to revoke byelaws. <p><u>Land Transactions</u></p> <ul style="list-style-type: none"> For the purpose of any of its functions under an enactment or for the benefit, improvement or development of its area, a local authority may acquire by agreement any land, whether situated inside or outside its area. Subject to certain statutory conditions a local authority can dispose of land held by it; in certain circumstances, however, where land is part of the common good judicial authority may be necessary. Usually a local authority cannot dispose of land for less than the best consideration that can reasonably be obtained. Exceptions to this rule are set out in the Act. <p><u>Finance and Public Expenditure</u></p> <ul style="list-style-type: none"> Section 93 requires every local authority to have a general fund (the main account for local authorities) into which all sums received by it shall be paid and all sums payable by that authority shall be paid out of that fund, except for sums held by it as trustees for any purpose, or which relate to the common good of the Council, or where statute provides otherwise. 	

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- **Section 95 requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a proper officer to have responsibility for those arrangements.**
- **Local authorities must keep accounts of all transactions relating to all funds of the authority.**

Community Councils

In terms of Part IV of the Local Government (Scotland) Act 1973 s.52 (as amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981) a local authority must submit a scheme for the establishment of community councils for its area to Scottish Ministers.

In addition to any other purpose which a community council may pursue, the general purpose of a community council is to ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable.

In terms of s.55 of the 1973 Act as amended, local authorities may make such contributions as they think fit towards the expenses of community councils within their areas and may, at the request of such community councils, provide them with staff, services, accommodation, furniture, vehicles and equipment, on such terms as to payment or otherwise as may be agreed between the councils concerned.

Relevant Council Service / ALEO

All Services and ALEO's

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CHIEF EXECUTIVE'S DEPT

1

Function	Combating Bribery
Act	Bribery Act 2010
Content	
<ul style="list-style-type: none"> ▪ The Bribery Act 2010 provides a legal framework to combat bribery in the public and private sectors and places certain duties on the Council in relation to the prevention of bribery. ▪ The Act defines bribery as an improper performance of a duty/function in return for an advantage. An advantage includes cash bribes and non cash bribes. ▪ Bribery is a criminal offence and individuals who are convicted face up to 10 years imprisonment and an unlimited fine. Organisations who fail to prevent bribery face unlimited fines. ▪ It is a criminal offence : <ul style="list-style-type: none"> ○ To make a bribe; ○ To accept a bribe; ○ To bribe a foreign public official; and ○ For an organisation to fail to prevent bribery. ▪ An organisation has a complete defence to the crime of failing to prevent bribery if the organisation has adequate procedures in place to prevent bribery. Whilst there is no definition of adequate procedures, six principles are set out which must be taken into account when determining if the organisation has adequate procedures in place. The six principles are: <ul style="list-style-type: none"> ○ Proportionate procedures; ○ Top level commitment; ○ Risk Assessment; ○ Due Diligence; ○ Communication; and ○ Monitoring and Review. 	
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	
Function	Common Good
Act	
Act	Local Government (Scotland) Act 1973 as amended by Local Government etc. (Scotland) Act 1994 ; Community Empowerment (Scotland) Act 2015
Content	
<ul style="list-style-type: none"> ▪ Local authorities have a duty to maintain an account in respect of the assets which are Common Good ▪ Restrictions are imposed on Local Authorities in relation to the disposal of assets which are Common Good and which are accessed and used by the general public. <p>The Council has a duty to:</p> <ul style="list-style-type: none"> • establish and maintain a register of all property held by it for the Common Good, and • publish its proposals and consult community bodies prior to disposing of or changing the use of Common Good assets. 	
Relevant Council Service / ALEO	
Relevant Council Service / ALEO	Finance/Corporate

CHIEF EXECUTIVE'S DEPT

1

Function	Common Good
Act	Land Reform (Scotland) Act 2016
Content	
<p>In addition to the Council's current powers to dispose of common good land, this Act allows the Council, in certain circumstances, to apply to court to appropriate inalienable common good land for other purposes, such as a new school.</p>	
Relevant Council Service / ALEO	All services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Community Empowerment / Community Planning
Act	Community Empowerment (Scotland) Act 2015
Content	<p>The Act provides a framework to:</p> <ul style="list-style-type: none"> (i) empower community bodies through the ownership of local land and building assets, and (ii) help further development of the Public Service Reform Agenda with a focus on achieving outcomes and improving the community planning process. <p>Community Planning Partnership (CPPs, of which the Council forms part) are given a statutory basis. Duties are imposed on CPPs regarding the planning and delivery of local outcomes.</p> <p>Local communities are to have a greater role in how services are planned and delivered. Community bodies can make participation requests to public service authorities (including the Council).</p> <p>Community bodies have a right to request the purchase, lease, management or use of land / building assets belonging to the Council (and certain other Scottish public bodies).</p> <p>The 2015 Act also creates a framework for "Community Planning". Community Planning is a process which helps public agencies to work together with the community to plan and deliver better services. The main aims of Community Planning are:</p> <ul style="list-style-type: none"> • Making sure people and communities are genuinely engaged in the decisions made on public services which affect them: and • For organisations to work together in providing better public services <p>The 2015 Act gives local Community Planning Partnership (CPPs, of which the Council forms part) a statutory basis. Specific duties are imposed on several of the CPPs partners including the Council regarding the governance of the Community Planning Partnership and reporting on its progress. It also creates a duty on all named partners for the planning and delivery of local outcomes, the tackling of inequalities, and the promotion of full participation of communities.</p>
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Management Rules
Act	Civic Government (Scotland) Act 1982, Sections 112-118
Content	
<p>The Council has power to make management rules regulating the use of, and conduct of persons while on or in, any land or premises owned, occupied, managed or otherwise controlled by the Council and to which the public have access.</p> <p>The Council currently has management rules in respect of the management of cemeteries and public parks.</p> <p>The procedure for making and publicising management rules is set out in Sections 112-115 of the Act.</p> <p>An authorised officer of the Council may exclude a person from the relevant land or premises if he/she has reasonable grounds for believing that person has contravened or is contravening a management rule. (There is an additional provision permitting the exclusion of a person if the authorised officer has reasonable grounds for believing the person is about to contravene a management rule).</p> <p>The Council may make an Exclusion Order (lasting up to one year) in respect of any person who has persistently contravened or attempted to contravene its management rules in respect of particular land or premises and is in the Council's opinion likely to contravene them again. This power cannot be delegated to an officer.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Overseas Assistance
Act	Local Government (Overseas Assistance) Act 1993
Content	
<p>A local authority may provide advice and assistance in respect of any matter in which it has skill and experience to a body engaged outside the UK in carrying on any local government activity. This does not include authorisation under the Act to make a grant or loan, give a guarantee or indemnity, or invest by acquiring share or loan capital.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Supply of goods and services
Act	Local Authority (Goods and Services) Act 1970
Content	<p>This legislation makes provision with respect to the supply of goods and services to certain public bodies and other persons in prescribed circumstances.</p> <p>A local authority and any public body (defined in the Act) may enter into an agreement for purposes detailed in section 1 of the Act, including:</p> <ul style="list-style-type: none"> • the supply of goods or materials • the provision of administrative, professional or technical services • use of any vehicle, plant or apparatus • carrying out maintenance works in connection with land or buildings for which the body is responsible <p>A local authority and any person may in relation to any “relevant trading operation” (i.e. a trading operation for which the authority keeps separate trading accounts) enter into an agreement for the:</p> <ul style="list-style-type: none"> • supply by the authority to the person of any goods or materials • provision by the authority of any services • use by the person of any property belonging to or facilities under the control of the authority • carrying out by the authority of works of maintenance in connection with land or buildings for which the person is responsible. <p>The local authority cannot enter into an agreement under the trading operation provisions above if the commercial services income accruing to it in any financial year will exceed the statutory limit without the prior consent of the Scottish Ministers.</p> <p>(There is a prospective change in section 9 which will grant local authorities a power, in accordance with regulations to be made under the Act, to enter into an agreement with any person for the construction or maintenance by the authority of any buildings or works).</p>
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Protects people from discrimination in the workplace and in wider society
Act	Equality Act 2010; The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
Content	
<ul style="list-style-type: none"> ▪ The Act protects people from discrimination on the basis of protected characteristics. The protected characteristics are: <ul style="list-style-type: none"> ○ Age; ○ Disability; ○ Gender reassignment; ○ Marriage and civil partnerships; ○ Pregnancy and maternity; ○ Race; ○ Religion or belief; ○ Sex; ○ Sexual orientation. ▪ The Act imposes various duties to protect people from discrimination including a duty to make reasonable adjustments for disabled people. ▪ In order to comply with its public sector equality duty, a public authority or a body exercising public functions must, in the exercise of its functions, have due regard to the need to: <ul style="list-style-type: none"> ○ Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; ○ Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and ○ Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. ▪ Each public authority must publish (i) at least every two years, a report on the progress it has made to make the equality duty integral to the exercise of its functions and (ii) at least every four years, a set of equality outcomes which it considers will enable it to better perform the equality duty. ▪ Each public authority must where necessary assess the impact of any proposed new or revised policy or practice against the needs identified in the equality duty. 	
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Protection of Vulnerable Groups
Act	Disclosure (Scotland) Act 2020
Content	
<ul style="list-style-type: none"> • The Disclosure (Scotland) Act 2020 makes provision for the disclosure of criminal history and other information, repeals Part 5 of the Police Act 1997 and amends the Protection of Vulnerable Groups (Scotland) Act 2007. • Section 82 provides for new referral powers for local authorities and integration joint boards in connection with issues that arise in the exercise of certain statutory functions, listed in subsection (3). • Local authorities may be required under section 65 to share information with the Scottish Ministers if it is necessary for carrying out their functions under Part 1 of the Act. • Section 28(2)(e) provides that the independent reviewer may also require a local authority to provide particular information within the period specified. 	
Relevant Council Service / ALEO	All services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Procurement
Act	<p>Procurement Reform (Scotland) Act 2014 The Public Contracts (Scotland) Regulations 2015 The Utilities Contracts (Scotland) Regulations 2016 The Concession Contracts (Scotland) Regulations 2016 The Procurement (Scotland) Regulations 2016 The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020</p> <p>(supplemented by guidance issued via Scottish Procurement Policy Notes along with specific guidance for Construction via Construction Policy Notes)</p>
Content	<p>The Regulations came into effect on 18 April 2016 and were updated to following the United Kingdom's departure from the European Union and prescribe mandatory tendering procedures and timescales with which contracting authorities (such as the Council) are required to comply when awarding any public contract above a prescribed value threshold. For a public contact of a lower value the Act details the requirements for the Council.</p> <p>Although the Council's main purchasing activities are governed by the Public Contracts regulations, the Utilities Contracts regulations govern purchasing requirements in relation to, for example, gas, heat, electricity, water and transport services. Any works or services in which a third party is granted a right to exploit works or services for a payment are governed by the Concession Contracts regulations.</p> <p>Public contracts must be awarded by way of transparent and fair processes using either the open, restricted, competitive negotiated, competitive dialogue or innovation partnership procedure (unless certain exemptions apply).</p> <p>The Council must comply with the rules set out in the legislation. These include:</p> <ul style="list-style-type: none"> • minimum time limits for procurement exercises and contract awards • prescribed procurement procedures (including those which aim to increase the scope of public procurement to help develop new or particularly complex solutions to meet the Council's requirements)

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- a “light touch regime” for the procurement of certain specified services, such as health and social care
- rules on the exclusion of firms from tendering for public contracts
- contract award decisions must be made in accordance with specific evaluation rules and notified to all tenderers and candidates a requirement that all procurement procedure communications should be by electronic means
- a duty to consider dividing requirements into smaller lots (which may further encourage SMEs to bid for public contracts)

There are remedies available for unsuccessful tenderers and candidates who wish to challenge any contract award decision and these are set out in the Regulations.

The main remedies for a successful challenge are either to have the procurement process automatically suspended, or the contract award declared ineffective, or an award of damages, and/or a financial penalty.

Public contracts below the prescribed value threshold must still be advertised in a manner which ensures genuine, open and fair competition.

The Regulations also provide certain duties relating to the prevention of bribery and corruption in the award of public contracts.

Blacklisting

In carrying out any tendering exercise for the award of a public contract, the Council must carry out a pre-selection exercise which among other things allows it to exclude from the tender competition any bidder considered to have committed grave misconduct in the course of its business.

Such conduct can include engaging in blacklisting employees/potential employees unless the bidder has taken appropriate remedial steps (e.g. an appropriate apology, made a statement regarding future conduct, taken steps to prevent further misconduct, or paid compensation in respect of any damage caused).

The Council must also include within its standard contractual terms and conditions a clause providing for termination of the contract if a supplier breaches the relevant legislation during the contract period

Community Benefits

The Council may use the functionality available within the Public Contract (Scotland) Tendering portal (PCS) where appropriate, in order to include a requirement for primary contractors awarded major public works contracts (i.e. above the relevant value threshold) to:

- advertise all sub-contract opportunities on the PCS portal, where the primary contractor does not already have an identified supply chain; and
- deliver any further community benefits required by the contracting authority as outlined within the contract notice and subsequently detailed in the contract documents.

Supported Businesses

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When carrying out its procurement function, the Council as a contracting authority under the Regulations may reserve the right to participate in a competitive tendering exercise for the award of a public contract to bidders which operate supported businesses or supported employment programmes - i.e. where the business or employment programme's main aim is the social and professional integration of disabled or disadvantaged persons and at least 30% of the supplier's employees are disabled or disadvantaged persons. (NB this procedure (contained in Regulation 21 of the Public Contracts (Scotland) Regulations 2015) still requires that the public contract is opened up to genuine competition, but allows the Council to restrict the class of bidders to those which operate such a business or employment programme).

Relevant Council Service / ALEO	All Services and ALEOs
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CHIEF EXECUTIVE'S DEPT

1

Function	Procurement
Act	Procurement Reform (Scotland) Act 2014 The Procurement (Scotland) Regulations 2016
Content	<p>The implementing Scottish Regulations apply to public contracts with an estimated value above the prescribed thresholds. The Procurement Reform (Scotland) Act, however, applies to non-works public contracts above £50,000 and public works contracts above £2m (referred to as regulated procurements).</p> <p>Under the Act, the Council has a general duty to:</p> <ul style="list-style-type: none"> • treat economic operators (i.e. tenderers and potential tenderers) equally and without discrimination and • act in a transparent and proportionate manner. <p>The Council has a sustainable procurement duty. That is, before carrying out a regulated procurement it must consider how the procurement process can be conducted to:</p> <ul style="list-style-type: none"> • improve the economic, social and environmental wellbeing of its area • facilitate the involvement of SMEs, third sector bodies and supported businesses and • promote innovation. <p>Third sector bodies are defined as organisations (other than those established under statute) that exist wholly or mainly to provide benefits for society or the environment. References to wellbeing of the authority's area include, in particular, references to reducing inequality.</p> <p>The Council also has:-</p> <ul style="list-style-type: none"> • a duty to have a procurement strategy and keep it under regular review. Among other things, the procurement strategy must include a statement of the Council's general policy on community benefit requirements, payment of the living wage and the procurement of fairly and ethically traded goods and services. • a duty to seek offers as part of a regulated procurement process on the Public Contracts Scotland Tendering portal.

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- in relation to a proposal to carry out a regulated procurement with a value equal to or greater than £4m, a duty to consider whether to impose community benefit requirements. If it chooses not to include any such requirements, it must provide a statement of its reasons for not doing so.
- a duty to keep and maintain a contracts register containing such information as: the date of contract award, name of the successful contractors, estimated value, contract duration.

The Act provides a number of other duties in relation to the exclusion of tenderers, selection of winning tenders, and information to be provided to unsuccessful bidders.

In addition, it provides remedies for aggrieved tenderers who wish to challenge any decisions made regarding the award of a regulated contract.

Much of the substance of the legislation has been introduced by way of guidance promoted and regulations made by the Scottish Ministers. Such guidance relates to the implementation of the sustainable procurement duty, the award of health and social care contracts, community benefit requirements, procurement strategies, and exemptions where a contract can be excluded from competition (see <http://www.gov.scot/Resource/0049/00496919.pdf>).

The Procurement (Scotland) Regulations 2016, among other things:

- make provision regarding the methods for calculating the estimated value of regulated contracts
- specify what is a health or social care service for the purposes of the 2014 Act
- specify circumstances in which a regulated contract may be awarded without seeking offers
- make further provision about publication of contract notices and award notices, and
- make further provisions regarding the selection of economic operators in relation to lower value regulated procurements

Statutory Guidance issued on addressing Fair Work Practices, including the Living Wage, in Procurement can be accessed via this link: <http://www.gov.scot/Resource/0048/00486741.pdf>

Paragraphs 17 to 19 of the Statutory Guidance explain

- the current legal position on inclusion of a general policy on payment of a living wage in the Council's procurement strategy, and
- the extent to which a bidder's fair work practices can be evaluated in procurement processes where they are relevant to the delivery of a particular contract.

In March 2021, the Scottish Government published a Scottish Procurement Policy Note (SPPN 3/2021) setting out action for public bodies to apply Fair Work First criteria in regulated procurement processes that commence from 1 April 2021. The full SPPN can be accessed here <https://www.gov.scot/publications/implementation-of-fair-work-first-in-scottish-public-procurement-sppn-3-2021/>

Relevant Council Service / ALEO

All Services and ALEOs

OFFICIAL

CHIEF EXECUTIVE'S DEPT

1

Function	Best Value; Power to Advance Well-being
Act	Local Government in Scotland Act 2003
Content	<p><u>Best Value</u></p> <ul style="list-style-type: none"> ▪ There is a duty on local authorities to make arrangements which are Best Value. ▪ Best Value is to make arrangements to secure continuous improvement in performance, while maintaining an appropriate balance between quality and cost. In doing so local authorities must have regard to economy, efficiency, effectiveness, equal opportunities requirements and to the achievement of sustainable development. <p><u>Power to Advance Well-being</u></p> <p>The Act creates a discretionary power which enables local authorities to do anything which they consider is likely to promote or improve the well-being of the whole or part of their area and/or persons in it, subject to certain limitations.</p> <p>This includes power to incur expenditure; give financial assistance; enter into agreements; co-operate with, facilitate or co-ordinate the activities of any person; exercise on behalf of any person any function of that person; and provide staff, goods, services or property to any person.</p> <p>In exercising this power local authorities must have regard to any guidance issued by the Scottish Government relating to its exercise. The power cannot be used to enable a local authority to do anything that is expressly prohibited or restricted by other legislation. It also cannot be used in a way that unreasonably duplicates statutory functions of another body. A local authority cannot raise money by levying any form of tax or charge, by borrowing or otherwise through use of this power apart from making reasonable charges for defraying costs incurred in the supply of goods and services. Where the Council imposes any charge permitted under the power to advance well-being, it must comply with certain rules requiring publication of the reason for such charges.</p>
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Economic development
Act	Local Government in Scotland Act 2003
Content	
<p>The Council's economic powers are now contained within the power to advance wellbeing in Section 20 of the Local Government in Scotland Act 2003</p> <p>This includes power to promote economic development. Economic support may be given by way of grant, loan, guarantee or indemnity as part of a financial package, or contributions in cash or kind. There are certain limitations in the exercise of the power so legal advice should be taken in relation to any specific circumstances.</p>	
Relevant Council Service / ALEO	Chief Executive's / NRS

CHIEF EXECUTIVE'S DEPT

1

Function	Governance
Act	Local Government and Housing Act 1989
Content	
<p>Monitoring Officer</p> <p>The Council must designate a “Monitoring Officer” as the officer responsible for performing certain duties imposed under the 1989 Act, including:</p> <ul style="list-style-type: none"> • to report on contraventions or likely contraventions of any enactment or rule of law by the Council or any of its Committees or staff, and • to report on any maladministration or injustice following an investigation by the Public Standards Commissioner <p>Politically Restricted Posts</p> <p>The Council has a duty to ensure that the terms of appointment or conditions of employment of certain members of its staff, including Chief Officers, Deputies and other Officers named on a statutory list restrict their political activities in accordance with the Act. Such staff are disqualified from becoming or remaining a Councillor in any UK local authority, and from membership of the House of Commons and the Scottish Parliament. Restrictions also apply in relation to politically restricted post holders being prohibited from engaging in certain activities as an officer or member of a political party, or canvassing on its behalf. There is also a prohibition on speaking in public or publishing any written work in support of a political party.</p> <p>The Council must prepare and maintain the list of politically restricted posts mentioned above.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Filling of casual vacancies
Act	Local Government (Scotland) Act 1973
Content	
<p><u>Filling of casual vacancies – section 37</u></p> <ul style="list-style-type: none"> ○ Casual vacancies may occur on death, resignation or disqualification of an Elected Member. ○ A casual vacancy will arise where an Elected Member fails to attend any meeting of the local authority throughout a period of six consecutive months, without approval of the local authority for the non-attendance – section 35 of the 1973 Act. <ul style="list-style-type: none"> • The Council's Returning Officer must hold an election to fill a casual vacancy within three months of such vacancy occurring. 	
Relevant Council Service / ALEO	Chief Executive's Department

CHIEF EXECUTIVE'S DEPT

1

Function	Scrutiny arrangements for Police and Fire services
Act	Police and Fire Reform (Scotland) Act 2012
Content	<p>The legal obligations of the Council to set up a scrutiny arrangement for both the Police and the Scottish Fire and Rescue Service are set out in the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). The 2012 Act replaces local authorities’ role as police authorities and fire & rescue authorities through the creation of the Scottish Police Authority (SPA) and the Scottish Fire & Rescue Service (SFRS). The Act includes a framework for the delivery of local scrutiny and engagement responsibilities.</p> <p>In terms of the 2012 Act, the local authority must be consulted on local service plans for each service and must approve them. The Local Police Commander for the Police Service of Scotland and the Local Senior Officer of the Scottish Fire and Rescue Service are obliged to involve the local authority in setting priorities and objectives in the Plans, and the local authority must sign them off. However, before this is completed, the other Community Planning partners must be consulted prior to the local authority approving the Plans.</p> <p><i>Local authority role in Policing</i></p> <p>The local Policing Plan, which the local commander will agree with the Chief Constable, requires to be approved by the local authority.</p> <p>A local authority may monitor and provide feedback to the local commander on the policing of its area, and (in particular) may provide to the local commander—</p> <ul style="list-style-type: none"> (a) its views on any matter concerning or connected to the policing of its area, and (b) any recommendations for the improvement of the policing of its area that it thinks fit. <p>A local authority may specify policing measures that it wishes the local commander to include in a local policing plan.</p> <p>A local authority may provide feedback by reference to any local police plan in force for the area. A local commander must provide to the local authority such—</p> <ul style="list-style-type: none"> (a) reports on the carrying out of police functions in its area (including by reference to any local policing plan in force for the area), (b) statistical information on complaints made about the Police Service in, or the policing of, its area, and (c) other information about the policing of its area, as the local authority may reasonably require. <p><i>Local fire and rescue plans</i></p>

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The Scottish Fire & Rescue Service (SFRS) must:

- **submit a local fire and rescue plan for approval to the relevant local authority, and**
- **give to a local authority such information or reports relating to the carrying out of SFRS's functions in the authority's area (including reports given by reference to any local fire and rescue plan in force for the area) as the authority may reasonably request.**

A local authority may monitor and provide feedback to SFRS on the manner in which SFRS carries out its functions in the authority's area and (in particular) may provide to SFRS—

(a) its views on any matter concerning or connected to the manner in which SFRS carries out those functions in the authority's area,

(b) any recommendations for improvements in the manner in which SFRS carries out those functions in the authority's area that it thinks fit.

A local authority may provide feedback by reference to any local fire and rescue plan in force for its area.

Relevant Council Service / ALEO

Democratic Services

OFFICIAL

CHIEF EXECUTIVE'S DEPT

1

Function	Parades and Processions
Act	Civic Government (Scotland) Act 1982
Content	<p>The legislation is Part V of the Civic Government (Scotland) Act 1982 as amended, particularly s.62. It should be read in conjunction with the Scottish Government Guidance on "Review of Marches and Parades in Scotland" December 2006 issued in terms of s.65A of the 1982 Act.</p> <p>A local authority must take into account factors detailed under s63(8) of the 1982 Act when considering a procession notification. These include:</p> <ul style="list-style-type: none"> (a) The likely effect of the holding of the procession in relation to – <ul style="list-style-type: none"> (i) public safety, (ii) public order, (iii) damage to property, and (iv) disruption to the life of the community. (b) The extent to which the containment of risk arising from the procession would place an excessive burden on the police; and (c) Where the person proposing to hold the procession has previously held one in the area of the authority or the persons likely to take part in the procession, or some of them, are the same persons as took part in one previously held in that area, or some of them: <ul style="list-style-type: none"> (i) whether the previous procession was held in breach of a prohibition under this section or of a condition so imposed on the holding of it; (ii) whether any guidance or code of conduct issued by the authority as to the holding of the previous procession or as to the holding of processions generally was followed; and (iii) the effect of the previous procession in relation to the matters mentioned in (a) and (b) above. <p>Except where required following consideration of its effect on any of the above factors, local authorities do not have the power to prevent a public procession (i.e. by the introduction of a general presumption against processions).</p> <p>In addition, it has to be noted that local authorities must recognise the fundamental rights contained in the European Convention on Human Rights in relation to freedom of assembly and of association.</p>

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Any local authority must act, within the current European and domestic legislation, to balance the rights of individuals and groups to hold processions, but also to respect the rights of others to go about their business without unnecessary disruption.

In taking decisions about procession notifications, a Council is not permitted by the above legal framework to make decisions based upon the views promoted by the organisation seeking to hold a parade in the City. A procession may give offence to persons opposed to the ideas or campaign that it is seeking to promote. However, the participants are permitted to hold a procession as long as they observe the Council's Code of Conduct and there are no significant concerns in relation to the above factors.

Relevant Council Service / ALEO

Democratic Services

OFFICIAL

CHIEF EXECUTIVE'S DEPT

1

Function	Arrangements required for the Registration of Births etc. in Scotland
Act	The Registration of Births, Deaths and Marriages (Scotland) Act 1965
Content	<p>The 1965 Act:</p> <ul style="list-style-type: none"> ▪ Determines that for each Registration District there shall be a local Registration Authority in whose area the registration office or the principal premises of that office are situated. ▪ Any alteration of districts must only take place following consultation and with agreement of the Registrar General of Scotland. ▪ Each Local Authority is responsible for appointing a District Registrar to register births, marriages and deaths within that District. <ul style="list-style-type: none"> • The local Authority must inform and consult with the Registrar General on making an appointment and inform the Registrar General forthwith of the name and surname of the person appointed and the date when the appointment is to take place. • Person(s) appointed must possess the appropriate qualification. ▪ Every local authority shall provide and maintain a registration office in its area, in particular that a suitable fireproof repository or fireproof safe / cabinet is provided for the security of records in the custody of the District Registrar. ▪ District Registrar must account to the local registration authority for all fees received and payable to him/her. ▪ General requirements for digital security are set out in data protection and electronic communications legislation, and all named registration staff access digital records through GSX.
Relevant Council Service / ALEO	City Registrars

CHIEF EXECUTIVE'S DEPT

1

Function		Civil Marriages/Civil Partnerships *
Act		The Marriage and Civil Partnership (Scotland) Act 2014
Content		
<p>There is no longer a requirement for venues to be 'approved' before a civil marriage or civil partnership may take place there. The Marriage and Civil Partnership (Scotland) Act 2014 amended the Marriage (Scotland) Act 1977 and the Civil Partnership Act 2004 to allow for solemnisation of civil marriages and civil partnerships outwith the registration office.</p>		
Relevant Council Service / ALEO		City Registrars

CHIEF EXECUTIVE'S DEPT

1

Function		Allows for flexibility in boundaries and opening hours of Registration Services
Act		The Local Electoral and Administration Registration Services (Scotland) Act 2006
Content		
<p>The 2006 Act allows for:</p> <ul style="list-style-type: none"> ▪ Flexibility in opening times. Different days and different hours may be fixed for registration office premises maintained by the Council. ▪ Re-drawing of registration district boundaries to make district boundaries the boundary of the local authority whose area comprises that district. 		
Relevant Council Service / ALEO		City Registrars

CHIEF EXECUTIVE'S DEPT

1

Function	Complaints Handling Procedures
Act	Public Services Reform (Scotland) Act 2010
Content	<p>Under the Public Services Reform (Scotland) Act 2010 the Council must ensure that:</p> <ol style="list-style-type: none"> 1. it has a complaints handling procedure (CHP) in respect of action taken by it, 2. its CHP complies with the Scottish Public Services Ombudsman's Statement of Principles concerning such procedures. <p>The Statement of Principles was approved by the Scottish Parliament in January 2011 and can be accessed here - http://www.valuingcomplaints.org.uk/wp-content/media/statement.pdf</p> <p>The Statement of Principles requires that an effective CHP is:</p> <ul style="list-style-type: none"> • user focused • accessible • simple and timely • thorough, proportionate and consistent • objective, impartial and fair <p>and that it should:</p> <ul style="list-style-type: none"> • seek early resolution, and • deliver improvement <p>The Council must submit a description of its CHP, if directed by the Scottish Public Services Ombudsman (SPSO) within three months or such other period as may be directed (together with any additional information as the SPSO may subsequently require).</p> <p>The Public Services Reform (Social Work Complaints Procedure (Scotland) Order 2016 has brought Social Work complaint handling into line with other local authority complaints handling, by bringing it under the remit of the Public Services Reform (Scotland) Act 2010. The complaints provisions of the Social Work (Scotland) Act 1968 have been repealed.</p>
Relevant Council Service / ALEO	All Services and ALEOs

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CHIEF EXECUTIVE'S DEPT

1

Function	Civil Contingency Planning
Act	The Civil Contingencies Act 2004 ; The Civil Contingencies Act 2004 (Contingency Planning) (Scotland) (Amendment) Regulations 2005 (as amended)
Content	<p>The Act and Regulations establish a clear role and set of responsibilities for the Council in emergency planning, resilience and response at a local level. Under the legislation, the Council is a Category 1 organisation and is subject to the full list of civil protection duties to:</p> <ul style="list-style-type: none"> • assess the risk of emergencies occurring and use it to inform contingency planning; • develop emergency plans; • develop business continuity management arrangements; • develop arrangements to make information available to the public about civil protection matters; • maintain arrangements to warn, inform and advise the public in the event of an emergency; • share information and co-operate with other local responders; and • provide advice and assistance to businesses and voluntary organisations about business continuity management. <p>Category 1 and Category 2 organisations are required to form local resilience forums in order to help co-ordinate responses at the local level. The Regulations require that plans are in place to determine whether an emergency has occurred, provide training for key staff, and to make provision for ensuring the plan is effective. Procedures must also be in place to review the plan periodically and make sure that it is kept up-to-date.</p>
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function	Modern Slavery
Act	Modern Slavery Act 2015
Content	<ul style="list-style-type: none"> ▪ The Modern Slavery Act 2015 provides a legal framework to combat modern slavery. The Act provides victims with greater protections and police with greater powers in relation to slavery and trafficking. It also places an obligation on commercial organisations to ensure transparency in their business and end to end supply chains. ▪ The following sections of the Act are currently in force in Scotland: <ul style="list-style-type: none"> ○ Section 36 and Part 2 of Schedule 2: Enforcement powers in relation to ships ○ Part 4: The Independent Anti-Slavery Commissioner ○ Section 53: Overseas domestic workers ○ Section 54: Transparency in Supply Chains etc. ▪ Section 54 of the Act requires qualifying commercial organisations in the UK to produce a slavery and human trafficking statement for each financial year. ▪ The statement must: <ol style="list-style-type: none"> (1) detail the steps taken by the commercial organisation to ensure that slavery and human trafficking is not taking place in any part of its business or supply chain; or (2) explain that no such action was taken. <p>A 'commercial organisation' is a body corporate or partnership that carries on a business, trade or profession concerned in the supply of goods or services in the UK.</p> <p>Bodies Corporate must produce a Statement if they:</p> <ul style="list-style-type: none"> • carry out all or part of their business in the United Kingdom; • supply goods and/or services; and • have a turnover above £36 million. <p>The legislation does not refer to Local Authorities specifically in the definition of Bodies Corporate. However, the Practical Guidance produced to accompany the Act advises that, "so long as the organisation in question is incorporated (by whatever means) or is a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions". The Modern Slavery (Transparency in Supply Chains) Bill 2017 seeks to amend the 2015 Act by clarifying the position and including public authorities, see the Legislation Not Yet In Force section.</p>
Relevant Council Service / ALEO	All Services and ALEOs

CHIEF EXECUTIVE'S DEPT

1

Function		Human Trafficking and Exploitation
Act		Human Trafficking and Exploitation (Scotland) Act 2015
Content		
<ul style="list-style-type: none"> ▪ The Human Trafficking (Scotland) Act 2015 consolidates and strengthens the existing criminal law in Scotland against human trafficking and exploitation and enhances the status of and support for the victims of these crimes. ▪ The Act created a new consolidated offence in order to support the police and prosecutors in tackling human trafficking and exploitation. ▪ The Act also sets out orders that disrupt the activities of perpetrators and provides for the protection and support of victims. ▪ In addition to the legislative measures, the Act requires the Scottish Ministers to develop a Scottish trafficking and exploitation strategy. The strategy sets out how the Scottish Government and others will tackle human trafficking in Scotland. 		
Relevant Council Service / ALEO		All Services and ALEOs

CHIEF EXECUTIVE'S DEPT (FOI / DATA PROTECTION ETC.)

1

The Freedom of Information (Scotland) Act 2002 came into force in January 2005 and aims to increase openness and accountability by ensuring people can access information held by Scottish public bodies – including the Council.

- In general, people have the right to access all types of recorded information, without giving a reason for asking - although there are specific exemptions.
- FOI is retrospective, people can ask for old records and archives.
- The Council must comply with these requests and respond within 20 working days.

As much information as possible has already been placed on the Council's Publications Scheme and Publications List, which means the public can be directed to this in the first instance.

Further information in respect of how Freedom of Information impacts upon Elected Members can be found [here](#).

Information relating to the environment is dealt with specifically under the Environmental Information (Scotland) Regulations 2004.

CHIEF EXECUTIVE'S DEPT (FOI / DATA PROTECTION ETC.)

1

Function	Disclosure of information held by Scottish public authorities or by persons providing services for them *
Act	Freedom of Information (Scotland) Act 2002
Content	
<p>Any person (private individuals, pressure groups, journalists, companies, elected representatives, etc.) has the right to access all types of recorded information, without giving a reason for asking. If the authority holds the information in question then, unless there is a specific exemption allowing it to be withheld, the information must be provided.</p> <p>The Act covers recorded information in any format and of any age – not just to records created after the Act came into force. This includes archives, minutes, reports, business papers and e-mails.</p> <p>The Council must comply with the request and respond within twenty working days.</p> <p>Circumstances where the Council does not need to comply with a request include, but are not limited to:-</p> <ul style="list-style-type: none"> • When the information requested is not held by the Council nor is held by anyone else on its behalf • When the cost of providing the information would exceed the limit set down in the Fee Regulations (currently the limit is £600) • When the information is exempt by virtue of one or more of the exemptions contained in the Act <p>The Act contains a list of absolute exemptions. This means that, as long as the information falls into the exempt category, the public authority does not have to disclose the information, nor does it have to consider the public interest test below. Absolute exemptions include, but are not limited to:-</p> <ul style="list-style-type: none"> ▪ Information otherwise accessible ▪ Personal information (where the disclosure of the information would breach data protection principles under the General Data Protection Regulation see pages 26- 28) ▪ Court records 	

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The Act also contains a list of non-absolute/ qualified exemptions. In order to withhold information under these exemptions, a public interest test must also be satisfied.

Under the public interest test, the Council is required to undertake a balancing exercise to consider the public interest in disclosing the information and the public interest in maintaining the exemption. Where the public interest in maintaining the exemption outweighs the public interest in disclosure of the information, then the information can be withheld. If the public interest in disclosing the information is equal to or greater than the public interest in maintaining the exemption, then the information must be disclosed.

The applicant must be advised of applicable exemptions if the information is not provided.

The requestor can ask for a review of the initial decision of the council. The requestor has 40 days from receipt of the initial decision in which to lodge a requirement for review. Like the request for information this request for review must be in writing or other permanent form, give an address for correspondence and describe the original request and explain why the requestor is dissatisfied.

If a dissatisfied applicant seeks review, the Council must respond to requests for review within twenty working days.

There are only 3 options in carrying out a review;

- confirm the initial decision reached, either with or without modification
- substitute a different decision or
- reach a decision where the complaint is that no decision has been reached.

An applicant who is dissatisfied with his/her treatment by the Council following a review decision can appeal to the Scottish Information Commissioner for a decision.

Relevant Council Service / ALEO

All Services and ALEOs

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CHIEF EXECUTIVE'S DEPT (FOI / DATA PROTECTION ETC.)

1

Function	Public rights of access to environmental information held by public authorities*
Act	Environmental Information (Scotland) Regulations 2004
Content	<ul style="list-style-type: none"> ▪ The term “environmental information” is very broad and includes written information on, but not limited to -: <ul style="list-style-type: none"> ○ the state of the elements such as air and atmosphere, water, soil, land, landscape and natural sites ○ factors, such as substances, energy, noise, radiation or waste, including radioactive waste and emissions ○ environmental policies and agreements ○ reports on the implementation of environmental legislation ○ cost benefit and other economic analyses used in environmental decision making ○ the state of human health and safety, including the contamination of the food chain, where relevant; conditions of human life which are, or are likely to be affected by, the state of the elements of the environment; and the interaction between them. ▪ The Regulations require a local authority to make environmental information available proactively, especially by electronic means. ▪ The local authority must give advice and assistance to any person making a request for environmental information. ▪ The local authority must make environmental information available to any person who requests it as quickly as possible and within 20 working days of their request, or exceptionally within 40 working days if the request is complex and voluminous. ▪ The local authority can refuse only in accordance with the limited exceptions available under the regulations. These include, but are not limited to:- <ul style="list-style-type: none"> ○ The local authority does not hold the information ○ The request is manifestly unreasonable ○ The request relates to information that is incomplete or is in the course of drafting. ▪ If the local authority refuses to provide information, it must give reasons, and provide details of the procedures available to applicants for review of a refusal and the process for appeal.

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- **The local authority must ensure that internal procedures are in place to deal with any complaints.**
- GCC Executive Committee approved a schedule of fees for environmental information (11 November 2010)

Relevant Council Service / ALEO

All Services and ALEOs (impact mostly on NRS)

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CHIEF EXECUTIVE'S DEPT (FOI / DATA PROTECTION ETC.)

1

Function	Re-use of Public Sector Information
Act	The Re-use of Public Sector Information Regulations 2015
Content	
<p>These Regulations implement EU Directive 2013/37.</p> <p>The Council has a duty to allow the re-use of most public sector information. Re-use means the use of public sector information for a different purpose than that for which it was originally produced, held or disseminated.</p> <p>Information produced, held or disseminated within a public task must be re-usable unless it is subject to restriction or exclusion under the Regulations (e.g. personal data, information where a third party holds the copyright).</p> <p>In general, charging for re-use at marginal cost is permitted, subject to certain exceptions (e.g. for libraries, museums, and archives) which permit charging to cover the cost of collection, production, etc. together with a reasonable return.</p> <p>The Council must respond to any request for re-use within twenty working days. Any extension beyond that period must be reasonable in the circumstances, and in such cases the Council must inform the requestor of the expected timeframe and reasons for the delay.</p> <p>The Council may impose conditions on re-use, where appropriate, through the issue of a licence which should, wherever possible, be in a standard format.</p> <p>If any complaint regarding the request for re-use cannot be resolved internally by the Council, it may be escalated by a complainant to the Information Commissioner's Office (ICO) for a recommendation or a binding decision, and potentially to the First Tier Tribunal for Information Rights.</p> <p>The Council must comply with an ICO (or First Tier Tribunal) decision subject to its rights of appeal, and must respond to an ICO recommendation within twenty days.</p>	

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Relevant Council Service / ALEO	All Services and ALEOs
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CHIEF EXECUTIVE'S DEPT (FOI / DATA PROTECTION ETC.)

1

Function	Processing of information relating to individuals, including the obtaining, holding, use or disclosure of information.
Act	The Data Protection Act 2018
Content	<p>The EU General Data Protection Regulation (GDPR) and the Data Protection Act 2018 came into force on 25 May 2018.</p> <p>The data protection principles set out the main responsibilities for organisations processing personal data. In summary, the data protection principles provide that personal data shall be:</p> <ul style="list-style-type: none"> • processed lawfully, fairly and in a transparent manner in relation to individuals; • collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes; • adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed; • accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay; • kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals;

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- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The Council will be required to show how it complies with the principles, for example, by documenting the decisions it takes about a processing activity.

The Council must establish a legal basis before processing personal data. For non-sensitive personal data, there are six conditions to choose from:

- Consent of the data subject
- Necessary for the performance of a contract with the data subject or to take steps to such a contract
- Necessary for compliance with a legal obligation
- Necessary to protect the vital interests of a data subject or another person where the data subject is incapable of giving consent
- Necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller
- Necessary for the purposes of legitimate interests ***This legal basis cannot be used by any public authority including the Council when carrying out duties as a public authority.**

Under the new legislation, the Council cannot readily rely on consent when carrying out a public function. This is because it is considered that public bodies are in a position of power and therefore consent cannot be freely given by the data subject.

Processing personal data that is necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority includes processing or personal data that is necessary for:

- the administration of justice;
- the exercise of a function of either House of Parliament;
- the exercise of a function conferred on a person by an enactment; or
- the exercise of a function of the Crown, a Minister of the Crown or a government department.

To process special category personal data, the Council must satisfy at least one of the following conditions:

- Explicit consent of the data subject, unless reliance on consent is prohibited by EU or UK law.
- Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement.
- Processing is necessary to protect the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent.
- Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who

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have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent.

- Processing relates to personal data manifestly made public by the data subject.
- Processing is necessary for the establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity.
- Processing is necessary for reasons of substantial public interest on the basis of Union or UK law which is proportionate to the aim pursued and which contains appropriate safeguards. This provision is likely to be the basis for the majority of situations where the council process special category personal data.
- Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or UK law or a contract with a health professional.
- Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices.
- Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes.

Relevant Council Service / ALEO

All Services and ALEOs

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CHIEF EXECUTIVE'S DEPT (FOI/DATA PROTECTION ETC.)

1

Function	Management of Public Records
Act	Public Records (Scotland) Act 2011
Content	
<p>The Council has a duty to prepare a records management plan setting out proper arrangements for the management of its public records. The records management plan must be submitted to the Keeper of the Records of Scotland for agreement. The Council must ensure that its public records are managed in accordance with the agreed plan.</p> <p>The records management plan must identify the individual who is responsible for management of the Council's public records, and (if different) the individual who is responsible for ensuring compliance with the plan.</p> <p>The records management plan must include, in particular, provision regarding:</p> <ul style="list-style-type: none"> • the procedure to be followed in managing the Council's public records, • maintaining the security of information contained in those records, and • the archiving and destruction or other disposal of those records. <p>The records management plan may make different provision for the management of different kinds of public records (for example, depending on the level of risk associated with different kinds of records).</p> <p>The Council must keep its records management plan under review and if the Keeper so requires carry out a review of the plan by any review date set by the Keeper.</p>	
Relevant Council Service / ALEO	Corporate Governance

CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Function	<p>Licensing and regulation* of:</p> <ul style="list-style-type: none"> • Booking Offices; <ul style="list-style-type: none"> ○ i.e. the use of premises for the purpose of carrying on a business which consists of taking bookings, by any means of communication, from members of the public for the hire of a taxi or private hire vehicle. • Market Operators • Taxi Operators and Taxi Drivers • Private Hire Car and Private Hire Car Driver • Public Entertainment (Including Health & Fitness) • Second Hand Dealers • Street Traders • Window Cleaning • Skin Piercing and Tattooing • Public Charitable Collections • Knife Dealers • Metal Dealers (Including Itinerant Metal Dealers) • Boat Hire • Indoor Sports Entertainment Licence • Late Hours Catering Licence • Sex Shops • Change of Director/Partner/Manager of an Existing Licence under the Civic Government (Scotland) Act 1982
Act	Civic Government (Scotland) Act 1982 ("the 1982 Act")
Content	
	<ul style="list-style-type: none"> • The above list sets out the full extent of the 1982 Act's licensing regime.

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- A licence may be granted in terms of the Council's Scheme of Delegated Functions by the Director of Governance and Solicitor to the Council, if there are no objections, representations or adverse comments in respect of the application and it is within the policy of the Council's Licensing and Regulatory Committee ("the Committee"), which is the body responsible for the determination of applications under the 1982 Act.
- Where objections or adverse comments are made, or the application is outwith the Committee's policy, the application will be placed before it for a decision. The applicant is given the opportunity to appear before the Committee and make submissions.
- The Council as Licensing Authority under the 1982 Act must advise the applicant of the outcome of the decision taken on their application in writing.
- The Committee also considers complaints received in respect of licences issued under the civic licensing regime and has the power to suspend a licence for any period up to the unexpired portion of its duration, or to revoke a licence.
- Please note that the following functions are also licensed and regulated by the Council's Licensing Authority however not under the 1982 Act:-
 - Cinemas are licensed under the Cinemas Act 1985.
 - Hypnotists are licensed under the Hypnotism Act 1952.
 - Pet Shops are licensed under the Pet Animals Act 1951 as amended.
 - Zoos are licensed under the Zoo Licensing Act 1981 as amended.
 - Dangerous Wild Animals are licensed under the Dangerous Wild Animals Act 1976.
 - Breeding establishments for dogs are licensed under the Breeding of Dogs Act 1973 as amended.
 - Subject to a number of exceptions, Animal Dealers of young cats or young dogs (less than 84 days old) are licensed under the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009.
 - Animal Boarding Establishments are licensed under the Animal Boarding Establishments Act 1963.
 - Riding Establishments are licensed under the Riding Establishments Acts 1964 and 1970.
 - Applications for registration regarding the exhibition and training of performing animals are regulated by the Performing Animals (Regulation) Act 1925.
 - Venison Dealers are licensed under the Deer (Scotland) Act 1996.

Relevant Council Service / ALEO

Licensing

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CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Function	Licensing Houses of Multiple Occupancy (HMOs)
Act	Housing (Scotland) Act 2006 ("the 2006 Act")
Content	
<ul style="list-style-type: none"> • The 2006 Act requires that a house in multiple occupancy ("HMO") is licensed. • An HMO is any living accommodation occupied by 3 or more persons who are not members of the same family and the living accommodation concerned is occupied by those persons as their only or main residence. • The Council's Licensing and Regulatory Committee ("the Committee") is the body responsible for the determination of applications for an HMO licence. • The 2006 Act covers many different types of living accommodation which, if the requirements are met, may require an HMO licence, including houses, flats and bedsits as well as other types of residential living accommodation, such as hostels, student halls of residence and staff accommodation in hotels or hospitals. • The 2006 Act details the circumstances in which an HMO is exempt from requiring a licence. These circumstances include, but are not restricted to, an HMO that is occupied by its owner(s) either alone or together with members of their family, and any other persons who are not related to the owner(s) and are members of no more than two other families. • The Committee may determine an application for an HMO licence by granting the licence (with or without conditions) or by refusing to grant it. • However, if there are no representations or adverse comments in respect of the application, it may be granted in terms of the Council's Scheme of Delegated Functions by the Director of Governance and Solicitor to the Council. • The 2006 Act sets out the various grounds upon which an application for an HMO licence may be refused. • Once granted, an HMO licence is capable of being varied or revoked. 	
Relevant Council Service / ALEO	Licensing

CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Function	Registration of Private Landlords
Act	Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act"); Housing (Scotland) Act 2014
Content	<ul style="list-style-type: none"> • The 2004 Act covers a wide range of matters including the application of those seeking to be entered on to the local authority's register of private landlords ("the Register"). • While the Council's Private Landlord Registration Unit ("PLRU") deals with the application and general registration process in relation to this matter, the Council's Licensing and Regulatory Committee ("the Committee") deals with referrals from the PLRU with concerns regarding both new and existing applicants' fitness. The Committee will then consider referrals which are received with a view to determining whether or not the applicants are fit and proper persons to either be entered on to the Register or to remain on the Register. • The Housing (Scotland) Act 2014 has amended the 2004 Act, introducing a power for the local authority to pay a share of Tenement Management scheme costs where an owner is unable or unwilling to pay for maintenance, or cannot be identified or found. The local authority may then recover costs from the owner.

CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Safety at Sports Grounds	
Function	Regulation of the Safety of Statutorily Defined Sports Grounds
Act	The Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sports Act 1987
Content	
<p>The Taylor Report into the Hillsborough Disaster in 1989 recommended that each local authority established a Safety Advisory Group comprising representatives of the various bodies which have an interest in sports grounds in their area. The Council's Safety Team is chaired by the Head of Licensing and Democratic Services and includes representatives from Building Control, Police Scotland, the Scottish Fire and Rescue Service, the Scottish Ambulance Service and where appropriate, the certificate holder or event organiser.</p> <p>The Safety Advisory Group advises the Council in the exercise of its powers under the Safety of Sports Ground Act 1987 and the Fire Safety and Safety of Places of Sports Act 1987 in respect of the safety certification in respect of sports grounds whether it be an application for General or Special Safety Certificates in respect of sports grounds (stadia with a capacity of more than 10,000 spectators) and applications for the granting of General Safety Certificates in respect of regulated stands (stands which have a capacity of 500 or more spectators).</p>	
Relevant Council Service / ALEO	Licensing

CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Gambling	
Function	Regulation of Gambling
Act	Gambling Act 2005 ("the Act")
Content	
<ul style="list-style-type: none"> • The Licensing Board is responsible for processing and determining applications for Premises Licences authorising gaming and gambling activities within premises e.g. casinos, bingo halls, betting shops, adult gaming centres and family entertainment centres, which are premises other than an adult gaming centre, which are wholly or mainly used for making gaming machines available for use. • The Licensing Board also has a statutory responsibility to issue permits for prize gaming, licensed premises gaming machine permits, club gaming permits and club machine permits, as well as non-commercial society lotteries. The Licensing Board also issue occasional use notices used for gaming on unlicensed premises and temporary use notices in relation to unlicensed betting premises. • In exercising most of its functions under the Act, the Licensing Board are required to have regard to the Licensing Objectives set out in the Act which are: <ul style="list-style-type: none"> • Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. • Ensuring that gambling is conducted in a fair and open way. • Protecting children and other vulnerable persons from being harmed or exploited by gambling. • The Board is required to produce a Licensing Policy Statement every three years setting out how it intends to exercise its functions. The current version was published in 2019 and can be accessed via the following link: https://www.glasgow.gov.uk/licences/gambling. In the 2019 Policy Statement, the Licensing Board created Local Area Profiles which map out local areas of concern. Local Area Profiles are not a legal requirement but are encouraged by the Gambling Commission. The Local Area Profiles can be viewed in the Policy Statement. The Licensing Board will expect applicants and operators to take extra care when producing a risk assessment to mitigate the risks identified in the Local Area Profiles for the area to which the premises relates. The Licensing Board has also produced Guidance on Undertaking Local Gambling Risk Assessments which has been developed to assist gambling operators in undertaking and preparing their local risk assessments. The Guidance can also be found via the following link https://www.glasgow.gov.uk/licences/gambling 	

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Relevant Council Service / ALEO	Licensing
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CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Alcohol Licensing	
Function	Regulation of the Sale of Alcohol and Licensed Premises Where Alcohol is Sold*
Act	Licensing (Scotland) Act 2005 as amended (“the 2005 Act”)
Content	
<p>The City of Glasgow Licensing Board (“the Licensing Board”) is a quasi-judicial body which is a separate legal entity from the Council.</p> <p>Members of the Licensing Board are drawn from elected members of Glasgow City Council (“the Council”).</p> <p>The Council is responsible for providing all resources to the Licensing Board, including staff and services and is required to appoint a Clerk to the Board who must be a qualified solicitor or advocate.</p> <p>In exercising its functions, the Licensing Board must have regard to the Licensing Objectives set out in the 2005 Act which are:</p> <ul style="list-style-type: none"> • Preventing crime and disorder; • Securing public safety; • Preventing public nuisance; • Protecting and improving public health; • Protecting children and young persons from harm. <ul style="list-style-type: none"> • The Licensing Board is responsible for determining applications in relation to the types of licence available under the 2005 Act, including the grant, variation and review of licences. • The main types of licence available are: <ul style="list-style-type: none"> ○ Premises Licence: Authorises the sale of alcohol on the premises. This includes both on and off sales. ○ Provisional Premises Licence: Is applied for in situations where at the time the application is made, the premises are yet to be, or are in the course of being constructed or converted for use as licensed premises. A Provisional Premises Licence does not enable the licence holder to authorise the sale of alcohol on the premises. To do this, the Provisional Premises Licence must be confirmed by the Licensing Board that issued it. Confirmation must take place within four years of the date of the issue of the licence (known as the 	

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“provisional period.”) unless an application has been lodged under section 46 of the 2005 Act and subsequently granted by the Licensing Board.

- Occasional Licence: Authorises the sale of alcohol for a limited period (no longer than 14 days) from premises which are unlicensed.
- Extended Hours Application: Authorises the extension of the licensed hours attributed to a licensed premises. The application requires to be made by the licence holder and may be granted by the Licensing Board if it considers it appropriate to do so in connection with a special event or occasion to be catered for on the premises, or a special event of local or national significance.
- Personal Licence: Authorises an individual to supervise or authorise the sale of alcohol.

An application to vary a Premises Licence may be made to the Licensing Board by the licence holder. There are two types of variation – minor and major. Further details on minor and major variations can be found by clicking on the following link: <http://www.glasgow.gov.uk/CHttpHandler.ashx?id=35644&p=0>

- Any person may apply to the Licensing Board in respect of any licensed premises within the Board’s remit for a review of the Premises Licence on any of the statutory grounds for review listed within the 2005 Act.
- In determining an application for the review of a Premises Licence, the Licensing Board has the power to:-
 - Issue a warning to the holder of the licence;
 - Vary the terms of the licence;
 - Suspend the licence for such period as the Board may determine;
 - Revoke the licence.

The Licensing Board is required to produce a Licensing Policy Statement every five years setting out how it intends to exercise its functions. In exercising their functions under the 2005 Act, the Licensing Board must have regard to the Licensing Policy Statement and any Supplementary Licensing Policy Statement that may have been issued during the relevant five year period. The current version was published in November 2018 and can be accessed via the following link:

<https://www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&p=0>

- The Council is responsible for employing Licensing Standards Officers under the 2005 Act. General functions of a Licensing Standards Officer include ensuring the compliance of licence holders with any conditions that may be attached to their licence and any other requirements placed upon licence holders by the 2005 Act.

Relevant Council Service / ALEO

Licensing

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CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Alcohol and Civic Licensing	
Function	Alcohol and Civic Licensing Regimes
Act	Immigration Act 2016 ("the 2016 Act")
Content	
<p>The 2016 Act makes provision for, among other things, access to licences and work, by reference to an individual's immigration status. The 2016 Act makes amendments to the documentation required in relation to applications and licences for Taxi Drivers and Private Hire Car Drivers in addition to applications for Booking Offices and Late Hours Catering licences. Similar amendments are also made in relation to a number of provisions in alcohol licensing. The amendments contained within the 2016 Act, as they relate to Licensing, have been drafted in order to prevent illegal working within the UK. At present, only the provisions in relation to applications for Taxi and Private Hire Car Drivers have been implemented. This means that all individuals seeking to renew or apply for the grant of a Taxi or Private Hire Car Driver's Licence will require to provide confirmation of their right to work in the UK at the point of application.</p>	
Relevant Council Service / ALEO	Licensing

CHIEF EXECUTIVE'S DEPT (LICENSING)

1

Regulatory Reform	
Function	Regulatory Reform
Act	Regulatory Reform (Scotland) Act 2014
Content	
<p>The primary purpose of the 2014 Act is to improve the way regulation is developed and applied in Scotland in order to create more favourable business conditions and deliver benefits for the environment.</p> <p>Under the Act, the Council is classed as a regulator and as such it has a duty to contribute to achieving sustainable economic growth in carrying out its regulatory activity. This duty would impact upon, for example, the Council's Trading Standards, Environmental Health and Licensing functions as well as any others where it acts as a regulator of business activity.</p> <p>In addition, the Act also includes:</p> <ul style="list-style-type: none"> • powers whereby the Scottish Ministers may make regulations which they consider will encourage or improve consistency in the exercise of regulatory functions • powers for the Scottish Ministers to issue and revise a Code of Practice in relation to the exercise of regulatory functions • powers for the Scottish Ministers to nominate a particular local authority to be the "primary authority" for the exercise of any relevant function in relation to a regulated person. The primary authority has the function of giving advice and guidance in relation to a particular regulated function and may make arrangements for example to allow businesses to receive tailored support from local authorities in relation to regulated activities. 	
Relevant Council Service / ALEO	Licensing / NRS

2

Neighbourhoods, Regeneration and Sustainability (NRS) is the Council's in-house service with a wide-ranging remit for securing Glasgow's ongoing development and regeneration.

The main activities and areas of responsibility of Neighbourhoods Regeneration and Sustainability (NRS) relate to:

- Housing and Regeneration;
- City Planning and Building Standards;
- Corporate Asset Management (Development and Operational Land and Property);
- Community Safety, Regulatory and Scientific Services;
- Sustainability and Carbon Management;
- Infrastructure, which includes roads and transportation, project management and design;
- Neighbourhoods and Place, which includes cleansing, parks, open space management and community liaison;
- City Deal (Glasgow based) projects; and
- Business support and Governance.

Within this broad remit, NRS teams have responsibility for matters such as:

- the management, maintenance and development of the local road transport network;
- management of the city's parks, open spaces and play areas; and
- monitoring and maintaining public health and the city environment.
- community safety across the city

The service has a duty to the general public and the business community to:

- visit, inspect and report on shops, restaurants, hotels, offices and other workplaces to ensure compliance with hygiene and health and safety laws;
- keep the streets clean and dispose of refuse by environmentally friendly means;
- maintain a high standard of public health, monitor air quality and enforce smoke-free legislation;
- maintain fair trading and consumer product safety.
- maintain a cleaner, safer city

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NRS works closely with partners within the public, private and voluntary sectors, and works with key stakeholders to fulfil its remit. It leads on a number of key partnerships that are vital to Glasgow's ongoing renewal, and has a major role in the delivery of the Council's Capital Programme

In addition, NRS manages the Private Sector Housing Grant Programme and Housing Development Programme.

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2

Function	Planning matters*
Act	Town and Country Planning (Scotland) Act 1997 The Conservation (Natural Habitats, &c.) Regulations 1994
Content	
<ul style="list-style-type: none"> ▪ The Council may grant planning permission unconditionally or subject to conditions or the Council may refuse planning permission. ▪ The Council must keep a record of planning applications. ▪ The Council shall prepare local development plans for its area at intervals of no more than 5 years and the Council must keep the plans under review. ▪ The development plan must include policies requiring all developments to be designed to ensure new buildings avoid a specified proportion of the projected greenhouse gas emissions from their use. ▪ If the Council is of the opinion that a development will not be completed within a reasonable period it may serve a notice stating that planning permission will cease to have effect at the expiration of a period not less than 12 months later. ▪ The Council can issue an enforcement notice if it appears there has been a breach of planning control and it is expedient to issue a notice. <ul style="list-style-type: none"> ○ The notice shall specify the steps the Council requires to be taken or the activities it requires to cease. ▪ The Council can authorise a person to enter land at a reasonable hour to ascertain if there has been a breach of planning control. ▪ The Council has a duty wherever possible when granting permission for a development that adequate provision is made for the preservation or planting of trees. ▪ The Council may make tree preservation orders specifying any trees, groups of trees or woodlands that should be preserved. ▪ If any part of the Council area is adversely affected by the condition of any land the Council may serve on the owner, lessee and occupier a notice requiring such action of abating the adverse effects. ▪ The Council has a duty when granting permission for a development to ensure that adequate provision is made for the conservation of biodiversity as identified in The Habitats (Scotland) Amendments Regulations 1996 / 3035 (as amended in Scotland) to provide the protection afforded to European Protected Species (EPS) of animals and plants and the Wildlife & Countryside Act 1981 (as amended in Scotland), and Protection of Badgers Act 1992 as amended by the Nature Conservation (Scotland) act 2004. 	
Relevant Council Service / ALEO	NRS

2

Function	Planning matters*
Act	Planning etc. (Scotland) Act 2006 & Planning (Scotland) Act 2019
Content	<p>The Council's statutory responsibilities in relation to planning matters can be split into 3 categories:</p> <ol style="list-style-type: none"> 1. The Development Plan – Councils are required to prepare a Development Plan for their areas. 2. Development Management – This is the process for making decisions on planning applications. Legislation requires that decisions on planning applications be guided by the policies in the Development Plan. 3. Enforcement – This is the process that ensures development is carried out correctly and which can be used to take action when it has not. <p>1. The Development Plan</p> <p>Councils must prepare a Development Plan for their areas. This document sets out the Council's plan for how different sites within its area should develop in future. It provides information on what type of development should take place (and where), and which areas should not be developed.</p> <p>The Council must prepare a Development Plan at least every ten years. The Council must use the policies set out in the Development Plan to decide how to respond to planning applications (see below). The Council's current Development Plan, "Glasgow City Development Plan" was adopted on 29 March 2017. This replaces the previous development plan, Glasgow City Plan 2.</p> <p>The Local Development Plan sets out where most new developments are proposed and the policies to guide its planning decisions, and a Strategic Development Plan setting out the long term strategy for the Glasgow city region. Over time, the Strategic Development Plan will be replaced by Regional Spatial Strategies by the Planning (Scotland) Act 2019</p> <p>Councils may also provide supplementary guidance, such as development briefs or master plans for particular sites, and more detailed policies. Supplementary Guidance will also be phased out over time due to the introduction of the Planning (Scotland) Act 2019</p>

The Planning (Scotland) Act 2019 allows planning authorities to designate within Local Development Plans “masterplan consent areas”. Within these clearly defined areas, the Council can specify descriptions of development for which authorisation is granted without the need for planning consent.

The Planning (Scotland) Act 2019 requires that the Council when preparing a Local Development Plan, must now publish an invitation to local communities to prepare “Local Place Plans”. A Local Place Plan is defined in that Act as ‘a proposal as to the development or use of land.’ There is an expectation that Local Place Plans will be a key vehicle for giving communities a greater say over what and where development takes place.

2. Planning Applications

The Council deals with planning applications for developments within its area and must decide whether to grant or refuse planning permission. All planning applications must be determined by the Council in accordance with its Development Management Plan unless there are material planning considerations which would dictate otherwise. Where the Council proposes to derogate from the Development Management Plan, advice should be taken from the planning officers and from legal services.

Applications for major developments, or applications to which there are multiple objections are decided by the Council’s Planning Applications Committee. Applications for smaller local developments may be decided at a delegated level by a planning officer. The Council’s Scheme of Delegated functions will provide more detail on these matters

When the Council receives an application for planning permission it must manage the process by undertaking, as appropriate: neighbour notification, newspaper advertisements, maintaining a register of planning applications and making it available for public inspection. This process is managed by the Council’s planning officers.

In making its decisions, the Council may grant planning permission without conditions, grant planning permission with conditions, or refuse planning permission.

Normal timescales for decision making are usually two months for local development applications and four months for major developments. The timescale begins from the date on which all the legally required information is received by the Council. If the Council doesn’t decide the application within the prescribed timescale, the Applicant can request a review.

The Council must issue its decision notice, unless the application is referred to the Scottish Ministers for decision. The Council must inform all parties that commented on the application of its decision.

National applications require, as part of the decision-making process, that all interested parties (mainly applicants, objectors and consultees) are offered the opportunity of being heard at a Pre-Determination Hearing. In cases where an opportunity to attend a Pre-Determination Hearing has been provided, the application must be decided by full Council. The Pre-Determination Hearing is held before the Planning Applications Committee which then refers the matter to full Council for decision.

If an applicant wants to review or appeal the decision, then they can appeal either to a local review body or the Scottish Ministers. The relevant appeal body is as follows:

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Original Decision Maker

Planning Officer

Planning Applications Committee

Appeal Body

Local Review Body (made up of Councillors)

Scottish Ministers (DPEA)

There are a number of circumstances where the Council must refer an application to the Scottish Ministers. These are set out in SPS Planning Circular 3/2009. These circumstances include where an application is subject to the requirements of Pre-Determination Hearings. In any such case, notification that the planning authority is minded to grant an application needs to be made after the decision of the full Council. Other categories requiring referral to the Scottish Ministers, are:

Category 1: Any development in which planning authorities have an interest and the proposal is significantly contrary to the Development Plan.

Category 2: Where the application has attracted an objection from a government agency (e.g. Scottish Natural Heritage, Scottish Environmental Protection Agency).

Category 3: Some open cast coal and related minerals applications (although these are very rare in Glasgow).

3. Enforcement

Where development takes place without the relevant permission, the Council may use its enforcement powers which include requiring a retrospective planning application, further information about the development, that the development cease, payment of fixed penalties or prosecution through the Courts. A final sanction is to demolish the illegal development and recover costs.

Councils must publish a planning enforcement charter explaining how their enforcement system operates.

Relevant Council Service / ALEO

NRS

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2

Function	The promotion of compulsory purchase orders and compensation
Act	Local Government (Scotland) Act 1973 and various empowering acts such as Town and Country Planning (Scotland) Act 1997 , Housing (Scotland) Act 1987 , Building (Scotland) Act 2003 and Roads (Scotland) Act 1984 and Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947
Content	
<p>Local authorities have the power to make (i.e. promote) Compulsory Purchase Orders and in certain circumstances have the right to promote Compulsory Purchase Orders for the ultimate benefit of a third party;</p> <ul style="list-style-type: none"> ▪ The most general power is contained within the Local Government (Scotland) Act 1973 but it is not recommended in the normal course that this general power be relied on. In practice the empowering act is the one which relates to the purpose for which the power is exercised e.g. in the event of the Local Authority as Roads Authority seeking to build a road and requiring to exercise the power of compulsory purchase in order to obtain the land interests required the empowering legislation would be the Roads (Scotland) Act 1984 ; ▪ It should be noted that the empowerment in some of the legislation is given to the Local Authority in its specific function e.g. as Planning Authority in terms of the Town and Country Planning (Scotland) Act 1997 or as Roads Authority in terms of the Roads (Scotland) Act 1984; ▪ Scottish Ministers are the decision makers on whether or not a Compulsory Purchase Order made by a Local Authority is confirmed (i.e. approved). ▪ Parties who have lost an interest as a result of the Compulsory Purchase Order are entitled to make a claim for compensation and the Local Authority promoting the Compulsory Order in question has a duty to pay compensation which is competently claimed. The Lands Tribunal is the body with the final determining powers of the appropriate level of compensation in the event of there being a failure to reach agreement. 	
Relevant Council Service / ALEO	NRS

2

Function	Listed buildings*
Act	Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
Content	<ul style="list-style-type: none"> ▪ If it appears that a building in the Council's area is not a listed building but is of special architectural or historical interest and is in danger of demolition or alteration in such a way as to affect its character as a building of interest, it may serve a building preservation notice on the owner, lessee and occupier that it has requested Historic Environment Scotland (HES) to consider including it in HES's list of buildings of special architectural or historic interest. While the notice is in force the building is to be treated as if it were a listed building. ▪ Any demolitions, alterations or extensions to listed buildings require consent from the Council or from the Scottish Ministers. If consent is granted it may be subject to conditions. Notice of any demolition proposals must be given to HES. ▪ The Council must determine which parts of its area are of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, and designate such areas as conservation areas. The Council must give notice to the Scottish Ministers and HES where it has designated any such conservation area. ▪ It is the duty of the Council to formulate and publish proposals for the preservation and enhancement of any parts of its area which are conservation areas. ▪ In considering planning applications submitted in relation to conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
Relevant Council Service / ALEO	NRS

2

Function	Acquisition of ancient monuments; power to place ancient monuments under guardianship
Act	Ancient Monuments and Archaeological Areas Act 1979 ; War Memorials (Local Authorities' Powers) Act 1923
Content	
<p>The Council must:-</p> <ul style="list-style-type: none"> ▪ maintain any monument which is under its guardianship; ▪ control and manage any monument which is under its guardianship; and ▪ do all such things as may be necessary for the maintenance of the monument and for the exercise by it of proper control and management with respect to the monument. <p>The Council may:</p> <ul style="list-style-type: none"> ▪ acquire by agreement any ancient monument situated in or in the vicinity of its area; ▪ accept a gift (whether by deed or will) of any ancient monument; ▪ at any reasonable time enter the site of a monument which is under its guardianship for the purpose of maintenance in relation to the monument and authorise any other person to exercise any of those powers on its behalf; ▪ have full control and management of the monument which is under its guardianship. This includes the power to control the holding of events in or on the monument, to control and manage such events, to require payment of a charge in respect of the holding of such events, to exclude, restrict or otherwise control public access to the monument in connection with such events. ▪ from time to time by order designate as an area of archaeological importance any area within the area of that local authority which appears to it to merit treatment as such. ▪ may incur reasonable expenditure in the maintenance, repair and protection of any war memorial within its area which may be vested in it or not. 	
Relevant Council Service / ALEO	NRS

2

Function	
	Buildings in need of repair; power to enter, execute works and recover costs; street names; display of advertisements
Act	Civic Government (Scotland) Act 1982
Content	
<ul style="list-style-type: none"> ▪ Should a building become dangerous, the Council can instruct any necessary action to protect the public and adjacent property. Where the situation is less critical a procedure for issuing written notices to the owner(s) of the building is followed and if satisfactory action is not taken then the Authority may carry out the work and recovers costs. ▪ The Council may erect, maintain or permit the erection or maintenance of any statue or monument in any public space. ▪ The Council may in relation to any road in its area give such name to it as it thinks fit and affix, paint or mark its name on fences, lamp posts and other structures. ▪ The Council has the power to make rules to regulate the use of, and conduct of persons while in, any land or premises which is owned, occupied or managed by the authority. ▪ The Council may enter into agreement with any person for the display of advertisements on or in any land, premises or structure vested in or any vehicle owned or maintained by it. 	
Relevant Council Service / ALEO	NRS

2

Function	Building standards; building warrants
Act	Building (Scotland) Act 2003
Content	<p>The Council must:</p> <ul style="list-style-type: none"> ▪ maintain building standards registers which contain information on matters including applications for building warrants and completion certificates; ▪ carry out building standards assessment if requested to do so by the owner of a building; ▪ process building warrants for checking building design and construction; ▪ ensure that Building Warrant Applications comply with Building Regulations for many classes and types of building, whether public or private and includes housing, commercial, industrial buildings, etc. ▪ Where it appears to the Council that a building constitutes a danger to persons in or about it or to the public generally or to adjacent buildings the council has a duty to carry out such work (including, if necessary, demolition) as it considers necessary to prevent access to the dangerous building and to any adjacent parts of any road or public place which appear to the authority to be dangerous by reason of the state of the building. <p>The Council may:</p> <ul style="list-style-type: none"> ▪ recover from the owner of the dangerous building any expenses reasonably incurred in carrying out these works; ▪ Where the Council considers that urgent action is necessary to reduce or remove the danger it may, as the circumstances permit, carry out such work (including, if necessary, demolition) as it considers necessary to reduce or remove the danger. ▪ The Act empowers the Council to take enforcement action where work is carried out without a Building Warrant or contrary to Building Warrant conditions.
Relevant Council Service / ALEO	NRS

2

Function	Powers and duties in relation to the provision of housing
Act	Housing (Scotland) Act 1987
Content	<p>The 1987 Act imposes certain duties on local authorities and confers certain powers in relation to housing in its areas. These duties and powers include:</p> <p>Specific Duties:</p> <p>Every local authority has a duty to consider the housing conditions in their area and the needs of the area for further housing accommodation;</p> <p>To have regard to the amenities of the locality;</p> <p>To take action in relation to homelessness and threatened homelessness;</p> <p>To inspect houses of non-tolerable standards (and to secure that all houses in their district which do not meet the tolerable standard are closed, demolished or brought up to the tolerable standard within such a period as is reasonable in all circumstances);</p> <p>To inspect overcrowding and inform in writing the landlord and the occupier of a house of the permitted number of persons in relation to the houses;</p> <p>To offer house loans and other financial assistance in special cases set out in the Act; and</p> <p>To offer local authority grants for improvement, repair and conversion in prescribed cases set out in the Act.</p> <p>Powers:</p> <ul style="list-style-type: none"> To provide accommodation, shops, facilities and welfare services; To acquire and dispose of land in connection with the provision of housing; To arrange execution of works of sub-standard housing; Repair of housing in serious disrepair; To take action in relation to making demolition and closing orders; To take action in relation to houses of multiple occupation and overcrowding; and To offer home loans, grants and other forms of financial assistance for home improvements etc.

OFFICIAL

The 1987 Act gives local authorities the power to provide housing in its area. However, the exercise of these powers would require the Council to maintain a Housing Revenue Account (HRA) under section 203 of the 1987 Act. The duty to maintain a HRA ceased on 1 April 2004 by virtue of the Housing (Scotland) 2001 (Alteration to Housing Finance Arrangement) Order 2004. Any income and expenditure which would previously have been accounted for in the HRA now falls to be paid into or out of the General Fund.

Relevant Council Service / ALEO

NRS

OFFICIAL

2

Function	Private Landlord Registration
Act	Antisocial Behaviour etc. (Scotland) Act 2004
Content	
<p>The Council must maintain a register of private landlords that can be used to assist dialogue between local authorities and landlords and to disseminate best practice information..</p> <p>On receiving application for registration, the local authority must determine whether a landlord is a fit and proper person. In coming to this decision, the Council must have regard to a number of factors outlined in the Act.</p> <p>Where a person is no longer a fit and proper person to be a landlord, the local authority shall remove them from the register of landlords.</p> <p>Where the Council is satisfied that a landlord is not registered and is subject to a lease or occupancy arrangement, the Council may serve a notice that no rent shall be payable under the lease or occupancy arrangement.</p>	
Relevant Council Service / ALEO	NRS

2

Function		Rent increases in the private rented sector
Act		The Private Housing (Tenancies) (Scotland) Act 2016
Content		
<p>This Act allows Councils to apply to the Scottish Ministers to designate all or part of their area as a 'rent pressure zone'. This can be used where rents in an area are rising too much, causing undue hardship for private rented tenants, and putting the Council under pressure to provide housing or housing subsidies as a consequence of the rent rises within the zone.</p> <p>If an area is designated as a rent pressure zone, the increase in private residential rents in any rent-increase notice will be capped at a level set out in the Act. The prescribed level may be amended by the Scottish Ministers.</p>		
Relevant Council Service / ALEO		NRS

2

Function	Stair lighting
Act	Civic Government (Scotland) Act 1982
Content	
<ul style="list-style-type: none"> ▪ Under section 90 of the Civic Government (Scotland) Act 1982, the Council has a responsibility to ensure that all owners of common property provide and maintain a satisfactory level of lighting within common stairs and passages and, where they fail to comply, has the power of enforcement. ▪ The Act also allows Councils to offer a Stair Lighting Maintenance Service and remit or part remit the costs of providing the service. The Council offers all property owners in Glasgow a maintenance option that meets the requirements of the Act. This service is available to owners of tenement, desk access and multi-storey properties. ▪ If owners fail to provide an adequate or safe lighting system then the Council has the power of enforcement under Section 90(9) of the Civic Government (Scotland) Act 1982 and is permitted to install a suitable system and charge the owners their share of the costs incurred. ▪ Authorised officers of the Council are entitled to enter any common property to determine the condition of the lighting installation. 	
Relevant Council Service / ALEO	NRS / City Building (Glasgow)

2

Function	Responsibility for safety of stands at sports grounds
Act	Fire Safety and Safety of Places of Sport Act 1987
Content	
<ul style="list-style-type: none"> ▪ It is the duty of a local authority to decide which stands at sports grounds in its area are Regulated Stands and to issue Safety Certificates under the applicable statutory procedure (see also Licensing Section Safety of Sports Grounds Act 1975 and Fire Safety and Safety of Places of Sports Act 1987) 	
Relevant Council Service / ALEO	NRS Building Control / Licensing

2

Function	Premises licensing
Act	Licensing (Scotland) Act 2005
Content	
<ul style="list-style-type: none"> ▪ Premises licence applications by members of the public must be accompanied by a planning certificate, building standards certificate and, if food is to be supplied on the premises, a food hygiene certificate. The applicant must have these certificates signed by the appropriate authority as set out in the Act. 	
Relevant Council Service / ALEO	NRS

2

Function	Management and maintenance of roads*
Act	Roads (Scotland) Act 1984 ; New Roads and Streetworks Act 1991 ; Road Traffic Regulation Act 1984
Content	
<p><u>Roads (Scotland) Act 1984</u></p> <p>This is the key piece of roads law in Scotland. It sets out the powers and duties of the Council as the local roads authority. The Council has a duty to:</p> <ul style="list-style-type: none"> • manage and maintain all public roads in its area, and keep a list of those roads • determine any applications to it for roads construction consent • provide and maintain lighting for roads maintainable by it, and which in its opinion ought to be lit • protect road users from dangers near a road <p>The Council has powers to:</p> <ul style="list-style-type: none"> • make up and maintain private roads in its area • construct new roads (and where it does so must enter any such road in its list of public roads) • improve or maintain roads (e.g. by altering levels, providing footways, drainage, road humps, other traffic calming measures, and other miscellaneous improvements) • control obstructions and other apparatus placed in a road and provide other forms of control over works and excavations, traffic, vaults and cellars affecting roads • stop up roads and dangerous accesses • make a scheme for constructing a bridge as part of a public road over navigable waters • take steps relating to interference and damage (such as removing builders' skips and other structures, restricting planting on or near a road) • enter on to land for the purpose of surveying, laying apparatus, inspection, carrying out certain activities either in an emergency or upon providing advance notice, and charge a fee in relation to those inspections carried out • exercise power of compulsory purchase (see page 44) <p><u>New Roads and Streetworks Act 1991</u></p>	

OFFICIAL

This is a very technical piece of legislation governing the carrying out of roadworks by statutory undertakers and others to ensure that such works are carried out safely, with minimal traffic disruption and are re-instated properly.

The Council's powers are to monitor such roadworks and ensure that roads are re-instated to an appropriate standard. This includes power to investigate any re-instatement and require remedial works within a prescribed period.

In cases where there is a danger to road users, the Council may carry out the remedial work itself but in order to recover its costs it must provide notice to the relevant undertaker stating the reason for its actions.

Road Traffic Regulation Act 1984*

This Act provides local authorities with powers in relation to:

- making Traffic Regulation Orders when it appears expedient to do so (e.g. for avoiding danger to road users, preventing damage to a road or nearby building, facilitating passage, restricting vehicular use or preserving the character of the road or amenity of the area)
- a TRO may make provisions governing the direction of traffic flow, preventing/restricting waiting and loading/unloading of vehicles, prohibiting the use of a road by traffic or pedestrians, or prohibiting/restricting overtaking, specifying through routes for heavy commercial vehicles

This power includes the power to make experimental Traffic Orders and to regulate traffic in special cases (such as temporary restrictions, road events and counter terrorism).

The Act also provides powers in relation to parking places, including a general power to provide suitable parking places either off-street or on any part of a road within the Council's area.

This power includes power to make an Order relating to the use of a parking place including conditions of use, a power to charge for off-street parking, and to remove any vehicle contravening the Order.

The Council may also by Order make designated parking places on roads in its area and make charges in the prescribed amount for vehicles left in a designated parking place. On-street parking regulation is subject to decriminalised parking enforcement which includes a process for appeals against penalty charges.

An account must be kept of all income and expenditure in respect of designated parking places. Any surplus generated may only be applied for specific purposes including:

- making good the general fund any amount charged to that fund in the 4 years immediately preceding the financial year in question;
- meeting costs of provision and maintenance of off-street parking accommodation
- meeting costs incurred in the provision of public passenger transport services or facilities and road improvement projects in the Council's area.

Relevant Council Service / ALEO

NRS

OFFICIAL

2

Function	Environmental Protection
Act	Environmental Protection Act 1990 ; Control of Dogs (Scotland) Act 2010
Content	<ul style="list-style-type: none"> ▪ A local authority has a duty to arrange for the collection of household waste in its area ▪ A local authority has a duty to arrange for collection of commercial waste and non-household dry recyclable waste or food waste if requested by the occupier of premises in its area (at a reasonable charge) ▪ Local authorities are required to meet recycling and composting targets ▪ There is a duty on local authorities to ensure that roads and land under their control and to which the public have access is kept free of litter and refuse ▪ Local authorities have powers to control air pollution from a range of prescribed processes ▪ Local authorities have the power to serve a litter abatement notice if they are satisfied that the relevant land is or is likely to be defaced by litter or refuse <ul style="list-style-type: none"> ○ If a person on whom a litter abatement notice is served fails to comply with the notice, the authority has the power to enter the land and clear the litter and refuse and recover expenses for having done so ▪ If any controlled waste is deposited in or on any land the local authority may, by notice served on him, require the occupier to remove the waste from the land or take steps with a view to eliminating or reducing the consequences of the deposit of the waste. ▪ Local authorities have the power to enforce penalties for littering offences. ▪ There is a responsibility placed on local authorities to deal with contaminated land in accordance with a published Contaminated Land Strategy and maintain a Public Register of Contaminated Land. ▪ Local authorities have a responsibility for dealing with stray dogs. ▪ An appointed local authority officer may seize and detain any dog which is believed to be a stray. ▪ In terms of the Control of Dogs (Scotland) Act 2010 a local authority has a duty to appoint an officer who is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs. The local authority has the power to issue dog control notices when a dog has been out of control.
Relevant Council Service / ALEO	NRS

2

Function	Delivering the Scottish Government's Zero Waste Plan
Act	The Waste (Scotland) Regulations 2012
Content	<p>The 2012 Regulations make amendments to the Environmental Protection Act 1990. The Regulations impose duties upon the Council to facilitate the separate collection of dry recyclable waste and food waste.</p> <p>Separate collection of dry recyclable waste and food waste.</p> <p>The waste collection authority, i.e. the Council, must undertake the following:</p> <ul style="list-style-type: none"> • Arrange to provide the occupier of every domestic property in its area with a receptacle to allow for the separate collection of dry recyclable waste. <p>This is not required in the following circumstances:</p> <ul style="list-style-type: none"> • Where the property is in a rural area and the Council considers that the separate collection of dry recyclable waste from the property would not be environmentally or economically practicable; • The dry recyclable waste will be deposited at a "bring site", i.e. a location where dry recyclable waste can be deposited into a dry waste stream and is processed by the authority; or • If the Council is satisfied that the dry recyclable waste will not be mixed with other waste that cannot be recycled and that the quality of the recycled material produced will not be significantly lower. <p>Furthermore, the Council must also take such steps as it considers reasonable to: (i) promote separate collection (including the making of arrangements for the provision of a food waste receptacle); and (ii) promote recycling in any other manner.</p> <p>The Council must arrange to provide the occupier of every domestic property in its area with either: (a) a receptacle to allow for the separate collection of food waste from the property or, (b) a receptacle that enables the occupier to fill it with both food waste and other biodegradable waste where this does not significantly reduce the amount of food waste that could be collected under (a).</p>
Relevant Council Service / ALEO	NRS

2

Function	Identification of contaminated land; air quality; waste strategy
Act	Environment Act 1995 (including amendments to the Environmental Protection Act 1990)
Content	<ul style="list-style-type: none"> ▪ Local authorities must from time to time inspect their areas for the purpose of identifying contaminated land and enabling them to decide if any such land requires to be designated as a special site. ▪ If a local authority identifies contaminated land it shall give notice to the appropriate agency, the owner of the land, any person who appears to be in occupation of the land and any person who appears to the authority to be an appropriate person to inform. ▪ The local authority has a duty to serve a notice on the appropriate person specifying what that person needs to do by way of remediation. ▪ Local authorities have a duty from time to time to review the quality of air within the authority's area, and the likely future quality. ▪ Where a local authority conducts a review of air quality, it must assess whether air quality standards and objectives are being achieved. ▪ A local authority has the power to exercise and perform pollution control functions ▪ A local authority has power to carry out investigations in relation to pollution control functions
Relevant Council Service / ALEO	NRS

2

Function	Environmental assessments, preparing environmental plans and programmes
Act	Environmental Assessment (Scotland) Act 2005
Content	
<ul style="list-style-type: none"> ▪ Local authorities are required to carry out environmental assessments on qualifying plans or programmes ▪ The local authority in carrying out an environmental assessment, must produce environmental reports, carry out consultations and take account of the reports/consultation responses in its decision-making processes ▪ Local authorities must monitor the significant environmental effects of the implementation of qualifying plans or programmes that have been subject to environmental assessment 	
Relevant Council Service / ALEO	NRS

2

Function	Local flood risk management plans; flood protection schemes; clearance and repair works
Act	Flood Risk Management (Scotland) Act 2009
Content	
<ul style="list-style-type: none"> ▪ Local authorities must prepare local flood risk management plans. ▪ Local authorities must assess where a body of surface water could give rise to a risk of flooding, and where this is the case, to consider whether clearance and repair works could reduce that risk. ▪ The Act provides local authorities with a broad power to implement measures to manage flood risk. ▪ The Act provides local authorities with powers to make reasonable requests for information, documents and assistance to support the preparation of flood risk management plans. ▪ Local authorities are provided with rights of entry to allow them to carry out flood protection works. 	
Relevant Council Service / ALEO	NRS/NS

2

Function	Access rights to land
Act	Land Reform (Scotland) Act 2003
Content	
<ul style="list-style-type: none"> ▪ Local authorities have a duty to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights reasonably may be exercised. ▪ Local authorities have a duty to prepare a Core Paths Plan within 3 years of the start of the Act. ▪ Local authorities must also establish a Local Access Forum. ▪ Local authorities have a duty to publicise the Core Paths Plan. ▪ Local authorities have the power to remove prohibition signs or make safe obstructions, dangerous impediments etc. where the owner of the land fails to do so upon service of a notice under the Act. ▪ Local authorities have the power to exempt land from access rights. 	
Relevant Council Service / ALEO	NRS

2

Function	Duties of public bodies relating to climate change
Act	Climate Change (Scotland) Act 2009
Content	
<p>A public body must, in exercising its functions:-</p> <ul style="list-style-type: none"> ▪ act in the way best calculated to contribute to delivery of the Act's greenhouse gas emissions reduction targets; ▪ act in a way best calculated to deliver any statutory adaptation programme. Statutory adaptation programmes set out objectives, proposals and policies in relation to adapting to climate change; ▪ act in a way that it considers is most sustainable; <p>A local authority must also establish an energy efficiency discount scheme for reducing the amounts which persons are liable to pay in respect of council tax where improvements are made to the energy efficiency of chargeable dwellings.</p> <p>A planning authority, in any local development plan prepared by them, must include policies requiring all developments to be designed so as to ensure that all new buildings avoid emitting a specified proportion of greenhouse gases from their use through the installation of low carbon technologies.</p>	
Relevant Council Service / ALEO	NRS

2

Function	Heat and Electricity
Act	Local Government (Scotland) Act 1973 ; Sale of Electricity by Local Authorities (Scotland) Regulations 2010
Content	
<p>The main powers in relation to local authority functions regarding heat and electricity are set out in Section 170A of the Local Government (Scotland) Act 1973. Except in relation to restrictions on the sale of electricity, these powers are without prejudice to the exercise of any other power that may be available apart from this Section (e.g. The Local Authorities (Goods and Services) Act 1970). Section 170A of the Local Government (Scotland) Act 1973 provides the relevant statutory authority to carry out certain functions in relation to heat and electricity.</p> <p>In summary, Section 170A permits the Council to:</p> <ul style="list-style-type: none"> • produce heat or electricity or both • establish and operate generating stations or installations for such production • buy or otherwise acquire heat • use, sell or otherwise dispose of heat produced or acquired or electricity produced by the Council by virtue of Section 170A • enter into and carry out agreements for the supply of such heat to premises within or outside of the Council's area <p>Section 170A of the Local Government (Scotland) Act 1973 permits the sale of heat or (subject to restrictions on how it was <i>produced</i>) electricity to public and private sector third parties. A local authority may not purchase electricity under Section 170A or sell electricity it has acquired. Section 170A(3) limits the power to sell electricity to where it has been produced (a) from waste, (b) in association with heat, or (c) as may otherwise be prescribed (e.g. from certain specified renewable sources - wind, solar, biomass, landfill gas, etc. - see Sale of Electricity by Local Authorities (Scotland) Regulations 2010)</p> <p>In relation to heat infrastructure, Section 170A(4) provides power to:</p> <ul style="list-style-type: none"> • construct, lay and maintain pipes and associated works for the purpose of conveying heat produced or acquired by the Council, and • contribute towards costs incurred by another person in providing or maintaining pipes or associated works connected with pipes provided by the Council. <p>Section 170A(5) provides power to break open roads to lay pipes and carry out associated works.</p>	

OFFICIAL

Section 170B(1) provides power to make byelaws regarding works/apparatus to be provided/used by other persons in connection with supply of heat, hot air, hot water or steam supplied by the Council under Section 170A.

Relevant Council Service / ALEO	NRS
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OFFICIAL

2

Function	Biodiversity duty
Act	Nature Conservation (Scotland) Act (2004) Wildlife and Natural Environment (Scotland) Act 2011
Content	<p>The Nature Conservation (Scotland) Act (2004) created a duty on public bodies, including Glasgow City Council, to further the conservation of biodiversity as far as is consistent with the proper exercise of any of its functions. In so doing, public bodies must have regard to the UN Environmental Programme Convention on Biological Diversity..</p> <p>The Wildlife and Natural Environment (Scotland) Act 2011 amends the Nature Conservation (Scotland) Act (2004) and places an additional obligation on public bodies to publish a report on compliance with the Biodiversity Duty every three years.</p> <p>The Council recognises that biodiversity cuts across numerous work programmes, policies, strategies and legislation that are outwith the scope of the Local Biodiversity Action Plan (LBAP).</p> <p>The Natural Environment Framework portal has been developed by Glasgow City Council to mainstream biodiversity to ensure natural resources are protected, sustainably managed and enhanced through the decision making processes of the Council.</p>
Relevant Council Service / ALEO	NRS

2

Function		Noise control
Act		Antisocial Behaviour, etc. (Scotland) Act 2004
Content		
<p>The Council has the power to apply noise controls to specific areas and at specific times. Council officers have the power to investigate noise complaints. They may also issue a warning notice if the noise is above the allowed level.</p> <p>The Council can serve a fixed penalty notice if noise continues, and should then proceed with prosecution if this remains unpaid. Officers of the Council can also seize and remove any equipment used in the emission of noise.</p>		
Relevant Council Service / ALEO		NRS

2

Function	Control of hazardous substances
Act	Planning (Hazardous Substances) (Scotland) Act 1997
Content	
<ul style="list-style-type: none"> ▪ There is a duty on the Council as planning authority to control hazardous substances through planning. ▪ The presence of a hazardous substance on, over or under land in a particular quantity requires the consent of the planning authority. This enables the Council to control the presence and quantity of such hazardous substances even where the introduction of the substances does not amount to development. It gives the Council as planning authority the opportunity to consider whether the proposed storage or use of a significant quantity of hazardous substance is appropriate to a particular location, having regard to the risks arising to persons in the surrounding area and the wider implications for the community. ▪ A full list of substances that are considered hazardous and the relevant controlled quantity can be found in Schedule 1 of The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993. 	
Relevant Council Service / ALEO	NRS

2

Function	Burial grounds and cremations*
Act	Burial and Cremation (Scotland) Act 2016 ; The Cremation (Scotland) Regulations 2019 ; Social Work (Scotland) Act 1968 and the Public Health (Control of Disease) Act 1984
Content	
<p>The 2016 Act is intended to modernise the legal framework for burial and cremation in Scotland.</p> <p>Each local authority must provide at least one burial ground within its area. Two or more local authorities may make joint provision of burial ground.</p> <p>A local authority may provide a crematorium and enter into arrangements with another person for the provision by that other person of a crematorium.</p> <p>The Scottish Ministers may make regulations about the management, maintenance and operation of burial ground and crematoriums. From 4 April 2019 all cremations and applications for cremations must be carried out in accordance with the Cremation (Scotland) Regulations 2019.</p> <p>Section 28(1) of the Social Work (Scotland) Act 1968 gives the Council power to bury or cremate the body of any deceased person who was in the care of or receiving assistance from the Council (unless cremation is not in accordance with the person's religious persuasion).</p> <p>Section 46 of the Public Health (Control of Disease) Act 1984 places a similar responsibility on the Council for the burial / cremation of the body of any person who died or was found dead in their area in any case where it appears that no other suitable arrangements are being made.</p>	
Relevant Council Service / ALEO	NRS

2

Function	Allotments
Act	Community Empowerment (Scotland) Act 2015
Content	
<p>The Council shall take reasonable steps to provide more allotments if waiting lists exceed a certain threshold. The Council must produce an annual allotments report and produce a food growing strategy.</p>	
Relevant Council Service / ALEO	NRS

2

Function	Consumer Protection
Act	The Consumer Rights Act 2015
Content	
<p>The Council has a duty to control the supply and marketing of a range of goods / services to the public. A few examples include regulating the composition and content of motor fuels (Clean Air Act 1993), supplying information to the Financial Conduct Authority regarding trading practices, control of weighing and measuring equipment for trade use (Weights and Measures Act 1985), although there is a wide range of other activities covered by different pieces of legislation.</p> <p>The legislation in this area also provides the Council with enforcement powers to enable it to take required action against any person suspected of being in breach of the legislation. These can be quite detailed and cover powers to:</p> <ul style="list-style-type: none"> • investigate suspected contraventions; • carry out inspections; • require sample products or seize and detain goods/equipment for testing, or obtain and make copies of documents and other records; • serve Enforcement Notices; and • impose civil penalties. 	
Relevant Council Service / ALEO	NRS

2

Function	Public Health and Scientific Services
Act	Public Health etc. (Scotland) Act 2008 ; Environment Act 1995 ; Food Safety Act 1990 (and other related legislation)
Content	
<p>The Public Health etc. (Scotland) Act 2008 places a duty on local authorities to:</p> <ul style="list-style-type: none"> • protect public health • co-operate with Health Boards <p>In preparing a joint public health plan, the local Health Board must consult with the relevant local authority.</p> <p>The Environment Act 1995 places a duty on Councils to:</p> <ul style="list-style-type: none"> • review and assess air quality in its area to determine whether air quality objectives are being met in accordance with statutory regulations • declare air quality management areas where objectives are not met • produce and implement an air quality action plan in pursuit of the objectives <p>The Food Safety Act 1990, requires that the Council must appoint a Public Analyst (Glasgow Scientific Services currently has appointed Public Analysts to serve sixteen Scottish local authorities).</p> <p>The Agriculture Act 1970 also places a duty on the Council to appoint an Agriculture Analyst (Glasgow Scientific Services currently has appointed Agriculture Analysts to serve sixteen local authorities).</p>	
Relevant Council Service / ALEO	NRS (through Glasgow Scientific Services)

2

Function	Issuing of Fixed Penalty Notices-Littering
Act	The Environmental Protection Act 1990
Content	
<p>The Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Ensure that roads and land under their control and to which the public have access are kept free of litter and refuse <p>The Council has the power to:</p> <ul style="list-style-type: none"> ▪ Issue a Fixed Penalty Notice for littering 	
Relevant Council Service / ALEO	NRS

2

Function	Issuing of Fixed Penalty Notices – Dog Fouling
Act	Environmental Protection Act 1990 ; The Dog Fouling (Scotland) Act 2003
Content	
<p>The Council has the duty to:</p> <ul style="list-style-type: none"> ▪ ensure that roads and land under their control and to which the public have access are kept free of litter and refuse ▪ Authorise at least one person (and more than one if necessary or expedient) to issue fixed penalty notices for dog fouling 	
Relevant Council Service / ALEO	NRS

2

Function		On-street parking enforcement
Act		The Road Traffic Act 1991 (as amended by the Road Traffic (Permitted Parking Area and Special Parking Area)(City of Glasgow) Designation Order 1999)
Content		
<p>The Council has the power to issue a parking Penalty Charge Notice to a person responsible for contravention of or non-compliance with an order regulating parking places in its area (e.g. parking without displaying a valid pay and display ticket or the ticket displayed has expired or parking on single or double yellow lines when restrictions apply).</p>		
Relevant Council Service / ALEO		NRS

2

Function		Bus lane enforcement
Act		The Bus Lane Contraventions (Charges, Adjudication and Enforcement) (Scotland) Regulations 2011 made under the Transport (Scotland) Act 2001
Content		
<p>The Council has the power to issue a Penalty Charge Notice to the registered keeper of a vehicle in respect of any contravention relating to the use of bus lanes within its area (or, in prescribed circumstances, to the person who had hired the vehicle, or the relevant vehicle trader where the vehicle was either subject to a hiring agreement or was kept by a vehicle trader, respectively). Vehicles permitted to use bus lanes are buses, taxis, licensed private hire cars and pedal cycles.</p>		
Relevant Council Service / ALEO		NRS

2

Function		Removal of abandoned vehicles
Act		Refuse Disposal (Amenity) Act 1978 (and implementing Removal, Storage and Disposal of Vehicles Regulations)
Content		
The Council removes vehicles on a road or on any land in the open air in the area of the Council when reported, which appear to have been abandoned without lawful authority.		
Relevant Council Service / ALEO		NRS

2

Function	Transport Quality Partnerships; Quality Contracts; Ticketing Arrangements/ Schemes etc.
Act	Transport (Scotland) Act 2001
Content	
<ul style="list-style-type: none"> The Act enables local authorities in the current Strathclyde Passenger Transport area to establish quality partnerships, quality contracts, ticketing arrangements/ schemes and enforcement of bus lane contraventions (e.g. the Council's Statutory Quality Partnership Scheme for Glasgow Streamline Quality Bus Route with SPT). <p><u>Quality Partnership Schemes</u></p> <p>A local transport authority or two or more such authorities acting jointly may make a Quality Partnership scheme covering all or part of their area(s) to implement general transport policies and improve the quality of local services and facilities, or reduce/limit traffic congestion, noise or air pollution.</p> <p>If a QP scheme is proposed, the local transport authority must give notice of the scheme in the form prescribed in the Act and carry out a consultation exercise.</p> <p>If the QP scheme is made, it must set out the specified facilities to be provided by the authority and the specified standard of local services which operators must undertake to provide.</p> <p><u>Quality Contract Schemes</u></p> <p>A local transport authority, or two or more such authorities acting jointly, may make a Quality Contract scheme covering all or part of their area(s) to implement general transport policies in a way that is economic, efficient and effective.</p> <p>In making a QC scheme the authority must comply with the prescribed notice and consultation requirements and obtain the Scottish Ministers' approval.</p> <p>A QC scheme determines what local services should be provided in the area, what standards should apply, and any additional facilities or services which should be provided. Under a QC scheme, certain local services may be provided only under a Quality Contract by which the authority grants an exclusive right to operate the local services on such terms as are specified in the contract (including frequency, fares and service standards).</p>	

Unless otherwise approved by the Scottish Ministers, an authority which has made a QC scheme must not enter into a Quality Contract without first inviting tenders for the provision of the QC local services on the basis set out in the Act. No local service covered by a QC scheme may be provided other than under a Quality Contract while the scheme is in force.

Ticketing Arrangements

Each local transport authority must from time to time determine what ticketing arrangements should be made for their area. Before making any such determination, the authority must consult with local service users representative organisations.

From time to time, the local transport authority must determine whether the required ticketing arrangements are being made available. If they are not, then the authority must seek to make them available via agreements with local service operators.

If satisfactory arrangements can be made, then two or more authorities may make a joint ticketing scheme covering all or part of their area(s) where they consider it is in the public interest and would to any extent implement their relevant general policies.

A ticketing scheme is one whereby the relevant class of relevant service operators are required to make and implement a ticketing scheme.

In making a ticketing scheme the authority must comply with the prescribed notification and consultation requirements.

Civil Penalties for Bus Lane Contraventions

The Act also provides for the Scottish Ministers to make regulations providing for the imposition by approved local authorities of charges in respect of bus lane contraventions and the payment of such charges.

Regulations have been introduced in Glasgow to enable the enforcement of bus lane contraventions under the 2001 Act.

Relevant Council Service / ALEO	NRS
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EDUCATION SERVICES

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Education Services has a responsibility to plan, review and improve its services to ensure they meet the needs of Glasgow's children and young people. In particular it is responsible for the following:

- early years, including extended services (see the Council's Early Childhood and Extended Services Strategy)
- primary schools, including those for children with additional support needs
- secondary schools, including those for children with additional support needs
- psychological services
- vocational education
- working with a range of partners including social work services, the college sector and voluntary organisations

EDUCATION SERVICES

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Function	Children's Services
Act	National Health Service (Scotland) Act 1978 Education (Scotland) Act 1980
Content	Medical, Dental inspections and Cleanliness
<p>Medical and dental inspection, supervision and treatment of pupils and young persons.</p> <p>The Secretary of State is under a duty to provide for the medical inspection, at appropriate intervals, and for the medical supervision and treatment, of all pupils in attendance at any school under the management of an education authority, and of all young persons in attendance at any other educational establishment under such management.</p> <p>It is also the Secretary of State's duty to provide, to such extent as he considers necessary to meet all reasonable requirements—</p> <p>(a) for the dental inspection of such pupils and young persons as are mentioned in subsection (1); (b) for their dental treatment; and (c) for their education in dental health.</p> <p>It is the duty of every education authority to make arrangements for encouraging and assisting pupils and young persons to take advantage of facilities for medical treatment made available and dental treatment made available as stated above; but where, in the case of any pupil or young person, his parent gives notice to the authority that he objects to the pupil or young person availing himself of the said facilities, the pupil or young person shall not be encouraged or assisted to do so.</p> <p>It shall be the duty of every education authority to afford sufficient and suitable facilities for the medical inspection, supervision and treatment, and for the dental inspection, treatment and education as described above</p> <p>(1) The Secretary of State may make regulations as to the conduct of medical and dental examinations and medical and dental inspections for the purposes of the performance of his duties under section 39 of the National Health Service (Scotland) Act 1978.</p> <p>(2) For the purpose of securing the proper medical or dental inspection of the pupils and young persons for whom there is a duty under the said section 39 to provide such inspection, an education authority may require the parent of any pupil in attendance at any school under their management</p>	

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to submit the pupil for medical or dental inspection in accordance with arrangements made by the appropriate Health Board in agreement with the authority; and the authority may require any young person in attendance at any educational establishment under their management to submit for such medical or dental inspection.

(3) If any parent fails without reasonable excuse to comply with a requirement made by an education authority under subsection (2) above, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding [level 1 on the standard scale].

Power to ensure cleanliness.

An education authority may, by directions in writing issued with respect to all schools, and other educational establishments under their management or with respect to any of such schools, or establishments named in the directions authorise a medical officer of the appropriate Health Board to cause examinations to be made of the bodies and clothing of all or any of the pupils in attendance at such schools and young persons in attendance at such establishments whenever in his opinion such examinations are necessary in the interests of cleanliness.

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EDUCATION SERVICES

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Function	Broad Duties Regarding Education*
Act	Education (Scotland) Act 1980 Education (Placing in Schools etc. Deemed Decisions) (Scotland) Regulations 1982 * Standard in Scotland's Schools Act 2000 Education (Scotland) Act 2016
Content	<p>Every child of school age has the right to be educated. A child is of school age if he/she has attained the age of 5 but has not attained the age of 16 years. The term “young person” applies to a pupil over school age, but who has not attained 18 years. The education authority has a duty to provide education to any young person who is still a school pupil.</p> <p>The Education Authority has the duty to:</p> <ul style="list-style-type: none"> ○ Provide adequate and sufficient provision of school education and further education in its area (usually without payment of fees if pupil belongs to its area). This duty does not include “further education” within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992 (which is a programme of learning, not being school education, provided for persons over school age). Further details on this definition are contained within section 6 of the 1992 Act. ○ Eligible children belonging to the authority’s area who are under school age are entitled to receive the mandatory amount of early learning and childcare. ○ (1C) An education authority shall have power in relation to pre-school children to secure for their area the provision of such school education, other than that which they are required by subsection (1) above to secure, as they think fit. ○ (2B) An education authority must, at least once every two years— ○ (a) consult such persons as appear to be representative of parents of pre-school children within their area about whether and if so how they should provide school education for such children under subsection (1C) above; and ○ (b) after having had regard to the views expressed, prepare and publish their plans in relation to the provision of such education for such children under that subsection. ○ (2C) The Scottish Ministers may by order modify subsection (2B) above so as to vary the regularity within which an education authority must consult and plan in pursuance of that subsection. ○ (2D) An order made under subsection (2C) above is subject to the negative procedure.

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- School education provided by an education authority shall be provided without payment of fees unless exceptions listed in Section 3(2)-3(5) 1980 Act apply.
- Secure adequate facilities for social, cultural and recreation activities and for physical education and training for pupils in attendance at its schools (see S6 1980 Act for additional powers)
- Decide what amount of public school accommodation is required for its area and in doing so shall have regard to and take into account every school, whether public or not
- Provide a psychological service and the functions of that service shall include:-
the study of children having additional support needs;
the giving of advice to parents and teachers as to appropriate methods of education for such children;
in suitable cases, provision for the additional support needs of such children;
the giving of advice to a local authority within the meaning of the [Social Work \(Scotland\) Act 1968](#) regarding the assessment of the needs of any child for the purposes of any of the provisions of that or any other enactment.
- Ensure that religious observance/instruction must not be discontinued by the education authority unless by resolution voted for by a majority of the voting electors in the education area
- Appoint a supervisor of religious instruction without remuneration for each denominational school and have facilities for the holding of religious examinations within the school. Manage denominational schools in terms of Section 21 of the 1980 Act.
- Submit to the Secretary of State for his consent certain proposals in relation to denominational schools.
- Ensure that every public/grant aided school shall be open to pupils of all denominations and any pupil may be withdrawn by his parents from the religious observance or religious instruction
- If a pupil is unable or it is unreasonable to expect them to attend an educational establishment due to prolonged ill health, without undue delay, make special arrangements for the pupil to receive education elsewhere
- If a pupil is excluded or withdrawn from a public school in its area, without undue delay, provide school education.
- Provide books, writing materials, stationery, mathematical instruments, practice materials and other articles necessary to enable pupils to take full advantage of the education provided
- Provide, maintain and equip schools and other educational establishments
- Provide for their area, sufficient accommodation in public schools (whether day schools or boarding schools), and other educational establishments under their management to enable them to perform their functions. The Council shall provide education facilities in accordance with schemes
- Subject to the provisions of section 18 of the 1980 Act, an education authority may for the purpose of reducing the risk of accident to pupils going to or returning from schools or other educational establishments in their area and under their management, or while actually present at such schools or establishments, do work to improve the safety of any private road which is used by these pupils or which is in the vicinity of such a school or establishment, and provide or arrange for the provision of safety barriers at or near the entrances to such schools and establishments

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- **It shall be the duty of an education authority to secure that the premises and equipment of any educational establishment under their management conform to the standards and requirements applicable to that establishment;**
- **and, in particular, that the premises and equipment of all educational establishments under their management are maintained in such a condition as to conduce to the good health and safety of all persons occupying or frequenting the premises or using the equipment**
- In order to enable them to execute any of their functions, an education authority may, from time to time—
acquire, whether by way of purchase, lease, excambion or donation, any land whether situated within or outwith the area of the authority;
erect and furnish buildings or execute any other works on any land belonging to them, or on land leased by them;
convert, alter, enlarge or improve any existing building or other works belonging to the authority or leased by them;
Provided always that paragraphs (b) and (c) above shall not of themselves authorise the authority to do anything contrary to the conditions contained in the title to or lease of any such land, buildings or other works.
- An education authority shall have power to provide in or in connection with any public school, or other educational establishment under their management, school education or further education and other services under this Act or additional support within the meaning of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) for any pupil belonging to the area of some other education authority or of a local authority in England and Wales.
- **Have regard to the wishes of parents regarding the education of their child**
- **Place a child in a school as requested by its parents unless certain statutory circumstances exist e.g. the capacity of the school would be exceeded, the Council would require to employ an additional teacher etc.**
- **If the education authority receives a placing request on or before 15th March in any year with respect to a child, or, as the case may be, young person, requesting a place in the school specified in the placing request for commencement at the school for the first term of the next school year, the Authority must respond by 30th April of that year.***
- **In the case of any other placing request, the Authority must respond within the period of 2 months immediately following receipt by the authority of the placing request.**
- If the Authority does not respond within the statutory timescales, the placing request is deemed to have been refused.
- **Publish or make available information on the arrangements of placing children in schools**
- **Fix a school commencement date**
- **Fix the latest date on or before which a child must attain the age of 5 to be of sufficient age to commence primary school**
- **If a parent fails to secure regular attendance of a child at a public school (i.e. a school under the management of an education authority) without reasonable excuse and the authority considers that an offence has been committed it must serve a notice on the parent requiring them to explain the reason for the absence of the child**
- **Where a child of school age has not attended a public school in the area in which their parent is residing and if the authority is satisfied that a parent is not providing efficient education for the pupil the authority must serve a notice requiring the parent either to**

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appear and provide information or give the information in writing. If the parent fails to satisfy the authority the authority shall make an attendance order

- Safeguard and promote the welfare of any child or young person who has been provided with residential accommodation for the purpose of being in attendance at a school
- Provide suitable transport if certain criteria are met.
- When it is brought to the attention of an education authority that a pupil attending a school is unable by reason of inadequacy or unsuitability of his clothing to take full advantage of the education provided, the education authority shall make such provision for the pupil for the purpose of ensuring that he is sufficiently and suitably clad as it may deem necessary.
- A pupil is entitled to a free school lunch if
- the pupil is, or the parents of the pupil are, in receipt of—
income support,
an income-based jobseeker's allowance (payable under the Jobseekers Act 1995),
an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance),
The parents of the pupil are in receipt of child tax credit and working tax credit under part 1 of the Tax Credits Act 2002 and the income calculated for the purpose of awarding those tax credits does not exceed £7300
the parents of the pupil are in receipt of support provided under Part 6 of the Immigration and Asylum Act 1999.
- The Education Authority shall provide facilities for consumption of food or drink brought to the school and the Education Authority may provide food and drink at the school
- Any food or drink provided for pupils must comply with the nutritional requirements specified by Scottish Ministers
- The authority must take reasonable steps to protect the identity of pupils who receive school lunches free of charge
- An education authority must promote the availability of school lunches in public schools and other educational establishments under the authority's management, and encourage pupils in attendance at those schools and other educational establishments to consume school lunches. In particular, an education authority must take reasonable steps to ensure that every pupil who is entitled, by virtue of section 53 of the 1980 Act, to receive school lunches free of charge, receives those lunches.
- An education authority must appoint an officer to advise the authority on the carrying out of the authority's functions under this Act and any other enactment.
- An officer appointed under subsection (1) is to be known as the Chief Education Officer (not yet in force- 2016 Act).
- The Education Authority may:
 - Provide suitable clothing for physical exercise or other activities for which special clothing is desirable for pupils
 - Grant exemptions for the obligation to attend school if the Council is satisfied by reason of any circumstances existing at the home of a child over the age of 14 that it would cause exceptional hardship to require that child to attend school
 - Establish, maintain and manage camps, outdoor centres, playing fields and swimming pools, play areas and centres, sports halls, centres and clubs, youth community, cultural centres and clubs, organise holiday classes, games, expeditions and other activities

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- If a pupil is granted an exemption to assist at home due to illness or infirmity of a family member the authority may make special arrangements for them to receive education outwith an educational establishment
- Provide school education or further education and any other service under this act or the ASL Act 2004 for a pupil belonging to another area. The authorities may enter into an arrangement for those purposes
- Subject to any special conditions attaching thereto, an education authority may—sell, excamb or let any land vested in them; and discontinue or change the site of, any educational establishment under their management, or part thereof (Subject to complying with the terms of the Schools Consultation (Scotland) Act 2010.
- Make payments to certain listed persons/authorities for the purpose of promoting education or improving the facilities for education.
- Provide and maintain museums within its area
- Provide grants to assist persons over school age attending courses of full or part-time education (conditions apply)
- Provide grants to persons of school age (certain conditions apply)
- Make special arrangements to educate a pupil if exceptional circumstances exist
- Recover payments made where a pupil has been provided with board and lodging at a school, hostel or elsewhere
- The authority may require a parent to submit a pupil or require any young person to submit for certain defined medical or dental examinations.
- **Education Authorities will have a duty to make available each year to pupils for whose education they are responsible no fewer than the number of learning hours prescribed by Scottish Ministers (Not fully in force- no learning hours consultation required).**
 - Education authorities are responsible for the school education of pupils who belong to their authority area (a concept which is determined by the residence of their parents), and who either attend a school managed by that authority, or are educated by virtue of arrangements made by that authority.
 - Education Authorities may make available fewer than the prescribed hours to a pupil in certain circumstances. The circumstances are where the authority is satisfied that making available the prescribed hours to the pupil would adversely affect that pupil's wellbeing; where matters outwith the control of the authority make it impracticable to make available the prescribed number of hours during the relevant year; and in other circumstances prescribed by Scottish Ministers in regulations. Where an Education Authority makes available fewer than the prescribed hours, no fewer than the reduced hours must be made available (not yet in force).

Education Authorities must assess any potential adverse impact of the prescribed number of hours on a child's wellbeing with reference to the factors listed; i.e. the extent to which the pupil is or would be safe, healthy, achieving, nurtured, active, respected, responsible and included (not yet in force).

Before the beginning of the planning period each year each education authority must prepare and publish an annual plan setting out:

- **the steps that the authority proposes to take with a view to reducing inequalities of outcome for pupils who experience inequalities as a result of socio-economic disadvantage, and**
- **the education benefits that the education authority considers will result from taking those steps.**

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As soon as reasonably practicable after the end of the period to which a plan published above relates, each education authority must prepare and publish a report setting out:

- the steps the authority has taken with a view to reducing the inequalities of outcome for pupils who experience inequalities as a result of socio-economic disadvantage
- the steps the authority has taken to comply with the duties imposed upon it (the authority must seek to have regard to the views of the head teachers as the authority thinks appropriate, such pupils as the authority thinks appropriate, the parents of such pupils as the authority thinks appropriate, the representatives of any trade union representing teaching staff as the authority thinks appropriate and any other person as the authority thinks appropriate. The authority must also provide advice and support to these people).
- any steps the authority has taken in pursuance of the National Improvement Framework (NIF), and
- any educational benefits for pupils that the authority considers result from those steps.

As soon as reasonably practicable after publishing a report, an education authority must give a copy of it to the Scottish Ministers.

Each education authority must prepare and publish each year an annual statement setting out, for the relevant period, the ways in which the authority will, in providing school education, encourage equal opportunities and in particular, the observance of equal opportunity requirements. As soon as reasonably practicable after the end of such relevant period, each education authority must prepare and publish a report setting out any activities carried out by it in pursuance of its annual statement.

Relevant Council Service / ALEO

Education

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EDUCATION SERVICES

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Function	Education Standards
Act	Standards in Scotland's School etc. Act 2000
Content	<ul style="list-style-type: none"> ▪ Every child of school age has the right to be educated (see previous section). Where school education is provided to a child or young person by the Council it is the Council's duty to secure that education is directed to the development of the personality, talents, mental and physical abilities to the pupil's fullest potential. ▪ The Council shall have regard to the views of the child taking into account their age and maturity. ▪ The council must endeavour to ensure that schools managed by them, and hostels provided and maintained by them for pupils, are health-promoting. The Council must have regard to any guidance issued by the Scottish Ministers and must prepare and publish each year a statement (an "annual statement") setting out the ways in which the Council proposes to carry out the duty. As soon as reasonably practicable after the end of each relevant period, the Council must prepare and publish a report setting out the ways in which it has carried out the duty ▪ The Council shall endeavour to secure improvements in the quality of school education and ensure that there is a development plan for the school for the purpose of improving the quality of education. ▪ The Council shall from time to time review the quality of education within all schools it provides and if any school is not performing satisfactorily the Council shall take steps to remedy the matter. <p>Where the Education Authority is making a decision of a strategic nature about the carrying out of its functions relating to school education or the Education Authority is considering what steps to take to implement such a decision the Authority must have due regard to the need to carry out its functions relating to school education in a way that is:-</p> <p>designed to reduce inequalities of outcome for—</p> <ul style="list-style-type: none"> (a) pupils who experience those inequalities as a result of socio-economic disadvantage, and (b) pupils who— <ul style="list-style-type: none"> (i) experience those inequalities other than as a result of socio-economic disadvantage, and (ii) are of such description as may be specified in regulations made by the Scottish Ministers. <p>The authority must:-</p>

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- seek and have regard to the views of certain persons in relation to the decision and steps;
- provide any advice and support that the authority thinks appropriate to those persons in relation to its consideration of the decision and steps .

In defining measures and standards of performance of a school an education authority must take into account the National Improvement Framework (NIF), and the annual plan which sets out the way the authority will reduce inequality.

The four strategic priorities of the NIF are:

- improvement in attainment, particularly literacy and numeracy
- closing the attainment gap between the most and least disadvantaged children and young people
- improvement in children and young people’s health and wellbeing, and
- Improvement in employability skills and sustained, positive school leaver destinations for all young people.

Education authorities have to demonstrate how they have sought and continue to seek, to deliver against the strategic priorities of the NIF.

Before the beginning of the planning period each year, the education authority must prepare and publish a plan (an “annual plan”) setting out—

- (a) the steps that the authority proposes to take during the planning period with a view to reducing inequalities of outcome for pupils of a type mentioned in [section 3A\(2\)](#),
- (b) the steps that the authority proposes to take during the planning period to comply with the duties imposed on it by [section 3B\(3\)](#),
- (c) the steps that the authority proposes to take during the planning period in pursuance of the National Improvement Framework, and
- (d) any educational benefits for pupils that the authority considers will result from taking those steps.

- (2) As soon as reasonably practicable after publishing an annual plan, each education authority must give a copy of the plan to the Scottish Ministers.

As soon as reasonably practicable after the end of the period to which a plan published (referred to above), each education authority must prepare and publish a report setting out for that period—

- (a) the steps the authority has taken with a view to reducing inequalities of outcome for pupils of a type mentioned in [section 3A\(2\)](#),
- (b) the steps the authority has taken to comply with the duties imposed on it by [section 3B\(3\)](#),
- (c) any steps the authority has taken in pursuance of the National Improvement Framework, and
- (d) any educational benefits for pupils that the authority considers result from taking those steps.

As soon as reasonably practicable after publishing a report, an education authority must give a copy of it to the Scottish Ministers.

The education authority must prepare and publish each year a statement (an “annual statement”) setting out for the relevant period the ways in which the authority will, in

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providing school education, encourage equal opportunities and in particular the observance of the equal opportunity requirements.

As soon as reasonably practicable after the end of each relevant period, the education authority must prepare and publish a report setting out any activities carried out by it in pursuance of its annual statement.

School improvement plans

- (1) For the purpose of securing improvement in the quality of education which a school managed by them provides, an education authority shall, subject to subsection (6) below, ensure that there is prepared for the school, by such date in 2001 as the Scottish Ministers may, after consulting the education authorities, determine (one date being so determined for all the authorities) and thereafter by that date annually, after consultation with the persons mentioned in subsection (2) below and after the pupils in attendance at the school have been given an opportunity to make their views known—
 - (a) [an improvement] ² plan which takes account of the [authority's plan (or revised plan) under section 3F, report under section 3H and strategy for parental involvement published by that date in the year in question , sets objectives for the school (including objectives as to the involvement of a pupil's parents in the education provided to the pupil and to the school's pupils generally) and contains a statement of the education authority's ambitions for the school ; and
 - (b) a summary of the improvement plan.
- (2) The persons are—
 - (a) any Parent Council or Combined Parent Council established for the school;
 - (b) the teachers employed in the school;
 - (c) such persons so employed or working in the school on an unpaid basis as are not teachers; and
 - (d) such local bodies as appear to the authority to be representative of—
 - (i) such teachers;
 - (ii) such persons; or
 - (iii) parents of pupils in attendance at the school.
- (3) The improvement plan shall include an account of the ways in which, and extent to which, the headteacher of the school will—
 - (a) consult the pupils in attendance at the school; and
 - (b) seek to involve them,when decisions require to be made concerning the everyday running of the school.
- (4) The education authority shall ensure that there is prepared, without unreasonable delay after the expiry of the period of twelve months immediately following the preparation, in any year, of the improvement plan—
 - (a) a report as to what was done, during those twelve months, in implementation of the plan; and
 - (b) a summary of that report.
- (5) The education authority shall ensure that the parents of the pupils in attendance at the school have access without cost to the improvement plan and the report upon request and receive copies of the summaries prepared by virtue of subsections (1)(b) and (4)(b) above; and any other person shall be entitled to have access to those summaries on request.
- (6) The improvement plan prepared in any year after the first year in which such a plan is prepared for the school may be in the same terms as, or be a revised version of, that prepared in a preceding year or may be prepared anew; but the education authority shall

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from time to time review the implementation of the plan and if there is in any year a change of circumstances relevant to the plan and of such significance that they conclude that the plan should be revised or prepared anew then they shall ensure that the [improvement] ⁵ plan next prepared is prepared accordingly.

(7) Review of school performance

- (1)** An education authority shall from time to time, after consulting such bodies as appear to the authority to be representative of teachers and parents within their area and giving such persons within that area as appear to the authority to have an interest in the matter an opportunity to make their views known, define and publish, as respects quality of education provided, measures and standards of performance for the schools managed by them; and different measures and standards may be so defined for different categories of such schools.
- (1A)** In defining measures and standards of performance for the purposes of subsection (1), an education authority must take into account—
 - (a)** the National Improvement Framework, and
 - (b)** the plan (or revised plan) published by the authority under section 3F.
- (2)** An education authority shall, as respects each school managed by them, from time to time review the quality of education which the school provides; and if, having regard to the measures and standards of performance for the time being defined by them under subsection (1) above and relevant to the school, they conclude in any such review that the school is not performing satisfactorily they shall take such steps as appear to them to be requisite to remedy the matter.

An education authority shall have a scheme for delegating to the headteacher of a school—

- (a)** managed by them; and
- (b)** of a category of school which is stated in the scheme to be covered by the scheme, management of that share of the authority's budget for a financial year which is available for allocation to individual schools and is appropriated for the school; or management of part of that share.

(2) The scheme—

- (a)** shall delegate to the headteacher the preparation of the school improvement plan; and
 - (b)** may also so delegate such other management functions in relation to the school as the authority think fit.
- (3)** The scheme shall require that the headteacher exercise the delegated functions in a manner consistent with the education authority's duties to endeavour to secure improvement in the quality of school education which is provided in the school managed by them with a view to raising standards or education.

15 Requirement that education be provided in mainstream schools

- (1)** Where an education authority, in carrying out their duty to provide school education to a child of school age, provide that education in a school, they shall unless one of the circumstances mentioned in subsection (3) below arises in relation to the child provide it in a school other than a special school.
- (2)** If a child is under school age, then unless one of the circumstances mentioned in subsection (3) below arises in relation to the child, an education authority shall, where they—
 - (a)** provide school education in a school to the child, provide it in; or

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- (b) under section 35 of this Act, enter into arrangements for the provision of school education in a school to the child, ensure that the arrangements are such that the education is provided in, a school other than a special school.
- (3) The circumstances are, that to provide education for the child in a school other than a special school–
- (a) would not be suited to the ability or aptitude of the child;
 - (b) would be incompatible with the provision of efficient education for the children with whom the child would be educated; or
 - (c) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred,
- and it shall be presumed that those circumstances arise only exceptionally.
- (4) If one of the circumstances mentioned in subsection (3) above arises, the authority may provide education for the child in question in a school other than a special school; but they shall not do so without taking into account the views of the child and of the child's parents in that regard.

No justification for corporal punishment

Corporal punishment given by, or on the authority of, a member of staff or other persons defined in the act, to a pupil educated by the authority (whether or not at a school), cannot be justified in any proceedings on the ground that it was so given in pursuance of a right exercisable by virtue of having a position as a member of staff.

This applies to corporal punishment given at any time and whether or not given at the place where education is provided.

Subject to subsection (4) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are other reasons for doing it) which, apart from any justification, would constitute physical assault upon that pupil.

- (4) Corporal punishment shall not be taken to be given to a pupil by virtue of anything done for reasons which include averting–
- (a) an immediate danger of personal injury to; or
 - (b) an immediate danger to the property of, any person (including the pupil concerned).

Relevant Council Service / ALEO

Education

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EDUCATION SERVICES

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Function		Accessibility Strategies
Act		Education (Disability Strategies and Pupils Educational Records) (Scotland) Act 2002
Content		
<ul style="list-style-type: none"> ▪ The Council shall prepare in relation to any School for which it is responsible an accessibility strategy for pupils with disabilities. ▪ In preparing the accessibility strategy the council shall have regard to need to allocate adequate resources for implementing the strategy, consult with such children, parents and young persons as it thinks fit and have regard to any guidance issue by the Scottish Ministers. ▪ The duties of the Council in relation to the supply of pupils' educational records are governed by the procedures contained within the Pupils Educational Records (Scotland) Regulations 2003 which is referred to in Management Circular 64. 		
Relevant Council Service / ALEO		Education

EDUCATION SERVICES

3

Function	Pupils With Additional Support Needs*
Act	Education (Additional Support for Learning) (Scotland) Act 2004 Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005/515 (Scottish SI) *
Content	
<p>The Education Authority has a duty to:</p> <ul style="list-style-type: none"> ○ Make adequate and efficient provision for the additional support required for each pupil with additional support needs; ○ make appropriate arrangements for keeping under consideration— the additional support needs of, and the adequacy of the additional support provided for, each such child and young person subject to the public expenditure in do so not being unreasonable and the authority having the power to do so. ○ Make arrangements to identify and address any additional support needs; ○ Assess the capacity and wellbeing of certain children aged 12 or over When a child has attained the age of 12 years some provisions of the act can be exercised by the child if the education authority is satisfied that the child has capacity in relation to the thing, an education authority may or must do something in relation to such a child only if the authority is satisfied that the child has capacity for the thing to be done in relation to the child, a child may do something in relation to an education authority only if the authority is satisfied that the child does not lack capacity in relation to the thing, or an education authority may or must do something in relation to a child only if the authority is satisfied that the child does not lack capacity in relation to the thing. <p>Before the child or (as the case may be) education authority does the thing, the education authority must— carry out an assessment of the capacity of the child to do the thing, or have the thing done in relation to the child, and</p>	

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consider whether it would adversely affect the wellbeing of the child to do the thing or have the thing done in relation to the child.

If the education authority, having complied with its duties above, is satisfied that—

the child lacks capacity to do the thing or have the thing done in relation to the child, or

it would adversely affect the wellbeing of the child to do the thing or have the thing done in relation to the child,

then the child or (as the case may be) education authority may not do the thing in question.

**Where an education authority is notified by a child that the child proposes to do the thing mentioned above, the education authority must—
notify the child's parents that the authority intends to—
carry out an assessment of the child's capacity to do the thing, and
consider whether it would adversely affect the wellbeing of the child to do the thing, and
notify the child and the child's parents of—
the result of the assessment, and
the authority's determination as to whether it would adversely affect the wellbeing of the child to do the thing.**

The authority or, as the case may be, the First-tier Tribunal assesses the wellbeing by reference to the extent to which the child is or would be: safe, healthy, achieving, nurtured, active, respected, responsible, and included.

Where a right is conferred under this Act on a child who has attained the age of 12 years and that right is also exercisable by the parents of the child if the child does not wish to exercise the right, and does not wish the child's parents to exercise it, but the parents of the child do wish to exercise the right the parents of the child may exercise the right.

- **If the education authority propose to establish whether a child or young person has additional support needs or requires, or would require, a co-ordinated support plan, or to review a plan and an appropriate person makes a request that the education authority arrange for the child or young person, for the purposes of the proposal, a process of assessment or examination (an “assessment request”), the education authority must comply with the assessment request unless the request is unreasonable.**

Certain persons may request that the education authority arrange for a child or young person to undergo, for the purpose of considering the additional support needs of the child or young person, a process of assessment or examination.

(2) The education authority must comply with the request unless it is unreasonable

- **Publish, review and update as necessary information about the Council's policy and arrangements in relation to provision for identifying and addressing additional support needs of pupils;**

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- Provide children and young persons who need one with a co-ordinated support plan and keep the plan under regular review;
- In establishing if a child/young person has additional support needs or requires a coordinated support plan the Council must take account of relevant advice and information from such appropriate agencies and other persons as the Council thinks appropriate.
- At least 12 months prior to the expected school leaving date of a pupil with additional support needs the Council must request and take account of information from appropriate agencies likely to make provisions for the pupil when they leave school.
- To make arrangements for the provision of independent mediation services to seek to resolve disagreements concerning the exercise of the Council's functions under the Act.
- The Council has a duty to place a child with additional support needs in a school of the parents'/young person's choice unless various statutory criteria apply and a refusal of the request is appropriate.
 - If the education authority receive a placing request on or before 15th March in any year with respect to a child, or, as the case may be, young person, requesting a place in the school specified in the placing request for commencement at the school for the first term of the next school year, the Authority must respond by 30th April of that year.*
 - In the case of any other placing request, the Authority must respond within the period of 2 months immediately following receipt by the authority of the placing request.
 - If the Authority does not respond within the statutory timescales, the placing request is deemed to have been refused.
 - Following a successful out of area placing request, parents or a young person are able to access mediation and/or dispute resolution from the host authority regarding that Education Authority's functions under the 2004 Act.
 - **Following a successful out of area placing request for a child or young person with a co-ordinated support plan, the new host Education Authority are under a duty to seek and take account of information and advice from the Education Authority from which the co-ordinated support plan was transferred as well as any agencies or persons involved in providing support under the co-ordinated support plan prior to its transfer.**
 - Where a child is being educated outwith the area in which he or she lives as a result of a successful out of area placing request, it prevents the Education Authority (the host authority) from recovering the cost of providing any mediation and/or dispute resolution services from the authority for the area in which the child lives (the home authority).
 - **Where a child is being educated outwith his or her home Education Authority as a result of a successful out of area placing request, responsibility for the child's or young person's education and carrying out all of the duties under the 2004 Act transfers to the host authority.**
 - where a child is being educated outwith his or her home Education Authority as a result of arrangements made or entered into by the authority for the area to which the child or young person belongs with another authority, responsibility for the school education of the child or young person remains with the authority for the area to which the child belongs.
- **Publication of information by education authority**
Every education authority must publish certain information and keep it under review and revise when required

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Provide certain persons with any information published, ensure that a summary of the information published is available on request, from each place in the authority's area where school education is provided, in any handbook or other publications provided by any school in the authority's area or by the authority for the purposes of providing general information about the school or, as the case may be, the services provided by the authority, and on any website maintained by any such school or the authority for that purpose (whether or not the website is also maintained for any other reason).

- The information referred to is listed in detail in section 26

Relevant Council Service / ALEO

Education

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EDUCATION SERVICES

3

Function	Parent Councils
Act	Scottish Schools (Parental Involvement) Act 2006
Content	<ul style="list-style-type: none"> ▪ The Council is required to give advice and information reasonably requested by a Parent Council for a school in its area. ▪ The Council must take appropriate steps to ensure that head teachers and staff at the schools are available to give advice and information to a Parent Council. ▪ The Council is to determine an allocation of money within its budget as it appears to it to be reasonably required by a Parent Council to meet its administration expenses, training expenses etc. ▪ The Council may provide a Parent Council with services or accommodation. ▪ If the Council receives representations from a Parent Council it shall have regard to those representations. <p>Each education authority must publish:</p> <ul style="list-style-type: none"> • Its annual strategy for parental involvement An annual report on the activities undertaken by the authority during the relevant period in pursuance of the general policies set out in the strategy for parental involvement. prepare a document, to be known as their “<i>strategy for parental involvement</i>”, containing their general policies for implementing their duties under sections 1 , 5 , 11 and 12 of this act (including, without prejudice to that generality, such implementation in the case of any pupil who is a child looked after by a local authority); and the complaints procedure established by the authority must be set out in the document. In preparing their strategy for parental involvement, an education authority are to have regard to how that strategy will promote equal opportunities. <p>An education authority—</p> <ul style="list-style-type: none"> (a) are from time to time to review their strategy for parental involvement, and (b) are to revise that strategy whenever they conclude that it is appropriate to do so. <p>(4) In developing or reviewing their strategy for parental involvement an education authority must seek and have regard to the views of—</p> <ul style="list-style-type: none"> (a) the parents to whom those duties relate, (b) pupils in attendance at public schools in the authority's area, (c) any Parent Council established for a school in their area, and

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(d) any other person who appears to the authority to have an interest in their implementation of those duties or of the duty

Each education authority must publish—

(a) their strategy for parental involvement prepared, and

(b) any strategy for parental involvement revised by the authority

- Duties of education authority and headteacher to a Parent Council
- An education authority are to give advice and information to a Parent Council established for a school in their area when the council reasonably requests it from them on any matter.
- An education authority are to take such steps as appear to them to be appropriate to ensure that the headteacher and staff of each school in their area—
- are available to give advice and information to a Parent Council established for the school on what is being done by those managing the school to promote parental involvement in education there, and
- in giving such advice and information act in a manner consistent with the authority's duties under this Act.
- the headteacher of a school must also, if requested to do so by a Parent Council established for that school, give advice to the council on any matter falling within the headteacher's area of responsibility.
- An education authority are, in respect of each financial year, to determine for a Parent Council established for a school in their area, an allocation of such money within the authority's budget as appears to the authority, after consultation with the council, reasonably to be required by the council for meeting—
- its administrative expenses,
- the expenses of training its members, and
- its other outgoings in carrying out the functions assigned it by or by virtue of this Act.
- An education authority may provide a Parent Council established for a school in their area with services or accommodation.
- An education authority are to give advice and information to any parent of a pupil in attendance at a public school in their area when that parent reasonably requests it from them on any matter relating to the education provided to that pupil.
- An education authority are to take such steps as appear to them to be appropriate to ensure that the headteacher and staff of the school—
- are available to give such advice and information to the parent in question, and
- in giving it act in a manner consistent with the authority's duties under this Act.
- An education authority are to establish a procedure by which a person, or someone acting on a person's behalf, may make complaints (or other representations) in relation to the exercise by the authority of, or failure by them to exercise, any of their functions under this Act in respect of the person.

Relevant Council Service / ALEO

Education

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EDUCATION SERVICES

3

Function	Consultation on School Proposals
Act	Schools (Consultation) Act 2010
Content	<ul style="list-style-type: none"> ▪ In relation to certain relevant proposals regarding schools and further education establishments within the Council's area, the Council must: <ul style="list-style-type: none"> ○ Prepare an educational benefits statement; ○ Prepare and publish a proposal paper; ○ Give notice to the relevant consultees; ○ Hold public meetings; ○ Involve Her Majesty's Inspectors; ○ Review the proposal and publish a consultation report. (Additional requirements apply to rural schools) ▪ The relevant proposals that require consultation include proposals to: <ul style="list-style-type: none"> ○ Permanently discontinue a school; ○ Discontinue all nursery classes in a school or a stage of education in a school; ○ Permanently discontinue Gaelic medium education in a stage of education at a school that also provides that stage of education through English medium education and vice versa; ○ Establish a new school; ○ Relocate in whole or in part a school or nursery class; ○ Vary any admission arrangements for a school; ○ Vary the arrangements for the transfer of pupils from a primary school to a secondary school; ○ Change the school commencement date of a primary school. ○ Vary the arrangements for a special class in a school other than a special school; ○ Discontinue provision of transport to a denominational school; ○ Change a denominational school to a non- denominational school. ○ Discontinue a further education centre which is managed by the education authority. ○ Where a decision is made not to implement a closure proposal the education authority may not publish a proposal paper concerning a further closure proposal in relation to the school during the period of 5 years beginning with the day on which the decision is made unless there is a significant change in the school's circumstances. ▪ School Closure Proposals:

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- Following a decision not to implement a closure proposal, an Education Authority would not be able to publish a proposal paper under section 4(4) of the Schools (Consultation) (Scotland) Act 2010 for the same school within 5 years (beginning with the day on which the decision not to implement a closure proposal is made) unless there had been a significant change in the school's circumstances.
- Education Authorities, as part of the proposal paper prepared under section 4(4) of the 2010 Act, to provide information about the financial implications of a proposal, where the proposal paper relates to a school closure. This will ensure that school closure consultations prepared by Education Authorities contain financial information. Further detail on the type and level of financial information required to be provided by education authorities in their proposal paper can be set out in statutory guidance issued under section 19 of the 2010 Act.
- An Education Authority must inform a person who notifies it of an alleged omission of relevant information or an alleged inaccuracy in a proposal paper, of its determination under paragraph (a) of section 5(2) (whether the Education Authority considers that relevant information has been omitted or there has in fact been an inaccuracy) and the reasons for that determination. The Education Authority must inform the notifier as to the action (if any), it is taking and of the reasons why it is, or is not, taking such action. An Education Authority must also invite the notifier to make representations to the authority if the notifier disagrees with the authority's determination or its decision as to whether to take action.
- Where the notifier makes any such representations, the Education Authority may make a fresh determination or a fresh decision as to whether to take action, and to require the authority to inform the notifier if it takes either of those steps.
- Where an Education Authority determines that there has in its opinion been an omission or that there has in fact been an inaccuracy, where that omission or inaccuracy relates to a material consideration relevant to the education authority's decision as to implementation of the proposal, it must take the following steps: publish a corrected proposal paper, give revised notice and send a copy of the corrected paper to HMIE. The Education Authority must also issue a notice to the relevant consultees and HMIE providing the omitted information or, as the case may be, correcting the inaccuracy, and if the Education Authority considers it appropriate, extending the consultation period by such period as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction. Where the omission or inaccuracy does not relate to a material consideration, the Education Authority may take the before mentioned action or take no further action.
- Where the Education Authority issues a notice after the end of the consultation period, the notice may specify such further period during which representations may be made on the proposal as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction, and any such further period is to be treated as part of the consultation period.
- The 2014 Act also imposes additional requirements on education authorities in terms of the process to be followed for rural school closure proposals.
- Section 81 amends the provisions in the 2010 Act regarding call-in and determination of school closure proposals.
- When an education authority has decided to implement a closure proposal.
(2) The education authority must—

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notify the Scottish Ministers of that decision within the period of 6 working days starting with the day on which the decision is made, along with that notification, give them a copy of—
the proposal paper,
the consultation report

where the decision relates to a rural school, the notice published under [section 11A\(3\)](#).

(2A) At the same time as it notifies the Scottish Ministers of the decision under subsection (2)(a), the education authority must publish on its website notice of—
the fact that the Scottish Ministers have been so notified, and
the opportunity for making representations to the Scottish Ministers in connection with subsection (4), including the date on which the 3 week period referred to in that subsection ends.

(3) Before the expiry of 8 weeks starting with the day on which that decision is made, the Scottish Ministers may issue a call-in notice to the education authority.

(4) In considering whether to issue a call-in notice, the Scottish Ministers are to take account of any relevant representations made to them (by any person) within the first 3 weeks of that 8 week period.

(6) The education authority may not proceed further with the proposal before the expiry of the 8week period within which a call-in notice may be issued as respects the proposal.

(7) But the restriction in subsection (6) ceases to apply if (before the end of that period) the Scottish Ministers inform the education authority that they do not intend to issue a call-in notice as respects the proposal.

- Where a school closure proposal has been called-in by the Scottish Ministers it must be referred to the Convener of the School Closure Review Panels.
- An Education Authority cannot implement a closure proposal which has been referred to the Convener unless the School Closure Review Panel reviewing the proposal grants consent to it and either the period during which that decision may be appealed to the sheriff has expired or an appeal has been abandoned or the sheriff has confirmed the Panel's decision to consent to the proposal.

Relevant Council Service / ALEO

Education

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EDUCATION SERVICES

3

Function	Preservation of the Gaelic language
Act	Gaelic Language (Scotland) Act 2005 , Education (Scotland) Act 2016 ; Gaelic Medium Education (Assessment Requests)(Scotland) Regulations 2016/425
Content	
<p>Every Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Produce a Gaelic Language Plan, which details steps to be taken to allow Gaelic speakers to use public services or engage with public bodies through the Gaelic language. ▪ Maintain and implement the Gaelic Language Plan. ▪ In preparing the Gaelic language plan, the Council must have regard to– <ul style="list-style-type: none"> ○ the most recent national Gaelic language plan; ○ the extent to which the persons in relation to whom the Council’s functions are exercisable use the Gaelic language, ○ the potential for developing the use of the Gaelic language in connection with the exercise of those functions, ○ any representations made to the authority in relation to the use of the Gaelic language in connection with the exercise of those functions, and ○ any guidance given by the Scottish Ministers or the Bòrd na Gaidhlig. <p>Where an education authority receives an assessment request, from a parent of a child who is under school age and has not commenced attendance at primary school, to assess the need for Gaelic medium primary education (GMPE) the authority must designate an area within its area in respect of which the need for GMPE is to be assessed. In considering what area to designate as a GMPE assessment area, an authority must:</p> <ul style="list-style-type: none"> • so far as reasonable, seek to accommodate: <ul style="list-style-type: none"> ○ demand for GMPE evidenced in the request or contained in evidence accompanying the request ○ any other demand for GMPE of which the authority is aware in respect of children resident in the area of the authority who are under school age and have not commenced attendance at primary school • take into account factors which affect, or might affect, how any demand for GMPE could reasonably be met in the GMPE assessment area. • Make an assessment of the need for GMPE in relation to the GMPE assessment area and in the specified child’s year group 	

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In making an initial assessment, the authority must take into account any information it has which:

- Relates to the demand for GMPE in the GMPE assessment area from parents of children who are resident in the GMPE assessment area and who are in the same year group as the specified child and indicates there is a demand for GMPE in the GMPE assessment area from parents of children who are resident in the GMPE assessment area and who are in a different year group than the specified child

Where the education authority makes a determination in relation to the GMPE assessment area, the authority must:

- Carry out a full assessment of the need for GMPE in the area, or
- Take such steps as are necessary to secure the provision of such GMPE in the area as it considers appropriate.

An education authority must send, within 6 weeks of receiving the assessment request, its determination to the person making the request, parents of other children resident in the area of the authority and in the same year group as the specified child who have been included in the assessment request.

If the education authority carries out a full assessment of the need for GMPE in a GMPE assessment area the authority must:

- Notify Her Majesty's inspectors of schools; Bord na Gaidhlig; the body known as Comann nam Parant; the body known as the National Parent Forum of Scotland
- Provide those bodies with information about the request
- Provide those bodies with the information the authority took into account in making the initial assessment
- Seek the views of those bodies on the above information and the authority's determination.

- Every education authority must promote the potential provision of school education in the area of the authority—
by means of Gaelic medium education by publicising, in such manner as it thinks appropriate, the right to make a request under section 7(1) to the authority, and
by means of Gaelic learner education in such manner as it thinks appropriate

Relevant Council Service / ALEO

Education/Glasgow Life

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EDUCATION SERVICES

3

Function		Duty of Candour
Act		Health (Tobacco, Nicotine etc. and Care)(Scotland) Act 2016
Content		
<ul style="list-style-type: none"> • The statutory 'Duty of Candour' ("the Duty") was implemented with effect from 1 April 2018. The relevant provisions are contained within Part 2 of the Health (Tobacco, Nicotine etc. and Care)(Scotland) Act 2016. • The Duty applies to a "responsible person", which includes a local authority, who provides a health, care or social work service to a person. • For the purposes of Education Services, the Duty applies in respect of school care accommodation services and day care of children, but the definition does not extend to children of school age attending school. • For further details as to when the Duty is activated, and the procedure which must thereafter be followed, refer to Section 11 (Social Work) 		
Relevant Council Service / ALEO		Education Services / Social Work

EDUCATION SERVICES

3

Function	Children's Services
Act	Children and Young People (Scotland) Act 2014
Content	<p>As soon as practicable after the end of each 3 year period (31st March 2020 is end of first period), the local authority must publish (in such manner as the authority considers appropriate) a report of what steps it has taken in that period to secure better or further effect within its areas of responsibility of the United Nations Convention on the Rights of the Child (UNCRC) requirements.</p> <p>A local authority and the relevant health board must in respect of each 3 year period prepare a children's services plan for the area of the local authority.</p> <p>Mandatory early learning</p> <p>The Education Authority must secure that the mandatory amount of early learning and childcare is made available for each eligible pre-school child belonging to its area. A pupil receiving school education is deemed to belong to the area where the pupil's parent is ordinarily residing. This is subject to any regulations made by the Scottish Ministers. The mandatory amount of early learning and childcare is (at time of writing) 600 hours in each year for which a child is an eligible pre-school child and a pro rata amount for each part of a year for which a child is an eligible pre-school child (this section will apply to eligible 2 year olds too).</p> <p>Alternative Arrangements</p> <p>An Education Authority can make alternative provision of education and care in order to meet the wellbeing needs of children (certain children over 2 years old or looked after children) where the Authority, after assessing the child's needs considers that making alternative arrangements in relation to the child's education and care would better safeguard or promote the child's wellbeing.</p> <p>The Education Authority must make alternative arrangements in relation to the child's education and care as it considers appropriate for the purposes of safeguarding or promoting the child's wellbeing. Alternative arrangements cannot continue to be made if a parent of the child objects to those alternative arrangements being made.</p>

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The Education Authority may, at any time, review any alternative arrangements it makes in relation to a child and must do so on becoming aware of any significant change in the child's circumstances. It may, following such a review, alter those arrangements.

The Education Authority must seek to ensure that a record of the outcome of any assessment of a child's needs that it undertakes and any alternative arrangements that it makes in relation to the child's education and care is included in any child's plan which is prepared under Part 5 of this Act. (Child's Plan not yet in force)

Consultation

An Education Authority must consult such persons as appear to it to be representative of parents of children under school age in its area about how it should make early learning and childcare available. The Education Authority must also have regard to the views expressed in that consultation and having done so prepare and publish a plan for how it intends to make early learning and childcare available. Such consultation must be carried out every 2 years although this can be varied by the Scottish Ministers.

An Education Authority must ensure that it makes early learning and childcare available by way of sessions which are provided during at least 38 weeks of every calendar year, and which are of 10 hours or less in duration. This is the minimum framework for delivering early learning and childcare. The Scottish Ministers may by order modify subsection (1) so as to vary the minimum framework for delivering early learning and childcare.

In exercising functions under sections 50 (duty to consult and plan on delivery of early learning and childcare) and 51 (method of delivery of early learning and childcare), an Education Authority must have regard to the desirability of ensuring that the method by which it makes early learning and childcare available is flexible enough to allow parents an appropriate degree of choice when deciding how to access the services.

Education Authorities must consult parents of pre-school children in their area at least once every two years about whether and if so how they should provide such education in exercise of their power under section 1(1C) of the 1980 Act and, having had regard to those views, prepare and publish plans in relation to that .

The Education must at least once every 2 years consult such persons who are representative of parents of pre-school and school aged children who are in need about how they should provide day care and out of school care for such children; and, having had regard to the views expressed, prepare and publish plans in relation to their duty to provide day care to pre-school children in need and out of school care to school aged children in need.

Education Authorities must at least once every 2 years consult such persons who are representative of parents of pre-school children and school aged children about whether and if so how they should provide day care and out of school care; and, having had regard to the views expressed, prepare and publish plans in relation to their powers to provide day care to pre-school children who are not in need and out of school care to school aged children who are not in need.

The Education Authority must provide certain pupils (prescribed by regulations) with school lunches free of charge. Education Authorities can also provide school lunches free of charge to pupils who satisfy such conditions as the authority thinks fit.

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Relevant Council Department	Education

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EDUCATION SERVICES

3

Function	Children's Services
Act	Seat Belts on School Transport (Scotland) Act 2017
Content	
<ul style="list-style-type: none"> ▪ Seatbelts must now be fitted on dedicated school transport which includes both home to school and school trip transport services. ▪ The only exception is transport for secondary school pupils where the contract was entered into before 18th December 2017 and it does not require that the motor vehicle used to provide the service has a seat belt fitted to each passenger seat. In those cases the deadline is 1st August 2021. ▪ The authority must produce an “annual seat belt statement”. The template is included in Scottish Government Guidance which the authority must have regard to. • The Scottish Ministers must publish guidance about the steps which a school authority may take to promote and to assess the wearing of seat belts by pupils carried by the authority's dedicated school transport services. • (2) A school authority must have regard to such guidance. 	

EDUCATION SERVICES

3

Function	Health Promotion and Nutrition *
Act	Schools (Health Promotion and Nutrition) (Scotland) Act 2007
Content	
<p>The Act places health promotion at the heart of a school's activities and details a number of duties on local authorities and providers to promote school meals and consider sustainable development guidance when providing food and drink.</p> <p>In summary, the Act:</p> <ul style="list-style-type: none"> • imposes duties on education authorities to endeavour to ensure that public schools are health-promoting; • places duties on education authorities to ensure that all food and drink provided in schools complies with nutritional requirements specified by Scottish Ministers in regulations; • gives education authorities the power to provide pupils with snacks, either free of charge or subject to a charge; • places a duty on education authorities to promote school lunches and, in particular, free school lunches; • places a duty on education authorities to take steps to protect the identity of those receiving free school lunches; and • places a duty on education authorities to have regard to any guidance issued on the application of the principles of sustainable development when providing food or drink or catering services in schools. 	
Relevant Council Service / ALEO	Education (delivered via Property and Land Services)

EDUCATION SERVICES

3

Function	Food and Drink Nutritional Requirements
Act	Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008
Content	
<p>Introduced in Primary schools in August 2008 and in Secondary schools in August 2009. The Regulations set strict nutritional standards for all food and drink being served in schools.</p> <p>The Regulations form part of the wider health promoting schools approach set out in the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 and work, as a whole, across the school day. They cover food and drinks that are sold or served in local authority schools in Scotland and are as follows:</p> <ol style="list-style-type: none"> 1. Two sets of standards for school lunches: <ul style="list-style-type: none"> • Nutrient standards, which set out the proportion of nutrients that pupils should receive from an average day's school lunch • Food standards and drink standards, which define the types of food and drinks that pupils should be offered in a school lunch and their frequency as well as setting nutritional requirements for specific types of food and drink which may be provided 2. Food standards and drink standards for school food and drinks served outwith the school lunch, e.g. breakfast clubs, tuck-shops, vending machines, mid-morning services, community cafes and after school clubs 	
Relevant Council Service / ALEO	Education (delivered via Property and Land Services)

4

Glasgow Life is the operating name of Culture and Sport Glasgow ("CSG") and Culture and Sport Glasgow (Trading) CIC (Community Interest Company) ("CSG CIC").

Glasgow Life is registered as a charity with the Office of the Scottish Charity Regulator. CSG CIC is the trading arm of Glasgow Life and as such is responsible for commercial development activities such as retail and venue hire. All profits from this trading arm are gift aided to CSG.

Glasgow Life is an arm's length external organisation of Glasgow City Council responsible for delivering cultural, sporting and learning services and managing venues and the City's collections. It is responsible for city marketing, events and conventions as well as strategic leadership of Glasgow's Tourism and Visitor Plan.

4

Function	Provision of facilities for recreational use by inhabitants
Act	Local Government & Planning (Scotland) Act 1982
Content	
<p>The Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Ensure that there is adequate provision of facilities for the inhabitants of its area for recreational, sporting, cultural and social activities. <p>The Council has the power to:</p> <ul style="list-style-type: none"> ▪ Arrange for the provision of or do anything necessary or expedient for the purpose of ensuring that there are available, whether inside or outside its area, such facilities for recreational, sporting, cultural or social activities as it considers appropriate. 	
Relevant Council Service / ALEO	Glasgow Life

4

Function	
Function	Regulation and control of libraries
Act	Public Libraries Consolidation (Scotland) Act 1887 ; Local Government (Scotland) Act 1973
Content	
<p>The Council may acquire land or any suitable building and may erect any suitable building for public libraries, public museums and / or art galleries. The Council has a duty to manage, regulate and control all libraries or museums or art galleries established under the Act or to which the Act applies (e.g. such facilities that were already in existence prior to the passing of the 1887 Act).</p> <p>The Council may make bye-laws regulating any matter connected with its control or management of its libraries, museums or art galleries.</p> <p>Under the 1887 Act, the Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Manage, regulate and control all of its libraries, museums and galleries. ▪ Ensure that all libraries, museums or art galleries established under the Act, or to which the Act applies, shall be open to the public free of charge, and no charge shall be made for the use of books or magazines issued for home reading. <p>In addition, Section 163(2) of the Local Government (Scotland) Act 1973 places a duty on local authorities to secure the provision of adequate library facilities for all persons in their area.</p>	
Relevant Council Service / ALEO	Glasgow Life

4

Function	Working with Creative Scotland
Act	Public Service Reform (Scotland) Act 2010
Content	<p>The Council has the power to:</p> <ul style="list-style-type: none"> ▪ Work in partnership with Creative Scotland to support the creative sector in its local area to grow and deliver its potential. The Act provides for the creation of Creative Scotland. The general functions of Creative Scotland include: <ul style="list-style-type: none"> ○ identifying, supporting and developing quality and excellence in the arts and culture from those engaged in artistic and other creative endeavours* ○ promoting understanding, appreciation and enjoyment of the arts and culture ○ encouraging as many people as possible to access and participate in the arts and culture ○ realising as far as reasonably practicable to do so, the value and benefits (in particular the national and international value and benefits) of the arts and culture ○ encouraging and supporting artistic and other creative endeavours which contribute to an understanding of Scotland's national culture in its broad sense as a way of life ○ promoting and supporting industries and other commercial activity the primary focus of which is the application of creative skills ○ advocate for the value that the arts, screen and creative industries deliver to all our lives ○ distribute funding from The Scottish Government and National Lottery*
Relevant Council Service / ALEO	Glasgow Life

FINANCIAL SERVICES

5

Financial Services provides a diverse range of services to the citizens of Glasgow, elected members and council departments. It is also home to the Strathclyde Pension Fund, one of the UK's largest, with around £20 billion worth of pension fund assets under its management.

Financial Services provides financial stewardship of the council's resources to ensure that the council's budget strategies can be delivered and that resources are directed to areas of highest priority. The Executive Director of Financial Services has a statutory responsibility for managing the totality of the authority's financial affairs and has a fiduciary responsibility to local citizens.

Financial Services also provide a diverse range of services through the following teams:

- > City Assessor and Electoral Registration Officer
- > Corporate Finance
- > Revenues and Benefits (Council Tax, Non Domestic Rates and Benefits Administration)
- > Internal Audit
- > Strathclyde Pension Fund Office
- > Insurance and Claims

FINANCIAL SERVICES

5

Function	Local Government Finance*
Act	Local Government (Scotland) Act 1973 ; The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 ; and Local Government in Scotland Act 2003 (and related Regulations)
Content	
<p><u>Local Authority Expenditure and Borrowing / Lending Powers</u></p> <p>Section 69(1) of the 1973 Act permits the Council to do anything (whether or not involving the expenditure, borrowing or lending of money) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.</p> <p>Section 69 (2) provides that the Council shall not by virtue of this section raise money, whether by means of rates or borrowing, or lend money except in accordance with the enactments relating to those matters respectively.</p> <ul style="list-style-type: none"> • Under The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 the Council may borrow money— <ol style="list-style-type: none"> (a) for financing capital expenditure of the local authority; (b) to give a grant to any person, whether for use by that person or by a third party, towards expenditure which would be capital expenditure of the local authority if incurred by it; (c) for expenditure incurred on works to any land or building in which the local authority does not have an interest, which would be capital expenditure of the local authority if it had an interest in that land or building; (d) for treasury management activities; (e) to lend to other statutory bodies and its common good funds, all as set out in Part 3; and (f) for any other purpose for which the local authority is authorised under any enactment to borrow. <p>The Council may borrow money for a purpose other than those described above, but only—</p> <ol style="list-style-type: none"> (a) with the consent of the Scottish Ministers; (b) for expenditure or lending that the authority has power to incur in the exercise of any of its functions; (c) for expenditure or lending of such a nature that the Scottish Ministers are satisfied should be met by such borrowing; and (d) on such terms and conditions as to repayment as the Scottish Ministers allow. 	

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The Council may not borrow otherwise than in sterling, except with the consent of the Scottish Ministers.

The Council must determine and keep under review the maximum amount which it can afford to allocate to capital expenditure under section 35 (1) of the Local Government in Scotland Act 2003. This duty is subject to compliance with certain Regulations (e.g. the Local Government Capital Expenditure Limits (Scotland) Regulations 2004 which established the Prudential Code for Capital Finance in Local Authorities) or any direction made by the Scottish Ministers.

All income and expenditure must be accounted for through the General Fund Account. All capital income and expenditure must be accounted for separately in a Capital Fund.

The Council may raise money from a range of sources, for example, the Public Works Loan Board, banks and other financial institutions, by issue of stock or bonds (subject to Regulations) and Bills, by mortgage (subject to Regulations) or by other means approved with Treasury consent. The Council may also raise money from capital receipts from the sale / lease of Council owned land and property.

The Council may lend on such terms as may be agreed to another local authority, a Community Council in its area, or a harbour authority in its area.

In respect of any financial year, a local authority has a duty to set an amount of Council Tax to be paid in respect of a chargeable dwelling in its area listed in valuation band D and determine the amount of Council Tax to be paid in respect of a chargeable dwelling in each of the other valuation bands.

The setting of Council Tax must be taken by the full Council and cannot be delegated (Local Government (Scotland) Act 1973, section 56(6)).

A local authority has a duty to levy and collect the Council Tax set by it in respect of its area.

The Act also makes provision for entitlement to Council Tax benefit and requires the relevant authority to make copies of the Council Tax benefit scheme available for public inspection free of charge.

Relevant Council Service / ALEO

Financial Services

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FINANCIAL SERVICES

5

Function	Preparation of annual accounts*
Act	Local Government (Scotland) Act 1973 and Local Authority Accounts (Scotland) Regulations 2014
Content	
<ul style="list-style-type: none"> • Section 95 of the 1973 Act requires every local authority to make arrangements for the proper administration of its financial affairs and to secure that the proper officer of the authority has responsibility for the administration of those affairs (usually the Chief Executive or Director of Finance). <p>Under the 2014 Regulations:-</p> <ul style="list-style-type: none"> • The local authority must ensure that its financial management is adequate and effective and that it has a sound system of internal control which: <ul style="list-style-type: none"> ○ Facilitates the effective exercise of the local authority's functions; and ○ Includes arrangements for the management of risk. • The local authority must conduct a review of the effectiveness of its internal control system at least once in each financial year (including consideration of the review findings by the authority or a relevant committee of the authority). • Following consideration of the review, the authority or relevant committee must approve an annual governance statement, which must be signed by its Chief Executive and the Leader of the Council • The local authority must also keep adequate accounting records, and operate a professional and objective internal audit service which must be included in the review of its internal control system. • The local authority must ensure that its annual accounts are prepared in accordance with the 2014 Regulations and, so far as is compatible with the Regulations, proper accounting practices. The unaudited version of the accounts must be published on the authority's website from the date they are submitted to the auditor. • The public must be given a right to inspect and object to its accounts. • No later than 30 September immediately following the end of the relevant financial year, the local authority must consider for approval the audited accounts and publish the audited annual accounts by no later than 31 October. 	
Relevant Council Service / ALEO	Financial Services

FINANCIAL SERVICES

5

Function	Accounting requirements and audit
Act	Local Government (Scotland) Act 1973 ; Public Finance and Accountability (Scotland) Act 2000
Content	
<p>The Auditor General, the Accounts Commission and Audit Scotland work together to deliver public audit in Scotland:</p> <ul style="list-style-type: none"> • The Auditor General is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance. • The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Commission on the audit of local government. • Audit Scotland is governed by a board, consisting of the Auditor General, the chair of the Accounts Commission, a non-executive board chair, and two non-executive members appointed by the Scottish Commission for Public Audit, a commission of the Scottish Parliament <p>Audit Scotland seeks to provide independent assurance to the people of Scotland that public money is spent properly and provides value.</p> <p>It aims to achieve this by:</p> <ul style="list-style-type: none"> • carrying out audits of the way public bodies such as the Council manage and spend money • publishing its report findings and conclusions • identifying risks and making recommendations. 	
Relevant Council Service / ALEO	Financial Services

FINANCIAL SERVICES

5

Function	Administration of Housing Benefit and Council Tax Reduction schemes*
Act	Social Security Administration Act 1992 ; Social Security Contributions and Benefits Act 1992 ; The Council Tax Reduction (Scotland) Regulations 2012
Content	
<p>The Council has a duty to administer Housing Benefit to individuals with low incomes in order to assist them with housing costs. Only certain limited categories of people can still make a new claim for housing benefit.</p> <p>The local authority is also obliged to provide the Secretary of State with certain information regarding its performance of functions relating to the distribution of housing benefit.</p> <p>The Universal Credit system is gradually being phased in across the UK and will include payment of housing costs. The Housing Benefit system will therefore in future no longer be administered by local authorities.</p> <p>The Local Authority has a duty to administer the council tax reduction scheme. This is a scheme to assist those on a low income or claiming benefits with help towards paying their council tax.</p>	
Relevant Council Service / ALEO	Financial Services

FINANCIAL SERVICES

5

Function	Administration of Discretionary Housing Payments
Act	The Discretionary Financial Assistance Regulations 2001
Content	
<p>The Council has the power to give financial assistance by way of a discretionary housing payment to any person entitled to housing benefit or council tax benefit (or both) and who appears to require further financial assistance in order to meet housing costs. The Regulations prescribe the circumstances in which a discretionary housing payment may be made. The amount of any payment is subject to an overall limit calculated on a weekly basis. The Council may restrict the period for or in respect of which discretionary housing payments may be made to such period as it considers appropriate in the particular circumstances of any case.</p>	
Relevant Council Service / ALEO	Financial Services

FINANCIAL SERVICES

5

Function	Setting, levying and collection of Non-Domestic Rates*
Act	Local Government (Scotland) Act 1975 / Community Empowerment (Scotland) Act 2015; The Non-Domestic Rates (Scotland) Act 2020
Content	
<p>Non-domestic rates, also called business rates, are taxes paid on non-domestic properties to help pay for local council services. The Scottish Government is responsible for the policy and legislative framework and set the tax rates, but individual local authorities must administer and collect the tax.</p> <p>Non-domestic rates are based on the rateable value of a property, which is determined by the independent Scottish Assessors.</p> <p>The Glasgow City Assessor is responsible for the valuation of all heritable properties for local taxation purposes. Currently all rateable properties are shown in the Valuation Roll (domestic subjects are contained within the Council Tax Valuation List). These documents form the basis for levying Non-Domestic Rates (and Council Tax).</p> <p>The amount of Non-domestic rates paid is calculated by multiplying the property's rateable value by a pence in the pound tax rate (known as the "poundage").</p> <p>The Small Business Bonus Scheme, Business Growth Accelerator Relief and specific reliefs for Charities, Day Nurseries, Renewable Energy Generation, among other things, may reduce the amount payable.</p> <p>The Council has power to create and fund its own localised business rate relief schemes to reflect local needs and support communities.</p>	
Relevant Council Service / ALEO	Financial Services

FINANCIAL SERVICES

5

Function	
Function	Administration of Welfare Fund
Acts	Welfare Funds (Scotland) Act 2015
Content	
<ul style="list-style-type: none"> • The Act provides for the establishment of a welfare fund which is to be maintained and administered by the Council. The fund will be made up of grants paid by Scottish Ministers and money paid into the fund by the Council. • The Council can use the welfare fund to provide occasional financial or other assistance (<u>not</u> including loans) to individuals on the following basis: <ul style="list-style-type: none"> • for meeting immediate short terms needs arising out of an exceptional event or exceptional circumstances in order to avoid a risk to their wellbeing; • to enable qualifying individuals (ie those who have been or, without the assistance, might otherwise be (a) in prison, hospital, a residential care establishment or other institution, or (b) homeless or otherwise living an unsettled life) to establish or maintain a settled home. • The Council has an obligation to review its decisions on provision of assistance. Administration of the fund will be set out in future regulations and guidance (to reflect interim voluntary arrangements in place since April 2013). 	
Relevant Council Service / ALEO	Financial Services

FINANCIAL SERVICES

5

Function	Strathclyde Pension Fund
Acts/ Regulations	The Public Service Pensions Act 2013 The Local Government Pension Scheme (Management and Investment of Funds (Scotland) (Regulations) 2010 (as amended) The Local Government Pension Scheme (Scotland) Regulations 2018 (as may be amended) The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 (as amended)
Content	<ul style="list-style-type: none"> • The Public Service Pensions Act 2013 This Act confers powers on the Scottish Ministers to make the Local Government Pension Scheme (Scotland) Regulations 2014. • The Local Government Pension Scheme (Scotland) Regulations 2018 Glasgow City Council (GCC) is the administering authority for Strathclyde Pension Fund, in terms of the Local Government Pension Scheme (Scotland) Regulations 2018, as amended. The Regulations govern membership, contributions and payment of benefits (including retirement benefits, award of additional pension, election for lump sum instead of pension, ill-health retirement, death grants, survivor benefits and adjustment of benefits). The Regulations also cover matters including actuarial valuations, preparation of various strategies, statements and reports (including funding strategy statement and pension administration strategy), employer payments and the process to resolve any disagreements. These Regulations also detail that the administering authority may enter into pension fund admission agreements with certain organisations • The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010 The role of the Strathclyde Pension Fund Committee is set out in the Committee Terms of Reference. This includes managing the investments of the Fund in accordance with the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010. These Regulations set out provisions concerning the management of the fund, appointment of managers and the formulation of an investment policy and statement of investment principles.

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- The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015
The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 sets out provisions relating to the formation of a Scheme Advisory Board and Pension Board in relation to the LGPS.

Relevant Council Service / ALEO

Financial Services

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6

Social Work Services' vision is to provide high quality services that protect children and adults from harm, promote independence and deliver positive outcomes for Glasgow's citizens. The department, now known as Glasgow City Health and Social Care Partnership when it is working together with colleagues in the NHS consequent to the Public Bodies (Joint Working)(Scotland) Act 2014, delivers specialist, targeted services to meet assessed need within an extensive legislative framework. It must also comply with formal guidance, statutory directions, standards and the findings of public enquiries and formal inspection reports. Our service activities can be summarised as follows:

- provide care and protection for looked after children and vulnerable adults;
- assist in the management of acceptable risk to all individuals within the community;
- maintain and develop services for children and young people at risk or in trouble;
- provide services for children and adults with learning or physical disabilities;
- ensure care, support and protection for older people and adults with dementia, mental health problems and addictions;
- tackle and prevent homelessness and sustain service users within their own communities;
- support carers and families;
- support the criminal justice system and provide alternatives to custody whilst promoting public safety and reducing levels of re-offending;
- plan and develop preventative rehabilitation services for individuals or communities at risk; and
- integrate service delivery to individuals, families and communities within the council's wider strategies for social inclusion and regeneration.

Social Work Services provide services through three social work areas in the North East, North West and South of the City and directly provides residential care, day care services, and care at home services.

6

Function	Promotion of social welfare*
Act	The Social Work (Scotland) Act 1968
Content	<p>The Council has a duty to appoint a chief social work officer.</p> <p>The Council may make arrangements with third parties to assist it in the performance of the functions assigned to the Council under the 1968 Act and others.</p> <p>The Council has a duty to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for its area; and in that regard to make arrangements and to provide or secure the provision of such facilities (including the provision or arranging for the provision of residential and other establishments) as the Council considers suitable and adequate.</p> <p>The Council has a duty to assess the needs of any person for whom it is under a duty or has the power to provide or secure community care services, where it appears to the Council that such a person may be in need of community care services.*</p> <p>Where a local authority has assessed that an adult's needs call for the provision of a community care service; and it appears to the local authority that the adult is incapable in relation to decisions about the service, the local authority may take any steps which they consider would help the adult to benefit from the service. NB This power is subject to a variety of qualifications.</p> <p>The Council has a duty to provide and maintain or make arrangements for the provision of suitable residential accommodation where nursing is provided for persons who appear to it to be in need of such accommodation.*</p> <p>Where a local authority makes arrangements or provide or secure the provision of facilities for the engagement of persons in need in suitable work that local authority may assist such persons in disposing of the produce of their work.</p> <p>The Council has a duty to provide or arrange for the provision of domiciliary services for households where it is required due to the presence of a person in need; and has the power to provide or arrange laundry facilities for those households.</p> <p>It is a function of the Council to provide a service for the following purposes in respect of the supervision and care of persons put on probation or leased from prison etc.:</p>

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- **Making available to any court such social backgrounds reports and other reports as the court may require for the disposal of a case;**
- **Making available to any children’s hearing such reports relating to person aged 16 and 17 in relation to the commission of an offence as the hearing may require for the disposal of a case;**
- **Making available to any procurator fiscal or the Lord Advocate such reports as they may request in relation to person who are charged with an offence;**
- **The provision of advice, guidance and assistance for persons who are in prison or subject to another form of detention who resided in its area immediately prior to such imprisonment; and who on release, it appears to the Council, will be required to be under supervision.** (This duty becomes a power where it appears to the Council, that the person will not be required to be under any form of supervision on release.)
- **Making available for the purposes of parenting orders such services as are required to enable requirements imposed by such orders to be carried out;**
- **Making available to the Scottish Ministers such background and other reports as they may request in relation to the detention, transfer and release of offenders;**
- **The supervision of and the provision of advice, guidance and assistance for persons in its area who:**
 - **are under supervision by order of a court;**
 - **following release from prison are required to be under supervision;**
 - **are subject to a community payback order;**

 - **are subject to a supervision and treatment order;**

 - **under 16 and are subject to a restriction of liberty order;**
 - **are aged 16 and 17 years who are subject to a compulsory supervision order imposed in relation to the commission of any offence by that person;**
 - **are charged with, but not prosecuted for, any offence and are referred to the Council by the procurator fiscal or the Lord Advocate;**
 - **are subject to work orders**
 - **within 12 months of their release from prison or any other form of detention, request advice, guidance or assistance.***

The Council may bury or cremate the body of any deceased person who immediately before their death was in the care of or receiving assistance from the authority.

The Council has the power to defray the travelling, subsistence or other expenses of a parent, relative or other person connected with a child who is being looked after by the authority, or with another person in the care of the authority or receiving assistance from the authority; where those expenses are incurred in visiting that child or person, and it appears to the authority that the parent, relative or other person would not otherwise be able to visit that child or person without undue hardship and that the circumstances warrant the making of the payments.

The Council has a duty to provide and maintain such residential and other establishments as may be required for its functions under the Social Work (Scotland) Act 1968; sections 25 and 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003; and Part 2 of the Children (Scotland) Act 1995 or the Children’s Hearings (Scotland) Act 2011; or arrange for the provision of such establishments

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In respect of non-residential services provided to persons aged 18 and above under the Social Work (Scotland) Act 1968; or the Mental Health (Care and Treatment)(Scotland) Act 2003 the Council may recover such charge (if any) for it as they consider reasonable, subject to being satisfied that the person has sufficient means to meet it, and shall not require the person to pay more for it than it appears practicable for the person to do.

(2) Persons, other than maintainable children, for whom accommodation is provided under the Social Work (Scotland) Act or the Mental Health (Care and Treatment)(Scotland) Act 2003 must pay for that accommodation in accordance with the person's means.

Relevant Council Service / ALEO	Social Work
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Function	Regulating property, financial affairs and personal welfare of adults who are incapable by reason of mental disorder or inability to communicate*
Act	Adults with Incapacity (Scotland) Act 2000
Content	
<p>The Act gives the Council the following duties:</p> <ul style="list-style-type: none"> • To supervise a guardian appointed with functions relating to the personal welfare of an adult; • To consult the Public Guardian and the Mental Welfare Commission on cases or matters relating to the exercise of functions under this Act; • To receive and investigate any complaints made relating to the exercise of functions regarding the personal welfare of an adult; • To investigate any circumstances made known to it in which the personal welfare of an adult seems to it to be at risk; • To provide a guardian etc. with information and advice in connection with the performance of their functions if requested to do so; • The power and, in certain circumstances, the duty to apply for intervention orders and guardianship orders relating to the protection of the property, financial affairs and personal welfare of adults with incapacity. 	
Relevant Council Service / ALEO	Social Work

6

Function	Supporting Carer's Health and Wellbeing
Act	Carers (Scotland) Act 2016
Content	<ul style="list-style-type: none"> • The Carers (Scotland) Act 2016 was implemented with effect from April 1, 2018. • Part 1 of the Act defines a 'carer' as an individual 'who provides or intends to provide care for another individual (the "cared-for person")'. This applies to both 'adult carers' and 'young carers', a 'young carer' being under the age of 18 or is 18 or over but still at school. An 'adult carer' is an individual who is at least 18 years old but not a young carer i.e. not attending school. • Whilst the definition is broad, it does not extend to all caring situations including where the care is provided only because of the cared-for person's age (e.g. a child under 18 without any additional care or support needs) or where the carer is providing care under a contract (kinship carer agreements excluded), or as voluntary work. • Part 2 of the Act sets out the duties of the responsible local authority (i.e. the area in which the cared-for person resides) to prepare, subsequently review and make available to all identified carers either an Adult Carer Support Plan (ACSP) (Chapter 1) or a Young Carer Statement (YCS) (Chapter 2). * • The Council, in terms of Part 3, Chapter 1 of the Act, is required to publish and thereafter review its local eligibility criteria, detailing the circumstances in which support will be offered to carers in accordance with Section 21. The Council published its local eligibility criteria in February 2018. Carers who meet the eligibility criteria must be provided with support to meet their identified needs. As a minimum, carers will be offered information and advice, however they might also be eligible for support as an individual, and replacement care for the cared-for person might also be considered to be an eligible need. In terms of Section 22(3), the Scottish Ministers are to prescribe the period in which the first review of the local eligibility criteria must take place, and thereafter ongoing reviews are to be three yearly. • Part 3, Chapter 2 details the duties of the responsible local authority to provide support to carers. The Council must provide support to meet the carer's eligible needs and may provide additional support to meet any other identified needs of the carer. The Council must consider whether the support provided should be in the form of a break from caring. In terms of Section 24(4), any charges for support to meet the carer's identified needs must be waived, including charges for replacement care for the cared-for person. • The Council is required to involve carers in the provision of carer services in its area, in terms of Part 4 of the Act. Carers must also be involved in the carrying out of an assessment of their own needs and provision of support, as well as then the Council

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carries out an assessment of the cared-for person's needs under Section 12A of the Social Work (Scotland) Act 1968.

- Part 5 requires the Council, jointly with the relevant health board, to prepare and publish a local carer strategy following appropriate consultation with representative bodies and individuals. Publication is required at the time the relevant integration authority next reviews its strategic plan following commencement of the Act.
- The Council is obliged to publish information and advice for carers in addition to a 'short breaks services statement,' in terms of Part 6 of the Act. There is further information in the Act and the accompanying Statutory Guidance in relation to the information that should be included, and the format.

Relevant Council Service / ALEO

Social Work

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Function	Duty of Candour
Act	Health (Tobacco, Nicotine etc. and Care)(Scotland) Act 2016
Content	
<ul style="list-style-type: none"> • The statutory 'Duty of Candour' ("the Duty") was implemented with effect from 1 April 2018. The relevant provisions are contained within Part 2 of the Health (Tobacco, Nicotine etc. and Care)(Scotland) Act 2016. • The Duty applies to a "responsible person", which includes a local authority, who provides a health, care or social work service to a person. • The Duty is activated when an unintended or unexpected incident occurs in the provision of the service which, in the reasonable opinion of a registered healthcare professional, could result in a relevant outcome which is directly related to the incident. The relevant outcomes are detailed in Section 21 of the Act, and include death, severe harm, less severe harm or treatment provided to prevent death or severe or less severe harm. • In circumstances where an incident occurs which triggers the Duty, the duty of candour procedure detailed in Section 22 of the Act and The Duty of Candour Procedure (Scotland) Regulations 2018 must be followed. The steps to be taken are: <ol style="list-style-type: none"> 1. Notification – the relevant person (either the individual receiving the service or a person acting on their behalf) must be notified of the incident. 2. Apology – the responsible person must offer the relevant person a written apology. 3. Meeting – the relevant person must be invited to attend a meeting and be given an opportunity to ask questions in advance. The Regulations detail requirements of the format of the meeting. 4. Review – a review of the circumstances must be carried out taking into account the views of the relevant person, and a written report must thereafter be prepared. • The Council must comply with the reporting and monitoring duties contained in Section 24 of the Act, with the first annual report due to be published on 1 April 2019. The Council must also notify SCSWIS (Care Inspectorate) that the report has been published. Section 24 of the Act details the information which must be detailed in the report. 	
Relevant Council Service / ALEO	Social Work

6

Function	Duty in relation to services for the chronically sick or disabled
Act	Chronically Sick and Disabled Persons Act 1970
Content	<p>The Council has a qualified duty to any person who is chronically sick or disabled or suffering from mental disorder and is resident in its area to make arrangements for all or any of the following:</p> <ul style="list-style-type: none"> • Practical assistance for that person in their home; • Assistance to that person in obtaining recreational facilities within and outside their home; • Assistance to that person in taking advantage of educational facilities available to them; • Facilities for or assistance in travelling to and from their home for the purpose of participating in any services provided by the Council; • Assistance for that person in arranging for the carrying out of any works of adaptation in their home to secure their greater safety, comfort or convenience; • Facilitate the taking of holidays by that person; • Meals for that person in their home or elsewhere; and • Assistance to that person in obtaining a telephone and any special equipment necessary to enable them to use a telephone. <p>The qualifying conditions or circumstances in relation to these duties applying are that:</p> <ul style="list-style-type: none"> • the person must be owed a duty by the local authority under Section 12 of the Social Work Scotland Act 1968 Act - (duty to promote social welfare of persons in their area, not being less than eighteen years of age) or under Chapter 1 of Part II of the Children (Scotland) Act 1995 (Support for Children And their Families) • the local authority must be satisfied that it is necessary in order to meet the needs of such a person for that authority to make any or all of the arrangements mentioned in section 2 of the 1970 Act. <p>There is discretion on the part of the authority to the extent it must be satisfied that the relevant arrangements are necessary to meet the needs of the person.</p>
Relevant Council Service / ALEO	Social Work

SOCIAL WORK

6

Function		Nursing, personal and other care services
Act		Community Care and Health (Scotland) Act 2002
Content		
<ul style="list-style-type: none"> The Act sets out the social care services that are not to be charged for by the Council. The Act enables implementation of free nursing, personal care and personal support in certain circumstances; enables deferred payment agreements for residents of care homes; enables expansion of joint resourcing by the NHS and local authorities of prescribed functions. 		
Relevant Council Service / ALEO		Social Work

6

Function		Duty of the Council re committal and detention of children and young persons
Act		Criminal Procedure (Scotland) Act 1995
Content		
<ul style="list-style-type: none"> • The Council has a duty of care for persons under 16 years old (or under 18 if subject to a compulsory supervision order) when in respect of criminal proceedings a court does not release them on bail or ordain them to appear but remands or commits the person for trial or sentence to the care of the local authority. • The Council must detain the person in secure accommodation where specifically ordered to do so by the court or in a suitable place of safety chosen by the Council. • Where a person under 16 years old (or under 18 if subject to a compulsory supervision order) is found guilty of an offence in criminal summary proceedings and the sheriff orders that the person will be detained by the Council in residential accommodation, the Council has the same powers and duties towards that young person as it would if a compulsory supervision order was in place (see Children's Hearings (Scotland) Act 2011). 		
Relevant Council Service / ALEO		Social Work

SOCIAL WORK

6

Function	
Function	Sheltered employment for disabled persons
Act	Disabled Persons (Employment) Act 1958
Content	
The Council has the power to make arrangements for persons who are seriously disabled to work under special conditions and to provide training for such work or employment (see also Corporate Services Section - Procurement function).	
Relevant Council Service / ALEO	Social Work and City Building

6

Function	Regulation of private fostering arrangements*
Act	Foster Children (Scotland) Act 1984
Content	
<ul style="list-style-type: none"> • A child can be fostered in two ways: either by private arrangement or by the Local Authority carrying out its duties to looked after children. This Act relates to the Local Authority obligations to oversee private fostering arrangements when it is notified to them. • There is a duty on the Council to secure the welfare of children within its area who are fostered by private arrangement. • The Council has the power to impose requirements relating to foster children (e.g. their accommodation, medical arrangements). • Any officer of the Council who is authorised to visit foster children may inspect any premises in the area in which foster children are to be or are being kept. • When a person proposes to keep a foster child in any premises and the Council is of the opinion that it would be detrimental to that child to be kept by them in those premises the Council may prohibit the person from doing so. • The Council may apply to a Sheriff for an order to remove a foster child if he or she is being or is about to be kept in unsuitable surroundings or by an unsuitable person. 	
Relevant Council Service / ALEO	Social Work

SOCIAL WORK

6

Function		Charges for provision of care and accommodation
Act		The National Assistance Act 1948
Content		
<p>This Act imposes on the Council a duty to recover charges for care home accommodation provided under the Social Work (Scotland) Act 1968, subject to the ability of the person to pay.</p>		
Relevant Council Service / ALEO		Social Work

SOCIAL WORK

6

Function	Recovery of money for accommodation by the Council
Act	Health and Social Services and Social Security Adjudication Act 1983
Content	
<p>This Act provides for methods of recovery of sums due to the Council for care home accommodation provided under the Social Work (Scotland) Act 1968:</p> <ul style="list-style-type: none"> • The first method allows the Council to place a charging order on the heritable property of the person who has entered the care home; • The second method allows the Council in limited circumstances to pursue the recipient of any assets that have been transferred to them by the resident of the care home. 	
Relevant Council Service / ALEO	Social Work

6

Function	Duties owed to homeless persons
Act	Housing (Scotland) Act 1987 ; Housing (Scotland) Act 2001
Content	<ul style="list-style-type: none"> • <u>Homelessness Strategy</u>: A Local Authority, when it is requested to do so by the Scottish Ministers, has a duty to carry out an assessment of homelessness in its area and to prepare and submit a homelessness strategy for preventing and alleviating homelessness in its area (Section 1, Housing (Scotland) Act 2001). • <u>Free Availability of Advice and Information</u>: A Local Authority must ensure that advice and information about homelessness, the prevention of homelessness and the availability of services to assist homeless persons or prevent homelessness is available free of charge to any person in the authority's area. (Section 2, Housing (Scotland) Act 2001). • <u>Inquiries</u>: When a person applies for homelessness assistance a Local Authority has a duty to make inquiries to determine if that person is homeless or threatened with homelessness. If a person is found to be homeless or threatened with homelessness, the local authority has a duty to make inquiries to satisfy themselves as to whether the person became homeless or threatened with homelessness intentionally. A local authority may also make inquiries with other local authorities to determine if an applicant for homelessness assistance has local connection to another authority (Section 28 of the Housing (Scotland) Act 1987) • <u>Interim Accommodation</u>: A Local Authority has a duty to provide interim accommodation where: <ul style="list-style-type: none"> • inquiries about homelessness and the causes of homelessness are being carried out: • an applicant is awaiting a decision on an application. • during any period where an applicant has requested a review of a decision. Until such times as a Local Authority has discharged any duty owed to a particular applicant. (Section 29 of the Housing (Scotland) Act 1987) • <u>Decision and Reasons</u>: Any decision taken by the local authority must be given to the applicant in writing and contain reasons for the decision. The Applicant must be notified of any right to a review. (Section 30, of the Housing (Scotland) Act 1987). • <u>Primary Duty to Unintentionally Homeless Persons- Permanent Accommodation provided by a Registered Social Landlord</u>: The primary duty owed to persons found to be homeless but

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not intentionally homeless is to secure that permanent accommodation becomes available for the applicant's occupation. Glasgow City Council has no houses of its own. Therefore offers are secured through referrals made to Registered Social Landlords by referrals under section 5 of the Housing (Scotland) Act 2001. (Section 31, Housing (Scotland) Act 1987)

- Primary Duty to Unintentionally Homeless Persons—Securing a Private Sector Short Assured Tenancy: In certain limited circumstances, if an Applicant agrees, a Local Authority can discharge its duty to secure permanent by arranging for a private sector Short Assured Tenancy of no less than 12 months' duration. (Section 31, Housing (Scotland) Act 1987).
- Secondary Duty to Unintentionally Homeless Person-Advice, Assistance and a Reasonable Period in Accommodation: If a person refuses a reasonable offer of accommodation the Local Authority cannot discharge its obligations to that person until it offers advice, assistance and a reasonable period in accommodation to allow that person a reasonable opportunity to secure accommodation. (Section 31, Housing (Scotland) Act 1987).
- Duty to Persons Intentionally Homeless: A person who deliberately does or fails to do anything which results in losing accommodation which was available for occupation and was reasonable to occupy is intentionally homeless (sections 26 and 31, Housing (Scotland) Act 1987). The Local Authority must provide such a person with advice, assistance and a reasonable period in accommodation to allow that person a reasonable opportunity to secure accommodation.
- Duties owed to Persons Threatened with Homelessness: In such cases the Local Authority has a duty to secure that accommodation does not cease to become available for occupation. This duty can be discharged by providing advice and assistance to prevent homelessness occurring. In limited circumstances it can be discharged by arranging alternative accommodation under a private sector Short Assured Tenancy. It is possible to be threatened with homelessness intentionally but a duty to provide advice and assistance would still apply. (Section 32, Housing (Scotland) Act 1987).
- Assessment of Housing Support Needs: Where a person has been found to be homeless or threatened with homelessness unintentionally a Local Authority has a duty to inquire into and make a decision about whether the Applicant or any other person residing with the Applicant has housing support needs. The Local Authority must ensure that any support services assessed as needs are provided (Section 32B, Housing (Scotland) Act 1987), inserted by the Housing (Scotland) Act 2010, Section 158.
- Referrals for Local Connection: Where an Applicant who is homeless but not intentionally homeless has no local connection to the Local Authority where the application is made that Local Authority may refer the Applicant to a Local Authority where the Applicant has a local connection. The Local Authority making the referral has a duty to provide interim accommodation until such times as the referral is accepted (Section 33 & 34 of the Housing (Scotland) Act 1987).
- Right to a Review: If an Applicant makes a request within 21 days of being notified of a decision the Local Authority must carry out a review. Reviews may be requested on the following subjects:
 - Whether an Applicant is homeless or threatened with homelessness.

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- Whether an Applicant is intentionally homeless or threatened with homelessness intentionally.
 - Whether any Advice and Assistance provided is sufficient to consider the duty to provide advice and assistance discharged.
 - Whether a Local Authority should refer to another Local Authority for Local Connection.
 - Whether Accommodation secured is reasonable and ought to have accepted by the Applicant. (Section 35A, Housing (Scotland) Act 1987)
- Procedure on Review: The Local Authority must appoint an officer senior to the original decision maker to carry out the review. The review decision must be in writing and give reasons. (Section 35B, Housing (Scotland) Act 1987).
 - Protection of Moveable Property: Where there is risk that a person's moveable property may be lost due to homelessness the Local Authority has a duty to store that property. In general this means storing furniture (Section 36, Housing (Scotland) Act 1987). Moveable property may be disposed of if the person has not taken possession of it within 28 days of the Council having discharged all of its duties to them.
 - Scottish Government Guidance: A Local Authority must have regard to any Guidance published by the Scottish Government on the subject of Local Authority duties under homelessness legislation.
 - Duty to Co-operate with other Local Authorities and Statutory Bodies: Where requested to render assistance by other Local Authorities and other named statutory bodies a Local Authority receiving a request has a duty to co-operate in rendering assistance in the discharge of functions to which the request relates as is reasonable in the circumstances.

Relevant Council Service / ALEO

Social Work

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6

Function	Establishment of an adoption service
Act	The Adoption and Children (Scotland) Act 2007
Content	<p>It is the duty of the Council to establish and maintain a service designed to meet the needs of:</p> <ul style="list-style-type: none"> • Children or persons who have been or may be adopted; • Parents and guardians of children or persons who have been or may be adopted; • Persons who treated a child as their own prior to them being placed for adoption and natural parents of persons who have been adopted; • Siblings, grandparents and former guardians of persons who have been or may be adopted; • Persons who have adopted or may adopt a child; • Any children of persons who have adopted or may adopt; • Any other person who is affected by the adoption or proposed adoption <p>The service must include:</p> <ul style="list-style-type: none"> • Arrangements for assessing children and prospective adopters; • Placing children for adoption; • The provision of adoption support services and adoption allowances. (The Council must where requested make an assessment of the needs for adoption support services, and must decide where the needs identified call for the provision of services.) <p>Where the Council is coming to a decision relating to the adoption of a child the Council must regard the need to safeguard and promote the welfare of the child throughout his/her lifetime as the paramount consideration, and must have regard to a number of factors including the views of the child, the parents, and the child's religious persuasion, racial origin and cultural and linguistic background.</p> <p>Before making any arrangements for the adoption of a child the Council must have regard to whether there is some better practical alternative for the child.</p> <ul style="list-style-type: none"> • The Council requires to submit a report to the Court having received notice that an adoption application has been made in relation to a child whom the Council has placed for adoption or in relation to any other child where the applicants live in the Council area. • Where the Council deem that the provision of adoption support services is called for it must put in place an adoption support plan, and the plan must be regularly reviewed.

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- The Act allows the Council to make applications for Permanence Orders, including Permanence Orders With Authority To Adopt, vesting in the local authority the parental right to dictate where a child resides, and allowing other parental rights/responsibilities to be vested in the Council/the child's carers/parents.

Relevant Council Service / ALEO

Social Work

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Function	Protection of adults at risk of harm
Act	The Adult Support and Protection (Scotland) Act 2007
Content	<p>A council must make inquiries about a person's well-being, property or financial affairs if it knows or believes:</p> <ul style="list-style-type: none"> • that the person is an adult at risk, and • that it might need to intervene. <p>In order to protect the person's well-being, property or financial affairs a Council must, so far as consistent with the proper exercise of their functions, co-operate with another council that is making inquiries per the above duty and with the Care Inspectorate; Healthcare Improvement Scotland; the Public Guardian, all other Councils, the Chief Constable of the Police Service of Scotland, the relevant Health Board, and any other public body or office-holder as the Scottish Ministers may by order specify where such co-operation is likely to enable or assist the council making those inquiries.</p> <p>Where the Council or office holder knows or believes that a person is an adult at risk, and that action needs to be taken in order to protect that person from harm the Council or office holder must report the facts and circumstances of the case to the Council for the area in which it considers the person to be.</p> <p>Where, after making inquiries about a person's well-being, property or financial affairs, a Council considers that it needs to intervene in order to protect an adult at risk from harm, the council must have regard to the importance of the provision of appropriate services (including, in particular, independent advocacy services) to the adult concerned.</p> <p>The council must take reasonable steps to prevent any property owned or controlled by a person moved in pursuance of a removal order granted by the court, from being lost or damaged because:</p> <ul style="list-style-type: none"> • the moved person is unable to protect, care for or otherwise deal with it; and • no other suitable arrangements have been or are being made for the purposes of preventing such loss or damage. <p>The Council may and in certain circumstances must apply to the Sheriff Court for various court orders under the Act: these include an assessment order, a removal order, a banning order, and a temporary banning order in respect of the adult at risk. Legal advice and assistance is required to progress these.</p>

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The Council must establish a committee (an “Adult Protection Committee”) to keep under review the procedures and practices of the public bodies and officeholders that are responsible for the safeguarding of adults at risk in the council's area:

- to give information or advice, or make proposals, to any relevant public body and officeholder on the exercise of functions which relate to the safeguarding of such adults;
- to make, or assist in or encourage the making of, arrangements for improving the skills and knowledge of officers or employees of such public bodies and officeholders; and
- any other function relating to the safeguarding of adults at risk as the Scottish Ministers may by order specify (In fulfilment of its duty Glasgow City Council has set up its own Adult Protection Committee).

Relevant Council Service / ALEO

Social Work

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Function	Safeguard and promote care of children
Act	The Children (Scotland) Act 1995
Content	<ul style="list-style-type: none"> • It is the duty of the Council to safeguard and promote the welfare of children in their area who are in need; and so far as is consistent with that duty, to promote the upbringing of such children by their families by providing a range and level of services appropriate to the children's needs. • In carrying out this duty towards children in need in its area the Council has a specific duty to minimise the effect of a disability on any disabled child or child affected by disability of a family member. When requested to do so the Council shall carry out an assessment of a child affected by disability to determine his/her needs and/or of the child's carer's ability to provide care for the child. • It is the duty of the Council to exercise its functions toward children or young people to whom it is providing services under the 1995 Act in a way which is designed to safeguard, support and promote the wellbeing of the children or young people. • It is the duty of the Council to safeguard and promote the welfare of a child <u>being looked after</u> by it as its paramount concern, and to take account of the views of the child, his/her parents and (from July 2021) any sibling of the child or other person with whom the child has an ongoing relationship with the character of a sibling relationship in making decisions about a looked after child. • It is the duty of the Council, in respect of <u>looked after children</u>, to make such use of services available for children cared for by their own parents as appear to the Council to be reasonable. • It is the duty of the Council to take such steps to promote personal relations and direct contact between the looked after child, any person with parental rights and responsibilities in relation to him and (from July 2021) any sibling of the child or other person with whom the child has an ongoing relationship with the character of a sibling relationship as appear to be practicable and appropriate. • It is the duty of the Council to have regard to the religious persuasion, racial origin and cultural and linguistic background of the child in making any decisions about a looked after child. • There is a duty to regularly review the case of any looked after child in accordance with Regulations made under the Children (Scotland) Act 1995, which also contain requirements for care planning. • The Council shall provide accommodation for any child (up to age 18) who is residing or who is found within its area where it appears to the Council that they are lost or abandoned, no-

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one has parental responsibility for them or the person who has been caring for them is prevented, permanently or temporarily, from providing them with suitable accommodation.

- The Council may provide accommodation for any child or young person in its area up to age 21 if the Council considers that to do so would safeguard and promote their welfare.
- The Council cannot provide such accommodation if the person with parental rights or responsibilities is willing and able to provide or arrange to provide accommodation for the child.
- When a young person stops being looked after (as long as they were looked after between 16-18 years of age) they can request the same accommodation and other assistance (“continuing care”) as was being provided by the Council when they were looked after. If they request it, then the Council must provide it. This duty lasts up to a young person’s 21st birthday. If the carer is unable or unwilling to continue as carer, or if the continuing care would significantly adversely affect the person’s welfare, the duty does not apply. The duty ceases if the young person leaves the accommodation of his own volition or the accommodation ceases to be available.
- The Council shall (unless satisfied that his welfare does not require it) advise, guide and assist any young person in their area aged over 16 and under 19 years old who was looked after by the Council (when they turned 16 or subsequently). Any young person aged over 19 and under 26 years old previously looked after at age 16 or subsequently may apply for such assistance.
- The Council has a duty to assess the support/assistance needs of such a formerly looked after young person, and if satisfied that the person has any eligible needs which cannot be met other than by the Council taking action, must provide such assistance as is necessary to meet those needs.
- The Council may make grants to persons age 16 or over who are not yet 26 years of age to enable them to meet expenses connected with education or training if when they turned 16 they were being looked after by the local authority.
- The Council must provide such day care for pre-school children in need within their area as is appropriate and they may provide day care for other pre-school children.
- The Council has the power to apply for an exclusion order where a child has suffered or is likely to suffer significant harm as the result of any conduct of a person, and removal of that person from the family home would better safeguard the welfare of the child than removing the child.
- The Council must prepare and publish information about relevant services which are provided by them for or in respect of children in their area.

Relevant Council Service / ALEO

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Function		Reports on the care and upbringing of children
Act		The Matrimonial Proceedings (Children) Act 1958
Content		
<p>When a court is considering any question relating to the care and upbringing of a child it may appoint the appropriate Council to investigate and report to the court on all the circumstances of the child and on the proposed arrangements for the care and upbringing of the child.</p> <p>The Court may require the person who furnished the report to appear and be examined on oath regarding any matter dealt with in the report.</p>		
Relevant Council Service / ALEO		Social Work

6

Function	Services for Children
Act	Children's Hearing (Scotland) Act 2011
Content	<ul style="list-style-type: none"> • The Council has the duty to: <ul style="list-style-type: none"> ▪ Inquire into a child's circumstances if it thinks the child is in need of protection, guidance, control or treatment or in need of a compulsory supervision order. If the child is so in need, then the Council has to provide any information it has about the child to the Principal Reporter. ▪ Provide a report to the Principal Reporter on a child if requested. ▪ Give effect to any Compulsory Supervision Order where the Council is named as the implementation authority. ▪ Request a review of a Compulsory Supervision Order if it is thought that the order should be varied/terminated or the order is not being complied with. ▪ Request a review of a Compulsory Supervision Order if an application is being made for a Permanence Order or if a child is being placed for adoption. ▪ Request a review of a Compulsory Supervision Order if an application is pending for an adoption order. ▪ Where a child is subject to a CSO and is residing in accommodation not provided by the Council, the council must investigate the child's situation from time to time. ▪ Remove a child from secure accommodation if it is no longer necessary to keep the child there ▪ Comply with any request for assistance from another local authority in carrying out their functions under this act. • The Council has the power to: • In cases of urgent necessity, transfer a child subject to a Compulsory Supervision Order which requires a child to live in a particular place, to another place. • Where deemed necessary, the Local Authority may make an application for a Child Assessment or Child Protection Order in order to protect a child. There are legal tests which have to be satisfied before a Sheriff will grant the orders. • Give effect to a secure accommodation authorisation from the Children's Hearing but only with the agreement of the person in charge of the secure accommodation. • Request assistance from other local authorities or health boards, to carry out the Council's functions under this act.
Relevant Council Service / ALEO	Social Work

6

Function	Services for children*
Act	The Children and Young People (Scotland) Act 2014
Content	
<p>Children's Services Planning.</p> <ul style="list-style-type: none"> • The Council must in respect of each three year period prepare a children's services plan covering children's services and related services, with the aim of providing services which best safeguard, support and promote the wellbeing of children in its area. There requires to be consultation with other service providers and the Scottish Ministers, and the plan must be kept under review. During the currency of the plan the Council must provide children's services and related services in accordance with the plan. The Council must report on its compliance with the plan every year. • The Council must also publish every three years a report of what steps it has taken in that period to secure better or further effect within its areas of responsibility of the United Nations Convention On The Rights Of The Child requirements. • <p>Corporate Parent Responsibilities.</p> <ul style="list-style-type: none"> • The Council has corporate parenting responsibilities towards every child who is looked after by the local authority and every young person who is over 16 and under 26 years old who was looked after on their 16th birthday which are: • to be alert to matters which, or which might, adversely affect the wellbeing of those children and young people; • to assess the needs of those children and young people for services and support it provides and to promote their interests; • to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing and take action to allow them to access those opportunities, support and services. <p>The Council as a corporate parent must prepare and publish a plan, to be kept under review, for how it plans to exercise its corporate parenting responsibilities, and collaborate with other corporate parents in fulfilling its responsibilities. It must also report on how its responsibilities have been exercised, including information on standards of performance and outcomes.</p> <p><i>Services where children are at risk of becoming looked after-</i></p> <p>The Council has a duty to provide the following services, for children at risk of becoming looked after and their families, or for pregnant women and their partners who are likely to give birth to children at risk of becoming looked after:</p>	

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Family group decision making services
Support services in relation to parenting

The Council has a duty to publish information about these services.

Kinship care assistance in aspect of Kinship Care Orders

The Council has a duty to provide kinship care assistance to kinship carers of eligible children residing in its area who have or are considering applying for a kinship order (and to eligible children subject to such an order or who were subject to such an order). Such assistance includes the provision of information, advice and financial support towards the cost of the application for a kinship order.

For kinship carers of eligible children living within its area holding a Kinship Care Order (in effect, a Residence Order in terms of section 11 of the Children (Scotland) Act 1995), or those appointed guardian of an eligible child by virtue of s 7 of the Children (Scotland) Act 1995, local authority kinship care assistance includes the provision of a kinship care allowance.

“Eligible” children are those who have been previously looked after or who are at risk of becoming looked after.

The Council must publish information regarding kinship care assistance.

Relevant Council Service / ALEO Social Work

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Function	Provision of care and support for people who have or have had a mental disorder
Act	The Mental Health (Care and Treatment) (Scotland) Act 2003
Content	<p>The Act prescribes a duty to provide or secure the following services which provide care and support for persons who are not in hospital and who have or have had a mental disorder:</p> <ul style="list-style-type: none"> • Care and support e.g. personal care and counselling; • Services which are designed to promote the well-being and social development of those persons e.g. recreational activities; • Assistance with travel to attend or participate in provided services. <p>The Council may provide the above services for those persons in hospital who have or have had a mental disorder.</p> <p>In providing services the Council has a duty to co-operate with health boards, special health boards, national health service trusts and voluntary organisations that appear to have an interest in the provision of the services by the Council.</p> <p>There is a duty on the Council to appoint a sufficient number of suitable, qualified and competent persons as mental health officers and to provide or secure the provision of training for the mental health officers.</p> <p>The Council has a duty enquire into an individual's case where it appears that a person who is aged 16 or over had a mental disorder and any of the following circumstances apply:</p> <ul style="list-style-type: none"> • The person may be or may have been subject or exposed to ill-treatment, neglect or some other deficiency in care or treatment at some place other than in hospital.
Relevant Council Service / ALEO	Social Work

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Function	Community Care Services – Self-directed Support
Act	Social Care (Self-directed Support)(Scotland) Act 2013 (“the SDS Act”)
Content	<ul style="list-style-type: none"> • Where a local authority decides under section 12A(1)(b) of the Social Work (Scotland) Act 1968 that the needs of an adult call for the provision of community care services; or where a local authority is to provide services under section 22 of the Children (Scotland) Act 1995 to a child or a member of a child's family; or where the local authority has decided to provide support to an adult carer under section 3 of the SDS Act, the authority must give the supported person the opportunity to choose one of the options for self-directed support unless the authority considers that the supported person is ineligible to receive direct payments. • The options for self-directed support are <ol style="list-style-type: none"> 1. The making of a direct payment by the local authority to the supported person for the provision of support. 2. The selection of support by the supported person, the making of arrangements for the provision of it by the local authority on behalf of the supported person and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of that provision. 3. The selection of support for the supported person by the local authority, the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the authority, the payment by the authority of the relevant amount in respect of the cost of that provision. 4. The selection by the supported person of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support. • The authority must take reasonable steps to ensure that the supported person can make a choice of the SDS options; identify persons who are able to assist; and with the supported person's agreement involve the persons so identified. • The authority must give in writing to a person to whom it has given an opportunity to choose an SDS Option an explanation of the nature and effect of each of the options for self-directed support; information about how to manage support; and information about persons who can provide (i) assistance or information to the person to assist the person in making decisions about the options, (ii) information about how to manage support, and in any case

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where the authority considers it appropriate to do so, information about persons who provide independent advocacy services.

- The authority must give effect to the SDS Option chosen.
- The authority must take steps to promote the SDS Options.
- A local authority must have regard to the following principles when carrying out its functions under Part 2 of the 1968 Act (other than sections 27, 27B, 28 and 29); sections 22 to 24 of the 1995 Act; and the SDS Act.*

- (1) A person must have as much involvement as the person wishes in relation to—
 - (a) the assessment of the person's needs for support or services, and
 - (b) the provision of support or services for the person.
- (2) A person must be provided with any assistance that is reasonably required to enable the person—
 - (a) to express any views the person may have about the options for self-directed support, and
 - (b) make an informed choice when choosing an option for self-directed support.
- (3) A local authority must collaborate with a person in relation to—
 - (a) the assessment of the person's needs for support or services, and
 - (b) the provision of support or services for the person.

Relevant Council Service / ALEO

Social Work

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6

Function	Integrated Health and Social Care
Act	Public Bodies (Joint Working) Scotland Act 2014
Content	<p>This Act makes provision in relation to the carrying out of social care functions of local authorities and a wide range of Health Board functions.</p> <p>The local authority and the Health Board have a duty to jointly prepare an Integration Scheme for the area of the local authority.</p> <p>The Integration Scheme must set out the model of integration selected from the Act by the local authority and the Health Board (“the Constituent Authorities”). In Glasgow the body corporate model - an Integration Joint Board (“IJB”) was selected and the Glasgow City Integration Joint board was established by Statutory Instrument on 6th February 2016. The Integration Scheme also sets out the functions that have been delegated to the IJB; the method of determining payments that are to be made to the IJB by the local authority; and the amounts that are to be made available to the IJB by the Health Board.</p> <p>The Integration Scheme must be reviewed by the Council and the Health Board within the first 5 years of the Scheme being approved by the Scottish Ministers and thereafter in each subsequent period of 5 years. The Integration Scheme must also be reviewed jointly by the Constituent Parties if either one of them requests it.</p> <p>A delegated function can be a power or a duty or contain elements of both. The Act does not distinguish between the two. The Act contains a list of statutory functions that it is permissible to delegate to the IJB; and secondary legislation made under the Act defines which of these functions must be delegated and which may be. The Council elected to delegate all permissible statutory functions to the IJB. Each of these delegations must be accompanied by payments to the IJB, or in certain circumstances applicable to the NHS by amounts set aside for the IJB’s use.</p> <p>In accordance with the requirements of the Act, the IJB has prepared a strategic plan for the local authority area, which plan sets out the arrangements for the carrying out of the delegated functions; and how these arrangements are intended to achieve or contribute to achieving national health & wellbeing outcomes.</p> <p>The IJB must give a direction to one or both of the Constituent Authorities to carry out each function delegated to it and the direction must set out the method of determining payments that are to be made by the IJB to the constituent authority that is to carry out</p>

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the function; or, if relevant, set out the amount which has been set aside by the Health Board for the use of the Constituent Authority that has to carry out the function. The Constituent Authorities must comply with the direction given by the IJB. They must also comply with Directions given by the Scottish Ministers under section 52 of the Act and have regard to guidance issued by the Scottish Ministers under section 53 of the Act.

Relevant Council Service / ALEO	Social Work
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RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function	Returning Officer and Elections *
Act	Section 41(1), Representation of the People Act 1983 (RPA 1983)
Content	
<ul style="list-style-type: none"> ▪ The Council must appoint an officer of the Council to be the Returning Officer for the election of councillors to their Council. ▪ The Returning Officer (normally the Chief Executive) is then named in legislation as the Returning Officer for the United Kingdom and Scottish Parliament Elections. ▪ The Council is required to provide the Returning Officer with the resources to be able to : <ul style="list-style-type: none"> ○ Publish the notice of election; ○ Publish the nomination process; ○ Publish the notice of poll and situation of polling stations; ○ Provide polling stations; ○ Appoint Presiding Officers and Poll Clerks; ○ Manage the postal voting process; ○ Verify and count the votes; and ○ Declare the results. 	
Relevant Council Service / ALEO	Chief Executive's Department

RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function	Returning Officer and Elections *
Act	Rule 18(1) Local Government Elections Rules 2011
Content	<ul style="list-style-type: none"> ▪ The Council must provide any local authority funded room as a polling station. <ul style="list-style-type: none"> ○ This is replicated in legislation for the United Kingdom and Scottish Parliament Elections.
Relevant Council Service / ALEO	All Services and ALEOs

RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function		Returning Officer and Elections *
Act		Section 25 (2) Representation of the People Act 1983
Content		
<ul style="list-style-type: none"> ▪ The Council shall place at the disposal of the Returning Officer the services of officers employed by the Council. 		
Relevant Council Service / ALEO		All Services and ALEOs

RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function	Review of Polling Districts, polling places and polling stations
Act	The Electoral Registration and Administration Act 2013 Schedule A1 Representation of the People Act 1983 (RPA1983)
Content	<ul style="list-style-type: none"> ▪ Reviews have to be carried out by the Council every 5 years of Polling Districts, polling places and polling stations. ▪ Details of the formal review process are set out in Schedule A1 of the 1983 Act.
Relevant Council Service / ALEO	Chief Executive's Department

RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function	Storage and disposal of election documents
Act	Rule 59, Schedule 1, Scottish Local Government Elections Order 2011 (Local Government Rules)
Content	
<ul style="list-style-type: none"> ▪ The Proper Officer of the Council shall keep for the stipulated period the records listed below and then dispose of them. ▪ For Local Government Elections the documents to be stored and then disposed of are detailed in : <ul style="list-style-type: none"> ○ Rule 11, Schedule 1 Local Government Rules; ○ Rule 60, Schedule 1, Local Government Rules; and ○ Regulation 4(2), Supply and Inspection Scotland Regulations 2007. 	
Relevant Council Service / ALEO	Chief Executive's Department

RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function	Electoral Registration
Act	Representation of the People Act 1983 , Representation of the People Act 1985 , Representation of the People (Scotland) Regulations 2001 , European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations , Electoral Registration and Administration Act 2013
Content	
<p>The Electoral Registration Officer (ERO) is required by law to collate and maintain, for their area of responsibility:-</p> <ol style="list-style-type: none"> 1. a register of parliamentary electors 2. a register of local government electors 3. a register of relevant citizens of the European Union entitled to vote at European Parliamentary elections 4. a register of those peers living outside the UK who have made a declaration to vote at European Parliamentary elections 5. these registers contain the details of all those who are registered to vote and combined form the Electoral Register. <p>The ERO must also by law produce an open or edited register which contains the names and addresses of those on the full register who have not taken the decision to opt out of their details appearing on the edited register.</p> <p>The ERO has a duty under Section 9A of the Representation People Act 1983 (as amended by the Electoral Registration and Administration Act 2013) to take all necessary steps to comply with their duty to maintain the electoral register, and to ensure, as far as is reasonably practicable, that all those eligible (and no others) are registered in it.</p>	
Relevant Council Service / ALEO	Financial Services

RETURNING OFFICER, ERO & CITY ASSESSOR

7

Function	City Assessor
Act	Local Government (Scotland) Act 1974 , Local Government (Scotland) Act 1975 , Lands Valuation (Scotland) Act 1854 , Local Government Finance Act 1992
Content	<p>Every Valuation authority is required to appoint an assessor.</p> <p>It is the duty of the assessor for each valuation area to make up a valuation roll in respect of each year of revaluation. The Valuation Roll must be in the form prescribed by the statutory instrument and it comes into force on the first day of the year of revaluation. It remains in force until superseded by a new Valuation Roll.</p> <p>In order to enable the assessor to perform his duties in regard to valuation he or she has always been given powers for the obtaining of information. The information that may be requested is defined as any such information from a proprietor, tenant or occupier of a property in the valuation area as may reasonably be required by the assessor to value lands and heritage. To these powers was added the power to share information freely with the assessor's counterparts, either other assessors in Scotland or rating officials in England and Wales.</p> <p>It is the duty of the assessor to compile and maintain a valuation list for their valuation authority which must show</p> <ul style="list-style-type: none"> • each dwelling which is situated in the valuation area and; • which if the valuation bands are applicable to that dwelling.
Relevant Council Service / ALEO	Financial Services

LEGISLATION NOT YET IN FORCE

8

The Council will acquire additional powers and duties when new and proposed legislation enters into force.

As a guide to future obligations, legislation which is partially in force or legislation which is awaiting commencement and is therefore not yet in force is set out in this section.

In addition to this, there are Bills currently being debated in the Scottish Parliament which may impact the Council. However, these may be amended substantially before they are enacted. For this reason, the relevant powers and duties listed below are subject to change.

This section is therefore intended only to give an overview of potential changes, and does not constitute the current legal position.

LEGISLATION NOT YET IN FORCE

8

Function	Modern Slavery (Transparency in Supply Chains)
Act	Modern Slavery (Transparency in Supply Chains) Bill 2017
Content	
<ul style="list-style-type: none"> ▪ The Modern Slavery (Transparency in Supply Chains) Bill 2017 seeks to amend the Modern Slavery Act 2015 to make further provision for transparency in supply chains in respect of slavery and human trafficking. ▪ If the Bill is enacted, the key change of relevance to commercial organisations is the proposed amendment to Section 54 of the Act to make provision that: <ul style="list-style-type: none"> ○ subsection 5 of Section 54 be changed from providing an example of what might be included in the content of the slavery and human trafficking statement to being mandatory; ○ if an organisation makes a statement stating it has taken no steps to eradicate slavery and human trafficking from its supply chain and business, it must explain its reasons; ○ public authorities will be required to make statements, in addition to commercial organisations; ○ the Secretary of State must publish a list of all commercial organisations that are required to publish a statement under section of the Act, in a place and format that is easily accessible. ▪ It is also proposed that Regulation 57 of the Public Contracts Regulations 2015 be amended so that a bidder who has to comply with the Act will be prevented from participating in a public procurement procedure unless it has complied with the obligation to publish a statement under section 54 of the Act. It will be important to consider whether Regulation 58 of the Public Contracts (Scotland) Regulations 2015 will also be amended as a result of this new legislation. ▪ The progress of the Bill means that it will soon become an unambiguous statutory obligation for the Council to publish a slavery and human trafficking statement under section 54 of the Act. 	
Relevant Council Service / ALEO	All Services and ALEOs

CORONAVIRUS LEGISLATION

9

Function	Looked After Children
Act	Coronavirus (Scotland) Act 2020
Content	<ul style="list-style-type: none"> • Paragraph 10 of Schedule 3 amends various provisions of the Looked After Children (Scotland) Regulations 2009 (“the 2009 Regulations”) whilst the Act is in force to allow local authorities to place more than the current maximum of three children with a foster carer, and to allow a foster carer to look after more children than their current approval allows. • Regulation 36(1) of the 2009 Regulations is amended to increase the limit of time in which a child can be placed with a kinship carer or a foster carer in an emergency from three working days to five working days. • Regulation 38 of the 2009 Regulations is amended to provide that emergency placements require to be reviewed by the local authority to determine whether the placement continues to be in the best interests of the child within five working days, rather three working days. Paragraph 10 of Schedule 3 also inserts new Regulations 38(3A) and 38(3B) into the 2009 Regulations, which provide that a local authority may not carry out such an emergency placement review where the chief social work officer is satisfied that placement is in the best interests of the child, placement of the child with that carer is in the best interests of the child and it is not reasonably practicable for the authority to carry out the review within that period; however, the local authority must still carry out a review as soon as reasonably practicable. • Regulation 39 of the 2009 Regulations, which allow a local authority to extend emergency placements in certain circumstances for a period not exceeding 12 weeks and with a requirement to review before the expiry of six weeks, is amended to extend the period of the placement to 24 weeks, and the requirement to review within 12 weeks. • Regulation 45 of the 2009 Regulations, which provide for review where a child has been placed in kinship care, is amended so that the first review must be carried out within three months of the placement, instead of six weeks, and so that subsequent reviews must then be carried out within six months of the date of the previous review.
Relevant Council Service / ALEO	Social Work

CORONAVIRUS LEGISLATION

9

Function	Vulnerable Adults
Act	Coronavirus (Scotland) Act 2020
Content	<ul style="list-style-type: none"> • Section 58A of the Criminal Procedure (Scotland) Act 1995 provides that guardianship orders made under that act are to be for a period of three years or such other period as the court determines, which may be indefinitely. Paragraph 11(2) of Schedule 3 of the Act amends section 58A to pause the time limit of such guardianship orders, whilst the order continues to have effect. This amendment does not prevent the ending of guardianship orders on grounds other than time limits. • The remainder of paragraph 11(2) of Schedule 3 of the Act provides for various amendments to the Adults with Incapacity (Scotland) Act 2000 (“the 2000 Act”): <ul style="list-style-type: none"> ○ Certificates authorising treatment for incapacitated adults under Section 47 of the 2000 Act are valid for a limited amount of time. Whilst the Act is in force, the time limit on such certificates shall not expire, and will continue to run unless there is another cause for the certificate to cease to have effect. ○ Section 58(4) of the 2000 Act provides that guardianship orders will generally be for a period of three years or such other period (including an indefinite period) as the court determines. If the guardianship order is for a limited time, then whilst the Act is in force, the time limit will pause and the guardianship order will continue to have effect. ○ Section 60 of the 2000 Act provides that existing guardianship orders may be continued by a Sheriff for five years, or such other period as may be determined. While the Act is in force, the time limit on any renewed guardianship orders will pause and the guardianship order will continue to have effect.
Relevant Council Service / ALEO	Social Work

CORONAVIRUS LEGISLATION

9

Function	Community Payback Orders
Act	Coronavirus (Scotland) Act 2020
Content	<p><u>Community payback orders: extension of unpaid work or other activity requirements</u> Paragraph 12 of Schedule 4 of the Act extends by 12 months the period within which unpaid work or other activity requirements for pre-Act Community Payback Orders (“CPOs”) must be completed.</p> <p>These measures will allow justice social work to suspend all unpaid work programmes for the duration of the pandemic without affecting the ability of individuals to complete their hours within court-directed timescales – and the Scottish Government has encouraged all local authorities to now do so, if this decision has not already been taken.</p> <ul style="list-style-type: none"> • Subparagraph (7) places a duty on local authorities to inform those subject to the relevant CPOs of the changes made by this provision (e.g. that the period within which the unpaid work or other activity requirement has been extended, and by how much). <p><u>Community payback orders: time limit for completion of unpaid work or other activity</u> The Act gives the Scottish Ministers the power to postpone certain orders (CPOs and DTTOs), or requirements contained in those orders (including by reference to type of offence or individual), for a specified period – essentially pressing pause on these until such time as the situation improves. On the expiry of the specified period, the orders or requirements would progress as if no time had elapsed since the postponement was put in place (moving forward relevant timescales/deadlines to account for this), allowing the requirements to be carried out once restrictions related to the pandemic are lifted.</p> <ul style="list-style-type: none"> • Should this power be used, the Act places a duty on local authorities to inform those subject to the relevant orders of any changes made by this provision. <p><u>Community orders: postponement</u> Paragraph 14 of Schedule 4 of the Act enables the Scottish Ministers, by regulations, to postpone the effects of CPOs (but not unpaid work or other activity) or drug treatment and testing orders (“DTTOs”).</p> <ul style="list-style-type: none"> • Subsection (7) places a duty on local authorities to inform those subject to the relevant CPOs or DTTOs of the changes made under any such regulations (e.g. that certain requirements in their order have been postponed, and for how long). <p><u>Community orders: variation</u></p>

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The Act also gives the Scottish Ministers the power to vary (without making more onerous or severe) the requirements of community orders or DTTOs which have been imposed by the courts.

- As with the above, there would be a **duty on local authorities to inform those subject to the relevant orders of any changes made by this provision.**

The Scottish Government work closely with Social Work Scotland and others to identify exactly if, when, and how these measures should be used.

Relevant Council Service / ALEO	Social Work
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CORONAVIRUS LEGISLATION

9

Function	Licensing (Non-Alcohol)
Act	Coronavirus (Scotland) Act 2020
Content	<p>The following temporary amendments are made to the Civic Government (Scotland) Act 1982 (“the 1982 Act”):</p> <p>The period of time within which licensing authorities are obliged to make a decision upon an application as detailed in section 3(1)(b) of the 1982 Act is increased from six months to nine months.</p> <p>The provisions contained within section 7(7) of the 1982 Act require that where the holder of a licence is convicted of: failing to notify the licensing authority of a material change of circumstances; making any material change in any premises, vehicle or vessel; or failing to deliver his licence to the licensing authority, the clerk of the court must transmit to the licensing authority an extract of such conviction and sentence within six days of the date of the conviction. If this transmission cannot occur because of a reason relating to coronavirus, the transmission can be completed as soon as reasonably practicable. The same amendment is made to the provisions within the 1982 Act relating to offences committed by second-hand dealers and metal dealers.</p> <p>Schedule 1 of the 1982 Act is amended as follows by Schedule 6 of the Act:</p> <ul style="list-style-type: none"> • Provides that publication of a notice on the licensing authority’s website is an additional means of providing public notice of a licensing application as required by paragraph 2(8) of Schedule 1. • Amends the time limit within which a licensing authority may accept a late renewal application within as set out in paragraph 8(5A) of Schedule 1 from 28 days to three months. • Removes the requirement upon licensing authorities as set out in paragraph 10(3) of Schedule 1 to invite notifiable persons to attend when a variation of a licence is being considered. • Extends the time limit set out in paragraph 13(2)(a) of Schedule 1 within which a holder of a licence must deliver said licence to the licensing authority from seven days to 14 days, and provides that if such deadline cannot be adhered to for reasons relating to coronavirus, the licence must be deliver as soon as reasonably practicable. • The obligation upon licensing authorities set out within paragraph 17(1) of Schedule 1 to provide a written statement of reasons within 10 days is extended to 15 days; and where a licensing authority cannot give reasons for a decision within 15 days for reasons relating

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to coronavirus, it must notify the person that made the request that there will be a delay and provide them with the written statement of **reasons as soon as reasonable practicable**.

- New provisions in relation to hearings are inserted as paragraphs 18B, 18C, 18D, 18E and 18F to Schedule 1. The new provisions state that if a **hearing** cannot be held in person because of a reason relating to coronavirus, the licensing authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by either **telephone, written** (or email) communications or **video** conferencing (if the authority has the necessary facilities).

The amendments to Schedule 1 of the 1982 Act are replicated in relation to the provisions of Schedule 2 (control of sex shops) of the 1982 Act.

Relevant Council Service / ALEO	Licensing
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CORONAVIRUS LEGISLATION

9

Function	Alcohol Licensing
Act	Coronavirus (Scotland) Act 2020
Content	<p><u>Part 1 - Hearings</u></p> <p>Schedule 5 sets out the legislative modifications to the operation of provisions in section 133 of the Licensing (Scotland) Act 2005 (“the 2005 Act”) relating to requirements falling on Licensing Boards to hold hearings. The addition of four new subsections (3A) to (3D) provides flexibility for the Licensing Board in respect of holding hearings in person. New subsection (3A) enables the Licensing Board to determine that a hearing cannot be held in person, or at a meeting of the Licensing Board because of reasons relating to coronavirus. Where such a determination is made, the Board must comply with new subsection (3C) before reaching a decision on the matter which would have been the subject of the hearing. New subsection (3C) obliges the Licensing Board to give any person who would have been heard at the hearing the opportunity to be heard either by telephone, written representations (including by electronic communication) or, where available, by video conference. Subsection (3D) ensures that any procedural requirements made by regulations under section 133(2) are classed as being adhered to notwithstanding a hearing in person has not taken place.</p> <p><u>Part 2 - Premises Licences</u></p> <p>Schedule 5 of the Act provides modifications to the operation of provisions under Section 28 of the 2005 Act, as if new subsection (5A) were inserted into that section relating to premises licences. The effect of this is to put beyond doubt that a premise that ceases to sell alcohol for a temporary period, as a result of the coronavirus outbreak, is not to be classed as a premises ceased to be used for the sale of alcohol by virtue of section 28(5)(b) of the 2005 Act. This means that a premises licence will not cease to have effect by virtue of a premises temporarily closing for a reason relating to coronavirus.</p> <p>Section 34 of the 2005 Act enables applications for the transfer of a premises licence to be made by certain persons other than the licence holder. Such applications have to made within 28 days of the occurrence of certain events mentioned in section 28(5). Schedule 5 of the Act provides discretion for Licensing Boards to be able to accept applications for the transfer of premises licences after the 28-day deadline. This discretion, contained in new section 34(1A) of the 2005 Act, is available where the Licensing Board considers it appropriate in respect of the coronavirus outbreak. The Act makes a consequential change to section 28 of the 2005 Act to the effect that a premises licence continues to have effect when a late transfer application is accepted by the</p>

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Licensing Board. By virtue of section 28(3) of the 2005 Act, the licence ceases to have effect if that application is ultimately refused.

Part 3 - Licensing Board's powers on review

Further modifications have been made relating to review hearings provided for in section 39 of the 2005 Act. As a result of discretion being provided for Licensing Boards to decide not to hold a hearing in person, modifications are necessary to ensure that decisions made under review, which may now not be made through a hearing in person, are valid for the purposes of taking steps mentioned in section 39(2)(a) issue a written warning to the licence holder; (b) to make a variation of the licence; (c) to suspend the licence for such period as the Board may determine; and (d) to revoke the licence. Before such steps are taken the Licensing Board must have complied with the new section 133(3C), which provides that the **applicant is to be given the opportunity to be heard by either telephone, written representations or video conferencing**. These modifications are provided for in new section 39(3A).

Part 4 - Provisional premises licence

The Act modifies the operation of section 45 of the 2005 Act, by adding a new subsection (7A) relating to provisional premises licences. The effect is that the existing discretion for a Licensing Board to extend a provisional premises licence for a period to be determined by the Board remains, but where a person is applying for an extension for the first time and it is for reasons related to the coronavirus outbreak, then a **6 month extension** must be granted. Further extensions can continue to be considered through the operation of section 45.

Part 5 - Dismissal, resignation, death etc of premises manager

Schedule 5 of the Act modifies the operation of section 54 of the 2005 Act relating to circumstances where a premises manager is no longer able to undertake their duties. **Additional time (28 days instead of 7 days)** is provided for the premises licence holder to notify the Licensing Board that any of the events in section 54(2) have occurred: (a) the premises manager ceases to work at the premises; (b) the premises manager becomes incapable for any reason of acting as premises manager; (c) the premises manager dies; or (d) the personal licence held by the premises manager is revoked or suspended.

Section 54(4)(b) of the 2005 Act is modified to the effect that instead of a premises licence variation application to substitute a new premises manager being required to be submitted to the Licensing Board within 6 weeks, a premises licence holder has **up to 3 months from the date of the loss of the premises manager. The Licensing Board can extend this period of 3 months for a further period of time for a reason relating to the coronavirus outbreak.**

Part 6 - Notification of extended hours application

The Act amends the operation of section 26 of the 2005 Act relating to notification periods to the Chief Constable of Police Scotland and Licensing Standards Officers in respect of extended hours applications. New section 69(2A) and (3A) provides for the Chief Constable and Licensing Standards Officers being required to advise the Licensing Board whether they can provide views within the 10-day period provided for in section 69. The **Licensing Board can accept views after this date if they consider it reasonable to do so.**

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Part 7 - Premises licences: mandatory conditions

The Act modifies the operation of paragraph 3 of schedule 3 of the 2005 Act relating to the requirement that any activity carried out on the premises is to be carried out in accordance with the operating plans for premises (which forms part of the premises licence). Schedule 5 of the Act puts beyond doubt that **if food is sold on the premises but the operating plan does not contain an express term to the effect that food may be taken away, or delivered, from the premises for consumption off the premises, a term to that effect is to be implied into the operating plan.**

Part 8 - Personal licence holders

A personal licence has effect for a period of 10 years from the date of issue, provided for under section 77 of the 2005 Act. On application by the licence holder, a personal licence can be renewed for further 10-year period. If a personal licence renewal application (made under section 78 of the 2005 Act) is not determined by a Licensing Board before the expiry date of the licence, the personal licence ceases to have effect.

Schedule 5 of the Act provides that where a personal licence renewal application is made and the Board has not determined the application before the expiry date, the **licence will continue to have effect for a period of 6 months**. This provides additional time for a Licensing Board to determine an application. This provides flexibility for Licensing Boards when capacity may be reduced due to the coronavirus outbreak, and is also necessary in light of the modifications made by schedule 5 of the Act.

Section 78 of the 2005 Act provides that a personal licence holder may make a personal licence renewal application during the period from 12 months prior to the expiry date up to three months prior to the expiry date. Schedule 5 of the Act has the effect that **a personal licence renewal application may be made up to the day before the expiry date of the licence. That is provided the Licensing Board is satisfied that, for a reason relating to coronavirus, the licence holder was unable to make the application within the usual period allowed.** This means a personal licence holder is no longer required to apply for renewal at least 3 months prior to the expiry date.

Schedule 5 of the Act provides that if the Licensing Board is satisfied that the coronavirus outbreak means **completion of necessary training** cannot be done in line with the timescales in section 87 of the 2005 Act, the **Licensing Board can extend the period up to a length of time of their choosing for completion of the necessary training** and for the licence holder to provide evidence of having undertaken said training. The Licensing Board can, by virtue of new section 87(3B), extend the period on more than one occasion if this is necessary for a reason relating to coronavirus.

Part 9 - Annual Functions Report

Schedule 5 of the Act modifies section 9A of the 2005 Act to provide a new timescale for a Licensing Board to publish their annual functions report if they are unable to adhere to the timings provided in section 9A(1) of the 2005 Act, for a reason relating to coronavirus. If a Board is unable to adhere to the timings in section 9A(1), which is to prepare and publish a report not later than 3 months after the end of each financial year, a notice is required to be published to this effect along with an estimate as to when the annual functions report will be published. The Act also provides that the **functions report must be published not later than 9 months after the end of the financial year** (meaning the year ending on 31 March). Similar modifications are made to section 9B of the 2005 Act by schedule 5 of the Act, relating to annual financial reports of Licensing Boards.

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Part 10 - Power to relieve failure to comply with rules and other requirements

Section 135 of the 2005 Act allows a Licensing Board to relieve any applicant or other party to proceedings before the Board of certain procedural failings. This is where the failure is due to mistake, oversight or other excusable cause and the Board considers it appropriate in all the circumstances to relieve the failure. Section 135(3) defines what is meant by “procedural provision” for the purposes of that section. Section 135 is extended by schedule 5 of the Act to include procedural failings of Licensing Boards. **This is only where the failure is due to an excusable cause that relates to coronavirus.**

Part 11 - Licensing Boards

Schedule 1 of the 2005 Act makes further provision in relation to Licensing Boards. Schedule 5 of the Act provides that schedule 1 of the 2005 has effect as if various modifications were made. New paragraph 10(1A) of Schedule 1 provides that a Licensing Board may decide to delegate decision-making over any matter listed in paragraph 10(2) (e.g. determining the Board’s policy; overprovision of licensed premises; premises licence applications; variations or transfer of a premises licence etc.) to a Committee of the Board consisting of **no fewer than 3 members**. Such a delegation can only take place if a Licensing Board considers it necessary for a reason relating to coronavirus.

New paragraphs 11(2A) to (2C) of schedule 1 provide for an increased length of time, **9-month period**, for new members of Licensing Boards to have undertaken necessary training where an extension to comply with training requirements is necessary as a result of the coronavirus outbreak.

Consequential changes are made to the Licensing (Training) (Scotland) Regulations 2007 (S.S.I. 2007/95) by Schedule 5 of the Act. Where the period to undergo training and provide evidence of such has been extended, the disqualification from taking part in proceedings of the Licensing Board (in paragraph 10(3) of schedule 1) is removed. However, that is subject to new paragraph 11(3A)(b) which provides that the **member must not take part in proceedings of the Licensing Board until the clerk of the Board has briefed the member about the role of a member of the Board, about decision-making by public authorities and about the different licences governed by the 2005 Act.**

Paragraph 12(1) of schedule 1 of the 2005 Act is modified so the **quorum for a meeting of a Licensing Board is one-third of members rather than one-half**. The proviso that the quorum is, in any case, not fewer than 3 members is maintained.

Paragraph 12(2) of schedule 1 is modified so that the Licensing Board does not have to meet in public if it cannot do so as a result of the coronavirus outbreak. A similar modification is made to paragraph 5(3) of schedule 2 relating to meetings of Local Licensing Forums.

Part 12 - Modifications of duties of Licensing Standards Officers

Schedule 5 of the Act sets out a number of modifications to the operation of provisions in the 2005 Act relating to Licensing Standards Officers.

Part 13 - Statements of licensing policy

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Schedule 5 of the Act modifies sections 16, 57 and 73A of the 2005 Act respectively. These modifications provide for different timescales for completion of training and other procedures provided for in those sections. The **period within which the course is to be undertaken may be extended on one or more occasion**, by the (or each) council which appointed the Officer, **but must not be extended beyond the date that is 12 months after the date which the course would have had to be undertaken**. The different timescales will provide additional flexibility during the Coronavirus outbreak.

Part 14 - Notifications

The Act amends the operation of a number of provisions in the 2005 Act relating to the Chief Constable of Police Scotland being required to respond within 21 days to a notice from the Licensing Board. The purposes of the responses are to provide information to Licensing Boards in respect of various licensing matters.

The provisions which are modified are: section 21 (notification of premises licence application); section 24 (applicant's duty to notify of convictions); section 24A (Licensing Board's power to request antisocial behaviour report); section 33 (notification of premises licence transfer application); section 44 (notification of conviction); section 73 (notification of personal licence application); section 75 (applicant's duty to notify of convictions); and section 83 (notification of conviction) of the 2005 Act.

The effect of the modifications is that if the Chief Constable is unable to offer views within 21 days due to reasons relating to coronavirus, the Licensing Board must be advised of this and given a reasonable timeframe for when the Chief Constable expects to be able to provide views.

Part 16 - Modifications of the Licensing (Procedure) (Scotland) Regulations 2007

Schedule 5 of the Act modifies the operation of the Licensing (Procedure) (Scotland) Regulations 2007 (S.S.I. 2007/343) ("the Procedure Regulations").

Regulations 12 and 13 of the Procedure Regulations provide that hearings under various provisions of the 2005 Act must take place within a certain time period. The Act provides that the Procedure Regulations have effect as if regulations 12A and 13A were inserted to those Regulations. New regulations 12A(1) and 13A(1) provide that if, for a reason relating to coronavirus, a Licensing Board is unable to hold a hearing within the period required by regulation 12 (no later than 119 days after the premises licence application or application for variation has been lodged) or regulation 13 (no later than 42 days after the relevant date), the **Board must hold the hearing as soon as reasonably practicable after the end of that period**. New regulations 12A(2) and 13A(2) of the Procedure Regulations make consequential provision in light of the modifications to section 133 of the 2005 Act made by schedule 5 of the Act.

Regulation 15 of the Procedure Regulations requires the clerk of a Licensing Board to issue a statement of reasons for certain decisions of the Board within 14 days of receipt of a notice requesting those reasons. Where, for a reason relating to coronavirus, reasons cannot be issued within 14 days, the modification made by schedule 5 of the Act enables the **clerk to notify the person who required the statement of reasons to be given that there will be a delay and to issue the statement of reasons as soon as reasonably practicable after the end of the 14 day period**.

Regulation 20(2) to (4) of the Procedure Regulations requires a Licensing Board to carry out certain duties related to updating of licences or issuing replacement licences or summaries of licences, within

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14 days of certain events. Where, for a reason relating to coronavirus, a Licensing Board is unable to carry out those duties within 14 days, schedule 5 of the Act provides that the Board is to respond **as soon as reasonably practicable** afterwards.

Relevant Council Service / ALEO	Licensing
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CORONAVIRUS LEGISLATION

9

Function	Freedom of Information
Act	Coronavirus (Scotland) Act 2020 Coronavirus (Scotland) (No.2) Act 2020
Content	<p>Paragraph 6 of schedule 6 to the Coronavirus (Scotland) Act 2020 provides that when considering appeals made under section 47(1) of the FOISA, the Scottish Information Commissioner may decide to take into account the impact of coronavirus on the authority where an authority has failed to comply with the timescales set out in section 10(1) and 21(1) of FOISA. If the Commissioner is satisfied that the failure was due to the effect of the coronavirus on the authority, and that it was reasonable in all the circumstances for the authority not to comply with the timescales, then the Commissioner has the discretion to find that the authority did not fail to comply with the relevant timescales.</p> <p>Part 7 of Schedule 4 to the Coronavirus (Scotland) (No.2) Act Act amends paragraph 6 of schedule 6 to the Coronavirus (Scotland) Act 2020 by inserting a new sub-paragraph 6(2)(aa) immediately after 6(2)(a). New sub-paragraph 6(2)(aa) provides that if a Scottish public authority fails to comply with relevant timescales for responding to a request for information because that authority had been following the amended timescales for response as introduced by schedule 6 of the Coronavirus (Scotland) Act 2020, then the Commissioner may decide that the authority has not failed to comply. In addition, part 7 of schedule 4 to the Act amends paragraph 6 of Schedule 6 to the Coronavirus (Scotland) Act 2020 by inserting a new sub-paragraph 6(2A) immediately after 6(2). Paragraph 6(2A) provides that when considering if the failure of a Scottish public authority to meet the required timescales in responding to a request for information, the Commissioner must regard the public interest test as the primary consideration.</p>
Relevant Council Service / ALEO	All Services and ALEOs

CORONAVIRUS LEGISLATION

9

Function	Statutory Reporting
Act	Coronavirus (Scotland) Act 2020
Content	
<p>Paragraph 8 of Schedule 6 applies to any statutory duty, within the competence of the Scottish Parliament to amend, that requires the Scottish Ministers or a Scottish public authority to publish a report in connection with the exercise of their functions on or by a particular date.</p> <p>The public authority may decide to postpone complying with such a statutory duty if they consider that doing so would impede their ability to take action to combat coronavirus. If they decide to make such a postponement, they must publish a statement to that effect, on or before the date the report is due or as soon as reasonably practical afterwards and the statement must indicate that that the report will be published once the coronavirus outbreak is over.</p> <p>In addition, where a statutory duty exists which requires the public authority to physically publish or publicise a document, make a document available for physical inspection, give notice of where such a document can be inspected, or lay a document before the Scottish Parliament, the public authority may decide not to comply with such a duty, if they consider that doing so may give rise to a significant risk of transmission of coronavirus, or it would be ineffective or inappropriate due to action taken to control the incidence or transmission of coronavirus. Where they decide not to comply with the duty, they must (if possible) publish, give notice of or make the document or information available electronically. It should be noted that this provision of the Act only applies to statutory duties which the Scottish Parliament has legislative competence to amend.</p> <p>Once the Act has ceased to have effect, if the Scottish Ministers or a Scottish public authority decided not to comply with a duty to publish, lay, notify or make a document available physically, they must take steps to comply with the duty, or publish a statement setting out why they are not complying.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CORONAVIRUS LEGISLATION

9

Function	Local Authority Meetings
Act	Coronavirus (Scotland) Act 2020
Content	<p>The following temporary amendments are made to the Local Government (Scotland) Act 1973 with regard to local authority meetings:</p> <p>Section 50A is amended to provide that, for the duration of the coronavirus crisis, local authorities have the power to exclude the public from its meetings if the local authority considers that the presence of members of the public would create a real or substantial risk to public health, specifically relating to infection or contamination by coronavirus.</p> <p>Section 50H(2)(b) is amended to temporarily remove the obligation upon local authorities to provide hard copies of documents when requested by a member of the public, and instead provides that the local authority must only provide such hard copies if it is reasonably practicable to do so.</p>
Relevant Council Service / ALEO	Democratic/Chief Executive's Department

CORONAVIRUS LEGISLATION

9

Function	Planning
Act	Coronavirus (Scotland) Act 2020 Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021 The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020
Content	
<p><u>Planning Consent</u></p> <p>Schedule 7 of the Act provides effect as if new subsections (3B) to (3E) were inserted into section 58 of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”).</p> <p>In terms of section 58(1) and (2), planning permission lapses if development has not begun by the end of a specified period, usually of 3 years, from the date that the planning permission is granted. Subsection (3B) has the effect that if planning permission would under the normal rules under subsection (1) or (2) lapse during the “emergency period”, then the period within which development is to be commenced is extended by the extended period. This means that planning permission due to expire within the emergency period would instead lapse at the end of the extended period unless development has already commenced.</p> <p>In terms of section 59(4) planning permission in principle lapses if development has not begun by the end of a specified period, usually of 2 years, from the date on which the last requisite approval is obtained. Subsection (8A) has the effect that if planning permission in principle were to lapse during the emergency period it would not under subsection (8A) lapse until at the end of the extended period if the development to which the permission relates has not begun.</p> <p>The Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021 provide that the “emergency period” is the period which began on 7 April 2020 and will end on 30 September 2021 and the “extended period” is the period which began on 7 April 2020 and will end on 31 March 2022.</p> <p><u>Listed Building Consent</u></p> <p>The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the 1997 Act”) requires that listed building consent be obtained prior to undertaking works to listed buildings, and that conservation area consent be obtained prior to the demolition of buildings within conservation</p>	

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areas. An award of listed building consent normally expires three years after the date upon which consent was granted, unless the works permitted by the consent have begun.

Part 2 of schedule 4 to the Act amends section 16 of the 1997 Act to **extend the duration of a listed building consent or a conservation area consent** that would otherwise lapse during the emergency period because works authorised by the consent have not begun.

The Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021 provide that the “emergency period” is the period which began on 27 May 2020 and will end on 30 September 2021 and the “extended period” is the period which began on 27 May 2020 and will end on 31 March 2022.

Amendments to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Regulation 2 of the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 **removes the requirement** (under Regulation 7 of the 2013 Regulations) for an applicant who submits an application for planning permission between 24 April 2020 and up to six months following the expiry of the 2020 Act to hold **at least one public event** where members of the public may make comments to the prospective applicant as regards the proposed development.

Amendments to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Where a planning authority is required to review a case by virtue of section 43A(8) of the Town and Country Planning (Scotland) Act 1997, Regulation 7 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 provides that meetings of the local review body must be held in public. Regulation 3 of the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 **removes the requirement for meetings of the local review body to be held in public** during the emergency period.

Relevant Council Service / ALEO

NRS

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CORONAVIRUS LEGISLATION

9

Function		Planning
Act	Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2020 Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment (No.2) Order 2020	
Content		
<p>Class 72C permitted development allows local authorities and certain health service bodies to carry out development for the purposes of preventing an emergency; reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with an emergency. For these purposes, an emergency is an event or situation which threatens serious damage to human welfare in a place in the United Kingdom.</p> <p>The development permitted is subject to conditions which are set out in paragraph (3) of Class 72C. These conditions include a requirement that any use of the land for the purposes of Class 72C ceases on or before 1 July 2021.</p>		
Relevant Council Service / ALEO		NRS

CORONAVIRUS LEGISLATION

9

Function	Education – Placing Requests
Act	The Education (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 The Education (Deemed Decisions) (Coronavirus) (Scotland) Amendment Regulations 2020
Content	<p><u>Amendments to the Education (Placing in Schools Etc-Deemed Decisions) (Scotland) Regulations 1982</u></p> <p>Regulation 4(1)(a) of the Education (Placing in Schools Etc-Deemed Decisions) (Scotland) Regulations 1982 (“the 1982 Regulations”) provides that an education authority shall be deemed to have refused a placing request received by them on or prior to 15 March in respect of the first term of the next school year by 30 April. Regulation 4(1)(b) of the 1982 Regulations also states that in relation to any placing request which does not fall within the scope of regulation 4(1)(a), an education authority will be deemed to have refused such a placing request two months following receipt of the request.</p> <p>Regulation 2 of the 2020 Regulations amends the time limits set out within regulation 4(1) of the 1982 Regulations from 30 April to 31 May; and from two months to three months, therefore giving education authorities a further month in which to come to a decision on a placing request before it will be deemed to have been refused.</p> <p>Regulation 5(1)(a) of the 1982 Regulations provides that if an appeal committee fails to hold a hearing within two months of receiving reference of an appeal in relation to the refusal of a placing request, the appeal committee shall be deemed to have upheld the decision of the education authority. Regulation 5(1)(c) of the 1982 Regulations provides that if the appeal committee fails to comply with a relevant provision of the Education Act 1980 in relation to an appeal (such as the requirement under section 28E(3) to notify their decision and the reasons for it in writing to the parent who made the reference and to the education authority and, where they confirm the authority’s decision, to inform the parent of his right of appeal to the sheriff) within 14 days following the conclusion of the hearing, the appeal committee shall be deemed to have upheld the decision of the education authority.</p> <p>Regulation 2 of the Regulations amends Regulation 5(1) of the 1982 Regulations to replace the reference in Regulation 5(1)(a) from two months to four months; and to replace the reference in Regulation 5(1)(c) from 14 days to 28 days.</p>

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Amendments to the Education (Appeal Committee Procedures) (Scotland) Regulations 1982

Regulation 3 of the 2020 Regulations amends the Education (Appeal Committee Procedures) (Scotland) Regulations 1982 as follows:

- Inserts a definition of “hearing” to include reference to a form of hearing conducted in whole or in part by video link, telephone or other means of instantaneous multi-party electronic communication.
- Extends the time limit set out in Regulation 5 within which an appeals committee must acknowledge receipt of a reference to them by an education authority from five working days to 28 days.
- Amends Regulation 7 to provide that an appeal committee must hold the hearing as soon as reasonably practicable within three months of receiving a reference from an education authority. This increases the time period by two months and provides further flexibility.
- Amends Regulation 8(1) to remove the time limits within which an appeal committee must give notification to the appellant and the education authority of the date of a hearing, instead providing that such notification should be given as soon as reasonably practicable.
- Amends the requirement under Regulation 9(1) that combined hearings must be held within 28 days of receipt of the reference to instead provide that such hearings must be held as soon as reasonably practicable within three months of receipt of the reference.
- Inserts new Regulation 11A, which provides that references may be considered by appeal committees on the basis of written representations by the parties, rather than by way of a hearing.
- Amends the requirement under Regulation 14 that the appeal committee must notify the appellant of their decision and the reasons for such decision in writing within 14 days after the hearing to within 28 days.

Amendments to the Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005

Regulation 4 of the 2020 Regulations amends the Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005 as follows:

- Amends Regulation 3(a) to provide that an education authority shall be deemed to have refused a placing request received by them on or prior to 15 March in respect of the first term of the next school year by 31 May, rather than 30 April.
- Amends Regulation 3(b) to provide that in respect of any placing request which does not fall within the scope of Regulation 3(a), an education authority will be deemed to have refused such a placing request four months following receipt of the request, rather than two months.
- Amends Regulation 4(a) to provide that if an appeal committee have failed to hold a hearing within the period of four months (rather than two months, as previously provided) immediately

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following receipt by the committee of a reference, the committee shall be deemed to have confirmed the decision of the education authority on a placing request.

- Amends Regulation 4(c) to provide that if an appeal committee fails to provide sufficient notification of their decision within 28 days (rather than 14 days) of the conclusion of the hearing, the committee shall be deemed to have confirmed the decision of the education authority on a placing request.
- Amends Regulation 6 to provide that when a parent or young person refers a decision of an education authority on a placing request to the appeal committee, the education authority must make all relevant information in relation to their decision available in writing to the parent or young person as soon as reasonably practicable (rather than immediately, as previously provided).

Relevant Council Service / ALEO

Education

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CORONAVIRUS LEGISLATION

9

Function		Education – Free School Meals
Act		The Education (Scotland) Act 1980 (Modification) Regulations 2020
Content		
<p>Section 53(2) of the 1980 Act provides that an education authority must provide or secure the provision of a school lunch (as defined in section 53(12) of the 1980 Act) free of charge to pupils falling within section 53(7). Section 53(7)(aa) of the 1980 Act provides that a pupil falls within section 53(7) if the parents of the pupil are in receipt of an award of child tax credit and working tax credit where the income as calculated for the purpose of awarding those tax credits does not exceed £6,900. The effect is that pupils who fall within the prescribed description are entitled to be provided with a school lunch free of charge.</p> <p>Regulation 2 of the 2020 Regulations amends section 53(7)(a) of the 1980 Act to substitute the new figure of £7,330 for the current figure of £6,900.</p>		
Relevant Council Service / ALEO		Education

CORONAVIRUS LEGISLATION

9

Function	Sale of Food and Drink
Act	The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020 Education (Deemed Decisions) (Coronavirus) (Scotland) Amendment Regulations 2020
Content	<p>During the emergency period, a person who is responsible for a community centre must ensure that it is closed, aside from being used to provide essential voluntary activities or urgent public support services, provided that a distance of two metres is maintained between every person on the premises.</p> <p>During the emergency period, a person who is responsible for a crematorium or burial ground must ensure that the crematorium is closed to members of the public, except for funerals or burials where reasonable measures are taken to ensure that a distance of two metres is maintained between every person on the premises of the crematorium during the funeral or burial. Burial grounds may remain open during the emergency period.</p> <p>A local authority may designate a “relevant person” to enforce the requirements set out in Regulations 3 and 4. The relevant person may take such action as is necessary to enforce any requirement imposed by Regulations 3 and 4, including giving a prohibition notice to a person if the relevant person reasonably believes that the person is contravening a requirement in the Principal Regulations, and it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.</p>
Relevant Council Service / ALEO	Education/NRS/Social Work and ALEOs

CORONAVIRUS LEGISLATION

9

Function	Landlord – Commercial Leases
Act	Coronavirus (Scotland) Act 2020
Content	
<p>Section 4 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (“the 1985 Act”) provides that a landlord must give a tenant at least 14 days’ notice before terminating a commercial lease due to non-payment of rent. Schedule 7 of the Act provides that section 4 of the 1985 Act has effect as if this period is 14 weeks. This will mean that landlords will have to give at least 14 weeks’ notice to tenants before being able to terminate a commercial lease for non-payment of rent by the tenant.</p>	
Relevant Council Service / ALEO	NRS/City Property (Glasgow)

CORONAVIRUS LEGISLATION

9

Function	
Function	Registrars
Act	Coronavirus (Scotland) (No. 2) Act 2020
Content	
<p>Part 9 of Schedule 1 to the Act provides that Scottish Ministers must, in conjunction with the Registrar General of Births, Deaths and Marriages for Scotland, take such steps they consider to be necessary to ensure that the solemnisation of marriages and civil partnerships continues to be available in Scotland whilst Part 1 of the Act is in force. Any steps taken must ensure that the ability of persons to exercise rights under article 12 (right to marry) of the European Convention on Human Rights is not disproportionately interfered with for reasons relating to coronavirus.</p>	
Relevant Council Service / ALEO	City Registrars/CED

CORONAVIRUS LEGISLATION

9

Function	Finance
Act	Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020
Content	
<p>As set out in Regulation 6, if an employer has paid out a sum of money to any employee to top up the income to their expected income, that employer is entitled to seek reimbursement of that amount from the Fund. In order to make a claim, an employer of a relevant social care worker must provide satisfactory evidence to the Scottish Ministers, or those who are administering the Fund on their behalf, that all of the criteria in Regulation 6(2) have been met. This includes verification of the fact that any relevant social care worker meets the conditions set out in Regulation 3.</p> <p>An employer is not entitled to seek the reimbursement of any costs from the Fund to the extent that it has received any payments or funding from any other public body or person designed to reimburse them for that amount.</p>	
Relevant Council Service / ALEO	Financial Services

CORONAVIRUS LEGISLATION

9

Function	Care Homes
Act	Coronavirus (Scotland) Act 2020
Content	<p>Part 6 of schedule 1 to the Act provides that if, for a reason relating to coronavirus, a person or body (other than a local authority or a health body) providing care home services or care at home services has recently ceased to provide the services; is in serious financial difficulty; or the relevant local authority or health body is satisfied that there is a threat to the life, health or wellbeing of the persons receiving the services, such care provider may be acquired by a local authority or health body.</p> <p>In the circumstances noted above, a local authority may by agreement acquire a body providing care home services or care at home services, or any assets or liabilities held by such bodies. In addition, a health body may, on behalf of the Scottish Ministers, by agreement acquire a body providing care home services or any asset or liability of such a provider. Within this part of the Act “health body” is defined as a Health Board, the Common Services Agency or Healthcare Improvement Scotland. When exercising this power, a health body must comply with a direction given by the Scottish Ministers in relation to the new functions conferred on it. Any such directions made by the Scottish Ministers must be in writing and must be published in such manner as the Scottish Ministers consider appropriate.</p> <p>A care provider is to be regarded as being in serious financial difficulty if it notifies Social Care and Social Work Improvement Scotland (“SCSWIS”) of an insolvency event under regulation 6A, 6B 35 or 6C of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011.¹ As soon as practicable after receiving notification of such an insolvency event, SCSWIS must inform any local authority and Health Board in whose areas the services are being provided; the Common Services Agency; and Healthcare Improvement Scotland that such notification has been received.</p> <p>In order for a local authority or health body to be satisfied that there is a threat to the life, health or wellbeing of the persons receiving care services, it must consult SCSWIS; any other local authority in whose area the services are being provided; any Health Board in whose area the services are being provided, the Common Services Agency; Healthcare Improvement Scotland, and such other persons or bodies as it considers appropriate (if any). From the drafting of the Act, it is not clear if a local authority/health body is required to consult with all of the aforementioned bodies, or one of them. The recommended approach is to consult all.</p>

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Relevant Council Service / ALEO	Social Work
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CORONAVIRUS LEGISLATION

9

Function	
Function	Care Homes
Act	Coronavirus (Scotland) (No. 2) Act 2020
Content	
<p>Part 8 of schedule 1 to the Act provides for the insertion of a new section 79A immediately following section 79 of the Public Services Reform (Scotland) Act 2010.</p> <p>New section 79A specifies that while paragraph 18 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is in force, any person who provides a care home service must make a report to SCSWIS every day on the number of deaths of residents in the care home from coronavirus; the number of deaths of residents in the care home suspected to be attributable to coronavirus; and the total number of deaths in the care home irrespective of whether or not they are attributable to coronavirus.</p>	
Relevant Council Service / ALEO	Social Work

CORONAVIRUS LEGISLATION

9

Function		Care Homes
Act		The Care Homes Emergency Intervention Orders (Coronavirus) (Scotland) Regulations 2020
Content		
<p>The Council must comply as soon as practicable after receiving it with a request by the Scottish Ministers to provide information for the purpose of enabling or assisting them to decide whether to make an application to the court or exercise the powers to intervene under section 65A of the 2010 Act.</p>		
Relevant Council Service / ALEO		Social Work

CORONAVIRUS LEGISLATION

9

Function	
Function	Non-Domestic Rates
Act	
Act	The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020 The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2021
Content	
<p>All non-domestic properties in Scotland will get be entitled to varying forms of rates relief for financial years 2020/21 and 2021/22. The Regulations do not provide for a process by which the two different reliefs may be applied for by businesses, therefore local authorities will be responsible for applying the discount to rates bills.</p>	
Relevant Council Service / ALEO	
Relevant Council Service / ALEO	Financial Services

CORONAVIRUS LEGISLATION

9

Function	Council Tax
Act	Coronavirus (Scotland) (No.2) Act 2020
Content	<p>Part 9 of Schedule 4 to the Act amends the Council Tax (Exempt Dwellings) (Scotland) Order 1997.</p> <p>Paragraph 12A is inserted after paragraph 12 of the 1997 Order (Dwellings occupied by students, etc.) and extends the classes of exempt dwellings to a dwelling which became unoccupied for a reason relating to coronavirus on or after 17 March 2020, was immediately prior to becoming unoccupied, an exempt dwelling in terms of paragraph 10 or 12 of the 1997 Order (i.e. dwellings occupied by students, persons under the age of 18, and dwellings which are not the sole or main residence of any person), and which remains unoccupied.</p>
Relevant Council Service / ALEO	Financial Services

CORONAVIRUS LEGISLATION

9

Function	Council Tax
Act	Council Tax Reduction (Scotland) Amendment (Coronavirus) Regulations 2021
Content	
<p>A one-off £500 payment that is to be made to Scotland's NHS and social care workers is to be disregarded by local authorities, for the purposes of council tax reduction, in calculating a person's income and capital.</p>	
Relevant Council Service / ALEO	Financial Services

CORONAVIRUS LEGISLATION

9

Function	
Function	Traffic Authority
Act	Coronavirus (Scotland) (No. 2) Act 2020
Content	
<p>Part 10 of Schedule 4 to the Act amends section 15 of the Road Traffic Regulation Act 1984.</p> <p>The amendment provides that where the traffic authority makes an order to restrict or prohibit temporarily the use of a footpath, bridleway, restricted byway, cycle track or byway open to all traffic, the maximum duration of the order will increase from 6 months to 18 months.</p> <p>Where an authority that has made an order subject to the 18-month time limit makes such a request to the national authority, the national authority may direct that the order shall continue in force for a further period from the date on which it would otherwise cease to be in force. For this purpose, the national authority is the Scottish Ministers or, where the function is not exercisable within devolved competence, the Secretary of State.</p>	
Relevant Council Service / ALEO	NRS

CORONAVIRUS LEGISLATION

9

Function	Enforcement of Coronavirus Regulations
Act	Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020
Content	<p>The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 (“the Regulations”) were made in exercise of the power conferred by paragraph 1(1) of Schedule 19 of the UK Coronavirus Act 2020 (“the Act”). The Scottish Government is using powers conferred by that Act to bring forward regulations to give local authorities greater enforcement powers in respect of businesses, premises, events and access to public outdoor places. These Regulations also make provision for the Scottish Ministers to give a direction to a local authority requiring the authority to give a direction to businesses, premises, events or in relation to access to public outdoor places.</p> <p><u>Necessity and Proportionality</u></p> <p>A direction may only be given if the local authority considers that the necessity and proportionality conditions set out in regulation 3(1) are met. Regulation 3(1) states that direction may only be given for:</p> <ul style="list-style-type: none"> • the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection by Coronavirus; and • that the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose <p>Before making a direction under these Regulations, a local authority must have regard to any guidance issued by the Scottish Ministers under regulation 2(1), as it is amended from time to time. The local authority must also have regard to any guidance issued by the Scottish Ministers under regulation 4A of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020.</p> <p>In accordance with regulation 3, the local authority must review the direction at least once every 7 days and it must be revoked or revoked and replaced when it is determined on review that the requirements of necessity and proportionality are no longer met.</p>

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The local authority **must** publicise the making of a direction given under these Regulations in accordance with regulation 9 and inform any **neighbouring** local authority that such a direction has been made, in accordance with regulation 10.

Powers of the Scottish Ministers to impose directions on local authorities

Regulation 4(1) provides that the Scottish Ministers may **give a direction** to a local authority requiring the authority to give a direction under regulation 5(1), 6(1) or 7(1), if the Scottish Ministers consider that the conditions in regulation 3(1)(a) and (b) would be met in relation to the local authority direction. If the Scottish Ministers consider that **one or both** of the conditions in regulation 3(1)(a) or (b) is **no longer** met in relation to a direction under regulation 5(1), 6(1) or 7(1) given by a local authority, the Scottish Ministers must direct the **local authority** to revoke the direction without replacement or revoke the direction and replace it with a further direction.

Individual Premises

Regulation 5(1) provides for directions relating to individual **premises**. These regulations state that a direction may be given for the purpose of:

- **closing** premises;
- **restricting entry** to the premises, or
- **securing restrictions** in relation to the location of persons in the premises.

Directions **cannot** be given to:

- any premises consisting of vehicles, trains, vessels or aircraft used for **public transport** or the carriage or haulage of **goods**; or
- a vessel not falling within paragraph (a) above, where the direction would be likely to have the effect of **preventing** a change-over of crew.

A direction under 5(1) may only have the effect of imposing a prohibition, requirement or restriction on:

- the **owner** or any **occupier** of premises to which the direction relates; or
- any other person involved in managing **entry** into, or **departure** from, such premises or the location of persons in them.

A direction under 5(1) may impose a prohibition, requirement or restriction by reference to, among other things:

- the **number** of persons in the premises,
- the **purpose** for which a person is in the premises,
- the **facilities** in the premises.

A person in relation to whom a direction under 5(1) imposes a prohibition, requirement or restriction **may appeal** against the direction to a sheriff.

Specified Events

Regulation 6(1) states that a local authority may give a direction imposing prohibitions, requirements or restrictions in relation to the holding of a **specified event** in its area.

A direction under 6(1) may only have the effect of imposing prohibitions, requirements or restrictions on:

- the **owner** or any **occupier** of premises for an event to which the direction relates;
- the **organiser** of such an event, and
- any other person **involved** in holding such an event.

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The reference in paragraph (2)(c) to a person **involved** in the holding of an event **does not** include attendees of the event.

A direction under 6(1) may, among other things, impose requirements about **informing** persons who may be planning to attend an event of any prohibitions, requirements or restrictions imposed in relation to the holding of it.

A person in relation to whom a direction under 6(1) imposes a prohibition, requirement or restriction may **appeal** to a sheriff.

Public Outdoor Places

Regulation 7(1) **states that** a local authority may give a direction imposing prohibitions, requirements or restrictions in relation to **access** to a specified **public outdoor** place in its area.

A direction under 7(1) may in particular prohibit access at **specified times**.

A direction under 7(1) must:

- specify the public outdoor place or places to which it relates in sufficient detail to enable the **boundaries** of the place or places to be determined;
- state the **date and time** on which any prohibition, requirement or restriction imposed by the direction comes into effect, and the date and time on which it will **cease** to have effect; and
- give details of the right of **appeal** to a sheriff, and the time within which such an appeal may be brought.

The date and time mentioned in paragraph (3)(a) when the prohibition, requirement or restriction ceases to have effect must be **no later than 21 days** after it comes into effect.

Where a local authority gives a direction under 7(1) it must take reasonable steps to:

- give **advance notice** of the direction to a person carrying on a **business** from premises within a public outdoor place to which the direction relates; and
- to ensure that the direction is brought to the attention of any person who **owns, occupies** or is **responsible** for any land or premises in a specified public outdoor place to which the direction relates.

Any person who owns, occupies or is responsible for land or premises in a specified public outdoor place to which a direction under 7(1) relates may **appeal** to a sheriff.

Regulation 8(1) states that a local authority which has given a direction under regulation 7(1) must take all reasonable steps to **prevent or restrict** public access to the specified public outdoor place or places to which the direction relates in accordance with the direction.

Any person, other than a local authority who owns, occupies or is responsible for land in a specified public outdoor place to which a direction under regulation 7(1) relates must take all reasonable steps to **prevent or restrict** public access to that land in accordance with the direction.

No person may **enter or remain** in a specified public outdoor place to which a direction under 7(1) relates in contravention of a prohibition, requirement or restriction imposed by the direction.

Offences, Penalties and Enforcement

Regulation 11 provides that a direction made under these Regulations may be **enforced** by an officer designated by a **local authority** or a **constable**.

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Regulation 11A (inserted by the The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020) gives the local authority officer the power of entry, by force if necessary, in certain circumstances; and authorises the officer to require a person to give their name and address.

Regulation 12 makes provision for **offences and penalties** under these Regulations.

Regulation 13 provides that a **fixed penalty** may be issued by a **constable** to any person they **reasonably** believe has committed an offence under these Regulations who is **aged 18** or over. The effect of regulation 13(6) is that Fixed Penalty Notices (FPNs) issued to a person under regulation 8 of the **Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020** and regulation 9 of the **Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020** will be taken into account in determining the **penalty payable** where a FPN is issued under these Regulations.

Regulation 14 makes a parallel amendment to the **Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020** in order that FPNs issued under these Regulations will be taken into account in determining the penalty payable in relation to a FPN issued under them.

Relevant Council Service / ALEO

All Services and ALEOs

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CORONAVIRUS LEGISLATION

9

Function	Elections
Act	The Representation of the People (Absent Voting at Local Government Elections) (Amendment) (Coronavirus) (Scotland) Regulations 2020 The Scottish Parliament (Elections etc.) Amendment (Coronavirus) Order 2021
Content	
<p>Local Government</p> <p>Paragraph 4 of schedule 4 of the Representation of the People Act 2000 makes provision for absent voting at a particular election in Scotland and subparagraph (2)(a) specifically provides that the returning officer shall grant an application to vote by proxy where satisfied that the applicant's circumstances of the date of the poll will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant.</p> <p>These regulations amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 to enable individuals shielding or self-isolating to apply for an "emergency proxy" by adding applications by individuals following Scottish Government or medical advice in relation to coronavirus to the categories of applications listed in regulation 11(4) of those regulations which shall be refused if they are received after 5 p.m. on the day of the poll at the election for which they are made.</p> <p>Scottish Parliament</p> <p>Article 2(3) allows applications for waiver to be made based on a short-term inability to do something.</p> <p>Article 2(4) allows an elector to apply to change the proxy appointed to vote for them where their existing proxy cannot reasonably attend a polling station at an election for reasons related to coronavirus and is not a proxy voter who votes by post. Provision is also made for review of the need for these applications and for them to cease on 10 December 2022.</p> <p>Article 2(5) disapplies the cut-off date that would usually apply to applications for appointment of a proxy (which is 5 pm on the sixth day before the poll) and allows the application to be made up to 5 pm on the day of the poll.</p>	

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Relevant Council Service / ALEO
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Electoral Registration Office

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CORONAVIRUS LEGISLATION

9

Function	Local Authority Accounting
Act	The Local Authority (Capital Finance and Accounting) (Scotland) (Coronavirus) Amendment Regulations 2021
Content	
<p>Regulation 3 amends the 2016 Regulations to enable a local authority to defer repayment of borrowing in either, but not both, the 2020-21 financial year or the 2021-22 financial year. If the local authority has taken a decision since 31 March 2020 to vary an existing repayment by increasing it, the increase that has been made by that variation is not available for deferral.</p> <p>A decision to defer repayment must be taken by the local authority itself, and be accompanied by the setting of a new repayment plan for the borrowing in respect of which it has deferred the repayment. Limits are set on the ability of a local authority to defer repayment, so that it must be repaid within a period no longer than 20 years following the financial year in which the deferral occurs. However, the local authority may use its powers under regulation 14(2) of the 2016 Regulations subsequently to vary the repayment period, where it considers a variation to be prudent.</p> <p>Regulation 5 amends dates set by the 2014 Regulations which prescribe when local authorities must approve and publish audited accounts. The amended dates are 31 Oct and 15 Nov 2021.</p> <p>The amendments made by regulation 6 provide that from 1 April 2022 the requirement for local authorities to set repayment periods and amounts will be replaced for loans fund advances that are made on or after that date. The new arrangements will require a local authority to repay new loans fund advances in accordance with proper accounting practices. Paragraph (3) continues existing arrangements for the repayment of any loans fund advances that are made prior to 1 April 2022, allowing the local authority to continue to vary any such advance, where the local authority considers it prudent to do so.</p> <p>Paragraph (4) of regulation 6 revokes the ability to defer repayment of borrowing that is introduced by regulation 3, since from 1 April 2022 its purpose will be spent.</p>	
Relevant Council Service / ALEO	Financial Services

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