

APPENDIX 3(f)

PROPOSED NEW WORDING & RENUMBERED (proposed changes explained in table below)

DIRECTOR OF CHILDREN, FAMILIES AND JUSTICE

Subject to the General Provisions and Limitations as appropriate and in addition to the General Delegations, the Director of Children, Families and Justice has the following powers: -

1. GENERAL

- 1.1.** to promote social welfare including giving help in kind or in cash in terms of Sections 12 and 13 of the Social Work (Scotland) Act 1968;
- 1.2.** to pay expenses of parents, relatives or other connected persons in respect of visiting a person in care or attending the funeral of a person or child in terms of Section 29 of the Social Work (Scotland) Act 1968;
- 1.3.** to grant leave of absence with salary to enable staff to undertake approved courses, subject to appropriate provision having been made in the approved estimates of expenditure;
- 1.4.** to prepare and publish information about relevant social work services for children in the Council's area in terms of Section 20 of the Children (Scotland) Act 1995;
- 1.5.** to provide services to safeguard and promote the welfare of children who are in need and to promote the upbringing of such children by their families in terms of Section 22 of the Children (Scotland) Act 1995;
- 1.6.** to respond to requests from the education authority for assessment of young person's needs;
- 1.7.** to provide appropriate care for school children in need within the Council's area outside school hours or during school holidays in terms of Section 27(3) of the Children (Scotland) Act 1995;
- 1.8.** to provide day care for children in need within the Council's area who are aged 5 or under and who have not yet started school in terms of Section 27(1) of the Children (Scotland) Act 1995;
- 1.9.** to provide advice, guidance and assistance for children under 19 years of age but over school age who were previously in the care of a Council or voluntary organisation in terms of Section 29 of the Children (Scotland) Act 1995;
- 1.10.** to provide financial help towards maintaining, educating or training people over school age in terms of Section 30 of the Children (Scotland) Act 1995;
- 1.11.** to make enquires and provide information to the Scottish Children's Reporter Administration (SCRA) where children may require compulsory measures of supervision in terms of Section 60 of the Children's Hearing (Scotland) Act 2011;

- 1.12. to apply to a Sheriff for a child assessment order in terms of Section 35 of the Children's Hearings (Scotland) Act 2011;
- 1.13. to provide reports on children and their social background for a Children's Hearing in terms of section 66 of the Children's Hearings (Scotland) Act 2011;
- 1.14. to apply for a child protection order in terms of Sections 37 to 39 of the Children's Hearings (Scotland) Act 2011;
- 1.15. to apply to a Justice of the Peace for an emergency child protection authorisation in terms of section 55 of the Children's Hearings (Scotland) Act 2011;
- 1.16. to put into effect a supervision requirement made by a Children's Hearing and to recommend a review of such a supervision requirement or ask for an advice hearing to be held in terms of the Children's Hearings (Scotland) Act 2011;
- 1.17. to provide home help and laundry facilities in terms of Section 14 of the Social Work (Scotland) Act 1968;
- 1.18. to arrange for the burial or cremation of any person who was in the care of, or receiving help from, the Council immediately before their death and to recover expenses not reimbursed, in terms of Section 28 of the Social Work (Scotland) Act 1968.

2. CHILDREN – GENERAL

- 2.1. to discharge the functions of the Council in relation to Section 11 of the Matrimonial Proceedings (Children) Act 1958;
- 2.2. following consultation with the Chief Social Work Officer; to cause an inquiry to be held into the Council's functions under the Children (Scotland) Act 1995 in so far as those functions relate to children in terms of Section 6B of the Social Work (Scotland) Act 1968;
- 2.3. to pay allowances in respect of the maintenance of children in terms of Section 50 of the Children Act 1975;
- 2.4. to consult on, prepare and publish a two-year plan for day care services to children in need in terms of Section 55 of the Children and Young People (Scotland) Act 2014;
- 2.5. to request help in the exercise of any functions that the Council has under Part II of the Children (Scotland) Act 1995 from a specified person in terms of Section 21 of the Children (Scotland) Act 1995;
- 2.6. in any case of urgent necessity, to direct that a child who is obliged to reside in a specified place be transferred to another place in his/her interests or in the interests of other children in terms of Section 72(1) of the Children (Scotland) Act 1995;
- 2.7. to apply to a Sheriff for an exclusion order in terms of Section 76 of the Children (Scotland) Act 1995;

- 2.8. to apply for the attachment of a power of arrest at any time while an exclusion order has effect in terms of Section 78(2) of the Children (Scotland) Act 1995;
- 2.9. to undertake the duties and responsibilities of the council under Part 4 of the Social Work (Scotland) Act 1968.

3. CHILDREN – LOOKED AFTER

- 3.1. to recover contributions in respect of children who are looked after by the authority in terms of Section 78A of the Social Work (Scotland) Act 1968;
- 3.2. to safeguard and promote the welfare of children looked after by the Council in terms of Section 17 of the Children (Scotland) Act 1995;
- 3.3. to provide accommodation for children in terms of Section 25 of the Children (Scotland) Act 1995;
- 3.4. to provide accommodation for children looked after by the Council in terms of Section 26 of the Children (Scotland) Act 1995;
- 3.5. upon receipt of notification in terms of Section 36(1) of the Children (Scotland) Act 1995 to determine whether the child's welfare is adequately safeguarded and whether to exercise any functions under the Act in terms of Section 36(2);
- 3.6. to provide short-term refuge to children who appear to be at risk of harm and who themselves request to be provided with such refuge in terms of Section 38 of the Children (Scotland) Act 1995;
- 3.7. to review cases of children looked after by the Council in terms of Section 31 of the Children (Scotland) Act 1995;
- 3.8. to remove children from residential establishments in terms of Section 32 of the Children (Scotland) Act 1995;
- 3.9. to provide and maintain such residential and other establishments as are required for the Council's functions in terms of Section 59 of the Social Work (Scotland) Act 1968 or under Part II of the Children (Scotland) Act 1995, or arrange for the provision of such establishments;
- 3.10. to assess and approve kinship carers and foster carers in accordance with the provisions of the Looked After Children (Scotland) Regulations 2009;
- 3.11. to ensure that there is an assessment of need in relation to any person to whom they have a duty under Section 29 of the Children (Scotland) Act 1995 (aftercare for persons who have been looked after by local authorities) and as amended by Section 73 of the Regulation of Care (Scotland) Act 2001;
- 3.12. to operate a procedure as approved by the Council for considering representations made by any relevant person seeking assistance, guidance or advice from the Council under Section 29 of the Children (Scotland) Act 1995.

4. CHILDREN – WITH OR AFFECTED BY A DISABILITY

- 4.1. to ensure that services provided under Section 22 of the Children (Scotland) Act 1995 to a child with or affected by a disability are designed to minimise the

effect of his/her disability, or to minimise the effect of the disability of a family member on the child and to provide the opportunity for the child to lead as normal a life as possible in terms of Section 23(1) of the Children (Scotland) Act 1995;

- 4.2. to carry out an assessment (if asked to do so by the child's parent or guardian) of the child with or affected by disability or any other person in his/her family in order to ascertain the child's needs in so far as they are attributable to his/her disability or that of another person in terms of Section 23(3) of the Children (Scotland) Act 1995;
- 4.3. to assess a carer's ability to provide, or to continue to provide, care for a disabled child when asked to do so by the carer in terms of the Carers (Scotland) Act 2016.

5. CHILDREN - ADOPTION

- 5.1. to provide an adoption service to children who may be adopted, persons who have been adopted and others affected by adoption as defined in Section 1 of the Adoption and Children (Scotland) Act 2007;
- 5.2. in coming to a decision relating to the adoption of a child, to regard the need to safeguard and promote the welfare of the child throughout the child's life as the paramount consideration in terms of the Adoption and Children (Scotland) Act 2007;
- 5.3. to consider whether adoption is likely best to meet the needs of the child or whether there is some better, practicable alternative for the child in terms of Section 14(6) of the Adoption and Children (Scotland) Act 2007;
- 5.4. to investigate the circumstances and submit a report to the Court in respect of a child for whom an adoption order is being sought in terms of Section 17 of the Adoption and Children (Scotland) Act 2007;
- 5.5. to pay adoption allowances in terms of Section 71 of the Adoption and Children (Scotland) Act 2007 and the Adoption Support Services and Allowances (Scotland) Regulations 2009;
- 5.6. to make an assessment of the needs of a person for adoption support services and decide on the provision of such services in terms of Section 9 of the Adoption and Children (Scotland) Act 2007;
- 5.7. to approve prospective adopters under the Adoption Agencies (Scotland) Regulations 2009.

6. JUSTICE

- 6.1. to undertake the duties and responsibilities of the Council in relation to the Criminal Procedure (Scotland) Act 1995;
- 6.2. to undertake the duties and responsibilities of the Council in relation to Section 27 and 27ZA of the Social Work (Scotland) Act 1968 including the provision of advice, guidance and assistance for persons who are in prison or subject to any other form of detention and to provide the necessary social background reports and other reports to the court as required;

- 6.3. to provide supervision for the purpose of assisting and advising an offender in regard to payment of a fine in terms of Section 217 of the Criminal Procedure (Scotland) Act 1995;
- 6.4. to ensure that persons who have been convicted of sexual offences are assessed and supervised under the terms and guidance of the Sexual Offences Act 2003;
- 6.5. to assist in the diversion of persons suffering from mental disorder who may be at risk to themselves from a custodial remand, either to hospital or to appropriate bail accommodation in accordance with the Criminal Procedure (Scotland) Act 1995;
- 6.6. to operate a bail information and supervision scheme in accordance with the Criminal Procedure (Scotland) Act 1995;
- 6.7. to supervise, as required, offenders made subject to an Order for Lifelong Restriction (OLR) in accordance with the Criminal Justice (Scotland) Act 2003;
- 6.8. to undertake the duties and functions of the Council in managing offenders pre, during and post sentence in relation to the Prisoners and Criminal Proceedings (Scotland) Act 1993;
- 6.9. to work with the Community Justice Partners to provide appropriate planned and co-ordinated delivery of community offender services in accordance with the Community Justice (Scotland) Act 2016;
- 6.10. to undertake the duties and functions of the Council in working with partner agencies to make arrangements for assessing, managing and reviewing the risk from sex and violent offenders in accordance with Section 10 and 11 of the Management of Offenders etc (Scotland) Act 2005.

7. PROCUREMENT

- 7.1. In accordance with Procurement Standing Order 16.5.1, to enter into a contract with one provider where the requirement falls within the Health and Social Services classification designated within Schedule 3 of the Public Contracts (Scotland) Regulations 2015 and the Contract Value does not exceed the Light Touch Regime threshold.

TABLE 1(f): PROPOSED CHANGES AND REASONS FOR PROPOSED CHANGES

DIRECTOR OF CHILDREN, FAMILIES AND JUSTICE				
TABLE OF CHANGES TO THE SCHEME OF DELEGATION				
NEW No.	OLD No.	WHAT IT USED TO SAY	WHAT IT NOW SAYS	REASON FOR CHANGE

1.1	New	New delegation added	to promote social welfare including giving help in kind or in cash in terms of Sections 12 and 13 of the Social Work (Scotland) Act 1968	To mirror Chief Integration Officer Delegation 61
1.2	3	NO CHANGE		N/A
1.3	49	NO CHANGE		N/A
1.4	16	to prepare and publish information about relevant services for children in the Council's area in terms of Section 20 of the Children (Scotland) Act 1995	to prepare and publish information about relevant social work services for children in the Council's area in terms of Section 20 of the Children (Scotland) Act 1995	Minor change in wording to specify 'social work' services
1.5	18	NO CHANGE		N/A
1.6	13	NO CHANGE		N/A
1.7	25	NO CHANGE		N/A
1.8	24	NO CHANGE		N/A
1.9	26	NO CHANGE		N/A
1.10	27	NO CHANGE		N/A
1.11	32	to make enquires and provide information to the Reporter to the Children's Panel where children may require compulsory measures of supervision in terms of Section 53 and 56(1) of the Children (Scotland) Act 1995;	to make enquires and provide information to the Scottish Children's Reporter Administration (SCRA) where children may require compulsory measures of supervision in terms of Section 60 of the Children's Hearing (Scotland) Act 2011	Amended to reference updated legislation and to specify the SCRA.
1.12	33	to have the power to apply to a Sheriff for a child assessment order in terms of	to apply to a Sheriff for a child assessment order in terms of Section 35 of the	Amended to include reference to updated legislation.

		Section 55 of the Children (Scotland) Act 1995;	Children's Hearings (Scotland) Act 2011	
1.13	34	to provide reports on children and their social background for a Children's Hearing in terms of Section 56(2) and/or (7) of the Children (Scotland) Act 1995	to provide reports on children and their social background for a Children's Hearing in terms of section 66 of the Children's Hearings (Scotland) Act 2011	Amended to include reference to updated legislation.
1.14	35	to have the power to apply for a child protection order in terms of Section 57 of the Children (Scotland) Act 1995	to apply for a child protection order in terms of Sections 37 to 39 of the Children's Hearings (Scotland) Act 2011	Amended to include reference to updated legislation.
1.15	37	to have the power to apply to a Justice of the Peace for an emergency child protection authorisation in terms of Section 61 of the Children (Scotland) Act 1995	to apply to a Justice of the Peace for an emergency child protection authorisation in terms of section 55 of the Children's Hearings (Scotland) Act 2011	Amended to include reference to updated legislation.
1.16	38	to put into effect a supervision requirement made by a Children's Hearing in terms of Section 71(1) of the Children (Scotland) Act 1995 and to recommend a review of such a supervision requirement or ask for an advice hearing to be held in terms of Section 73(4) of the Children (Scotland) Act 1995	to put into effect a supervision requirement made by a Children's Hearing and to recommend a review of such a supervision requirement or ask for an advice hearing to be held in terms of the Children's Hearings (Scotland) Act 2011	Amended to include reference to updated legislation.

1.17	New	New delegation added	to provide home help and laundry facilities in terms of Section 14 of the Social Work (Scotland) Act 1968	to mirror Chief Integration Officer Delegation 12
1.18	New	New delegation added	to arrange for the burial or cremation of any person who was in the care of, or receiving help from, the Council immediately before their death and to recover expenses not reimbursed, in terms of Section 28 of the Social Work (Scotland) Act 1968	to mirror Chief Integration Officer Delegation 13
2.1	1	to provide a report to the Court, on request, where the Court is considering any question relating to the care and upbringing of a child in terms of Section 11(1) of the Matrimonial Proceedings (Children) Act 1958;	to discharge the functions of the Council in relation to Section 11 of the Matrimonial Proceedings (Children) Act 1958	Amended wording.
2.2	2	to have the power to cause an inquiry to be held into the Council's functions under the Children (Scotland) Act 1995 in so far as those functions relate to children in terms of Section 6B of the Section 11 of the Matrimonial Proceedings Social Work (Scotland) Act 1968;	following consultation with the Chief Social Work Officer; to cause an inquiry to be held into the Council's functions under the Children (Scotland) Act 1995 in so far as those functions relate to children in terms of Section 6B of the Social Work (Scotland) Act 1968	Amendment made to consult with CSWO.

2.3	6	NO CHANGE		N/A
2.4	15	to prepare and publish a plan for the provision of relevant services for, or in respect of, children in the Council's area in terms of Section 19 of the Children (Scotland) Act 1995;	to consult on, prepare and publish a two-year plan for day care services to children in need in terms of Section 55 of the Children and Young People (Scotland) Act 2014;	Amendment made to align with updated legislation.
2.5	17	NO CHANGE		N/A
2.6	39	NO CHANGE		N/A
2.7	40	NO CHANGE		N/A
2.8	41	NO CHANGE		N/A
2.9	New	New delegation added	To undertake the duties and responsibilities of the council under Part 4 of the Social Work (Scotland) Act 1968;	To reflect the duties of the directorate.
3.1	5	NO CHANGE		N/A
3.2	14	NO CHANGE		N/A
3.3	22	NO CHANGE		N/A
3.4	23	NO CHANGE		N/A
3.5	30	NO CHANGE		N/A
3.6	31	NO CHANGE		N/A
3.7	28	NO CHANGE		N/A
3.8	29	NO CHANGE		N/A
3.9	36	NO CHANGE		N/A
3.10	45	to approve or de-register foster carers and to pay fostering allowances to approved foster carers under the Fostering of Children	to assess and approve kinship carers and foster carers in accordance with the provisions of the Looked After Children	Amendment made to allow delegation to align with updated legislation.

		(Scotland) Regulations 1996;	(Scotland) Regulations 2009.	
3.11	47	NO CHANGE		N/A
3.12	48	to operate a procedure as approved by the Council for considering representations (including complaints) made by any relevant person under Section 29 of the Children (Scotland) Act 1995 with a regard to the discharge of function under Section 73 of the Regulation of Care (Scotland) Act 2001;	to operate a procedure as approved by the Council for considering representations made by any relevant person seeking assistance, guidance or advice from the Council under Section 29 of the Children (Scotland) Act 1995	Removal of complaints reference as there is a formal complaints procedure.
4.1	19	NO CHANGE		N/A
4.2	20	NO CHANGE		N/A
4.3	21	to assess a carer's ability to provide, or to continue to provide, care for a disabled child when asked to do so by the carer in terms of Section 24 of the Children (Scotland) Act 1995;	to assess a carer's ability to provide, or to continue to provide, care for a disabled child when asked to do so by the carer in terms of the Carers (Scotland) Act 2016	Amendment made to reference updated legislation.
5.1	7	NO CHANGE		N/A
5.2	8	in coming to a decision relating to the adoption of a child, to regard the need to safeguard and promote the welfare of the child throughout the	in coming to a decision relating to the adoption of a child, to regard the need to safeguard and promote the welfare of the child throughout the child's life as the paramount	Removed reference to section for accuracy.

		child's life as the paramount consideration in terms of Section 14 of the Adoption and Children (Scotland) Act 2007	consideration in terms of the Adoption and Children (Scotland) Act 2007	
5.3	9	NO CHANGE		N/A
5.4	10	NO CHANGE		N/A
5.5	11	NO CHANGE		N/A
5.6	12	NO CHANGE		N/A
5.7	46	to approve prospective adopters under the Adoption Agencies (Scotland) Regulations 1996	to approve prospective adopters under the Adoption Agencies (Scotland) Regulations 2009	Amended to include reference to relevant legislation.
6.1	New	New delegation added	to undertake the duties and responsibilities of the Council in relation to the Criminal Procedure (Scotland) Act 1995.	Added a catch-all delegation to reflect the duties of the directorate.
6.2	50	to supervise and care for persons put on probation, released from prison, or subject to a community service order, and to provide the necessary social background reports and other reports to the court as required in terms of Section 27 of the Social Work (Scotland) Act 1968	to undertake the duties and responsibilities of the Council in relation to Section 27 and 27ZA of the Social Work (Scotland) Act 1968 including the provision of advice, guidance and assistance for persons who are in prison or subject to any other form of detention and to provide the necessary social background reports and other reports to the court as required.	Amended to include reference to section 27ZA.
6.3	51	NO CHANGE		N/A

6.4	53	to ensure that persons who have been convicted of sexual offences are assessed and supervised under the terms and guidance of the Sex Offenders Act 1997	to ensure that persons who have been convicted of sexual offences are assessed and supervised under the terms and guidance of the Sexual Offences Act 2003	Amended to include reference to updated legislation.
6.5	54	to assist in the diversion of persons suffering from mental disorder who may be at risk to themselves from a custodial remand, either to hospital or to appropriate bail accommodation in accordance with the Criminal Procedure (Scotland) Act 1995 – Section 2000	to assist in the diversion of persons suffering from mental disorder who may be at risk to themselves from a custodial remand, either to hospital or to appropriate bail accommodation in accordance with the Criminal Procedure (Scotland) Act 1995	Deletion of incorrect reference to section.
6.6	55	to operate a bail information and supervision scheme in accordance with the Bail (Scotland) Act 1995	to operate a bail information and supervision scheme in accordance with the Criminal Procedure (Scotland) Act 1995	Corrected reference to Act.
6.7	56	NO CHANGE		
6.8	57	to work closely with the Community Justice Authorities and the Scottish Prison Service to manage offenders pre, during and post sentence (Integrated Case Management) in accordance with the Management of Offenders etc (Scotland) Act 2005	to undertake the duties and functions of the council in managing offenders pre, during and post sentence in relation to the Prisoners and Criminal Proceedings (Scotland) Act 1993	Amended to reference relevant legislation

6.9	58	to work with the Community Justice Authority to provide appropriate planned and co-ordinated delivery of community offender services in accordance with Section 3 of the Management of Offenders etc (Scotland) Act 2005	to work with the Community Justice Partners to provide appropriate planned and co-ordinated delivery of community offender services in accordance with the Community Justice (Scotland) Act 2016	Amended to reference updated legislation and change from Community Justice 'Authorities' to 'Partners'.
6.10	59	to act with the Scottish Prison Service and Police to jointly establish arrangements for assessing, managing and reviewing the risk from sex and violent offenders in accordance with Section 10 and 11 of the Management of Offenders etc (Scotland) Act 2005	to undertake the duties and functions of the council in working with partner agencies to make arrangements for assessing, managing and reviewing the risk from sex and violent offenders in accordance with Section 10 and 11 of the Management of Offenders etc (Scotland) Act 2005	Amended wording to reference 'partner agencies'
7.1	New	New delegation added	In accordance with Procurement Standing Order 16.5.1, to enter into a contract with one provider where the requirement falls within the Health and Social Services classification designated within Schedule 3 of the Public Contracts (Scotland) Regulations 2015 and the Contract Value does not exceed the Light Touch Regime threshold	To align with proposed new Procurement Standing Orders.