



12 January 2011

NOTICE OF MEETING

A meeting of **ARGYLL AND BUTE COUNCIL** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **THURSDAY, 20 JANUARY 2011** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **MINUTES**
 - (a) Minute of Argyll and Bute Council Meeting 25 November 2010 (Pages 1 - 6)
 - (b) Minute of Special Argyll and Bute Council Meeting 6 December 2010 (Pages 7 - 14)
 - (c) Minute of requisitioned Argyll and Bute Council Meeting 5 January 2011 (Pages 15 - 18)
4. **POLITICAL MANAGEMENT ARRANGEMENTS**
 - (a) Report by Executive Director of Customer Services (Pages 19 - 40)
 - (b) Composition of the Council (Pages 41 - 42)
5. **UPDATE ON COUNCIL CONSTITUTION - ANTI FRAUD STRATEGY**
Report by Executive Director of Customer Services (Pages 43 - 88)

[Note: At the conclusion of the Council Meeting there will be a presentation on Equalities and Diversity by the Executive Director of Community Services]

COUNCIL

ALL MEMBERS

Contact: Sandra McGlynn Tel: 01546 604401

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**MINUTES of MEETING of ARGYLL AND BUTE COUNCIL held in the COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD
on THURSDAY, 25 NOVEMBER 2010**

Present:

Provost William Petrie (Chair)

| | |
|-------------------------|-----------------------|
| Councillor Chalmers | Councillor Mackay |
| Councillor Colville | Councillor MacMillan |
| Councillor Currie | Councillor McNaughton |
| Councillor Dance | Councillor McQueen |
| Councillor Devon | Councillor Marshall |
| Councillor Freeman | Councillor Morton |
| Councillor Hay | Councillor Mulvaney |
| Councillor Horn | Councillor Nisbet |
| Councillor Daniel Kelly | Councillor Philand |
| Councillor Donald Kelly | Councillor Reay |
| Councillor Kinniburgh | Councillor Robb |
| Councillor MacAlister | Councillor Robertson |
| Councillor McAlpine | Councillor Scoullar |
| Councillor McCuish | Councillor Semple |
| Councillor Macdonald | Councillor Simon |
| Councillor McIntosh | Councillor Strong |
| Councillor D MacIntyre | Councillor Walsh |
| Councillor R Macintyre | |

Attending:

Sally Loudon, Chief Executive
 Douglas Hendry, Executive Director of Customer Services
 Cleland Sneddon, Executive Director of Community Services
 Sandy Mactaggart, Executive Director of Development and Infrastructure
 Bruce West, Head of Strategic Finance
 Jane Fowler, Head of Improvement and HR
 Malcolm MacFadyen, Head of Facility Services
 Carol Walker, Head of Education

The Council received petitions from Ulva Primary School, Barcaldine Primary School and Glebnbarr Primary School with regard to the amalgamation of their schools with other Schools.

The Council heard a presentation by Lorna Elliot and Sheila McLean of Argyll and the Islands LEADER with regard to their programme for 2007-13 and highlighted Argyll and Bute Council projects funded to date.

The Council heard a presentation by Becs Barker of Neighbourhood Networks with regard to continuing to invest in the communities in Argyll and Bute.

1. APOLOGIES FOR ABSENCE

There were no apologies for absence intimated.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. MINUTES

The Council approved the Minutes of the Council Meeting of 7 October 2010 as a correct record.

The Council approved the Minutes of the Council Meeting of 2 November 2010 as a correct record.

4. AUDIT OF ACCOUNTS 2009/2010: MEMBERS LETTER/AUDIT OF ACCOUNTS AND CERTIFIED ACCOUNTS

The external auditors, Grant Thornton UK LLP, had completed their audit of the Council's accounts for the year to 31 March 2010. The Audited Accounts were submitted for consideration together with the Audit Certificate which the Council were asked to note contained no qualifications. The Head of Strategic Finance advised that the external audit report would be considered at the 6 December Council Meeting.

Decision

The Council noted the Audited Accounts and the terms of the Audit Certificate.

(Ref: Report by the Head of Strategic Finance dated 11 November 2010, 2009/2010 Annual Accounts and Audit Certificate, submitted)

5. BEST VALUE FOLLOW UP REVIEW

The Council considered the External Auditor's Best Value Follow up Review which was positive about the Council's progress and noted the challenges facing the Council. Two action points were highlighted in the report. The Chief Executive thanked the staff and elected members for all their hard work in achieving this progress.

Decision

The Council:-

1. Noted the outcome of the Best Value Follow up Review in particular the positive comments on progress made by the Council.
2. Noted that the action plan points were being addressed and will be monitored by the Audit Committee.

(Ref: Report by Chief Executive and Best Value and Community Planning Follow up Review dated November 2010, submitted)

6. STATEMENT OF GAMBLING POLICY 2007-2010

Section 349 of the Gambling Act 2005 provides that a licensing authority shall before each successive three year period, prepare a statement of the principles they propose to apply with respect to the exercise of their functions under the Act during that period and publish a statement. The Council considered the revised Statement of Gambling Policy 2007-2010 as submitted.

Decision

The Council approved the amendments to the policy as highlighted and agreed that Notice be given of this intention on the Councils website and the public notice board at the Councils headquarters and the notice boards at each of the area offices and agreed that the revised Statement of Gambling Policy will come into effect on 30 December 2010.

(Ref: Report by Executive Director of Customer Services and Gambling Policy dated November 2010, submitted)

7. PROGRAMME OF MEETINGS 2011/2012

The approved programme of meetings for the Council, Committees and Policy and Performance Groups runs until the end of April 2011. A programme of meetings for January 2011 to April 2012 was submitted for consideration.

Decision

Approved the programme of meetings as submitted by the Executive Director of Customer Services.

(Ref: Programme of meetings by the Executive Director of Customer Services, submitted)

8. REDUNDANCY POLICY

The Executive Committee, at its meeting on 4 November 2010 approved the Redundancy Policy subject to minor amendments. The Council considered the revised Redundancy Policy and Selection Criteria as submitted.

Decision

Approved the Redundancy Policy as per the Minute extract of the Executive Committee on 4 November 2010 as submitted as Appendix 1 to the report.

Noted for information, the amendment made to the Selection Criteria as submitted as Appendix 2 to the report.

(Ref: Report by Chief Executive, Redundancy Policy and Procedures and Selection Criteria dated November 2010, submitted)

The Council adjourned the meeting at 11.10am and reconvened at 12.00 noon.

9. EDUCATION REVIEW - REVIEW OF THE SCHOOL ESTATE

The Council considered the report by the Executive Director of Community Services together with the submitted Appendices with regard to the Education Review of the School Estate.

Motion

1. That the Council notes the contents of the reports, and the proposals at Annexes 1-6 thereof; and
2. That the Council agrees the recommendations numbered 1-4 contained within the report at Annex 2, thereof, Review of the School Estate – Amalgamation

Proposals. Specifically, under recommendation number 3, that Council agrees to proceed to statutory consultation in respect of:

1. Keills with Port Charlotte
 2. Ulva with Dervaig
 3. Lochdonhead with Salen
 4. North Bute with Rothesay
 5. Toward with Innellan
 6. Kilmodan with Strachur/Tighnabruaich
 7. Luss with Hermitage Primary
 8. Rosneath and Kilcreggan with Garelohead
 9. Parklands with Hermitage Academy/John Logie Baird
 10. Southend with Drumlemble
 11. Strone with Sandbank
 12. St Kieran's with Castlehill
 13. Ardchattan, Achaleven and Barcaldine with Lochnell
 14. Kilchrenan with Taynuilt
 15. Ardchonnell with Dalmally/Kilmartin
 16. Skipness, Rhunahaorine and Glenbarr with Clachan
 17. Ashfield with Tayvallich
 18. Achahoish with Ardrishaig
 19. Glassary and Minard with Lochgilphead
3. That the Council agrees the recommendation by the Executive Director of Community Services to withdraw the proposal to amalgamate Luing Primary School with Easdale Primary School.

Moved by Councillor Walsh, seconded by Councillor Marshall

Amendment

The Council instructs the Council Officers to withdraw the complete list of schools listed for possible amalgamation and return to the Council early in the new year with a reduced list of schools drawn up along the following parameters:-

1. That the numbers on the school roll indicate that the demand from the community for places is reducing to such an extent that the school is no long sustainable.
2. That the maximum journey time for any primary school pupil from pick up by school transport will be 30 minutes.

Moved by Councillor Robert Macintyre, seconded by Councillor Donald Kelly.

The requisite number of members required the vote to be taken by calling the roll, and members voted as follows:-

Motion

Councillor Colville
Councillor Currie
Councillor Dance
Councillor Hay
Councillor Daniel Kelly
Councillor Kinniburgh
Councillor Duncan MacIntyre
Councillor Mackay
Councillor MacMillan

Amendment

Councillor Chalmers
Councillor Devon
Councillor Freeman
Councillor Horn
Councillor Donald Kelly
Councillor MacAlister
Councillor McAlpine
Councillor McCuish
Councillor Macdonald

Councillor McQueen
Councillor Marshall
Councillor Morton
Councillor Mulvaney
Councillor Nisbet
Councillor Petrie
Councillor Reay
Councillor Robertson
Councillor Scoullar
Councillor Walsh

Councillor McIntosh
Councillor Robert Macintyre
Councillor McNaughton
Councillor Philand
Councillor Robb
Councillor Semple
Councillor Simon
Councillor Strong

Decision

The Motion was carried by 19 votes to 17 and the Council resolved accordingly.

(Ref: Reports and consultation proposals by Executive Director of Community Services dated November 2010, submitted)

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**MINUTES of MEETING of ARGYLL AND BUTE COUNCIL held in the COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD
on MONDAY, 6 DECEMBER 2010**

Present:

Provost William Petrie (Chair)

| | |
|-------------------------|------------------------|
| Councillor Chalmers | Councillor R Macintyre |
| Councillor Colville | Councillor Mackay |
| Councillor Currie | Councillor MacMillan |
| Councillor Dance | Councillor McNaughton |
| Councillor Devon | Councillor McQueen |
| Councillor Freeman | Councillor Marshall |
| Councillor Hay | Councillor Morton |
| Councillor Horn | Councillor Mulvaney |
| Councillor Daniel Kelly | Councillor Nisbet |
| Councillor Kinniburgh | Councillor Philand |
| Councillor MacAlister | Councillor Reay |
| Councillor McAlpine | Councillor Robb |
| Councillor McCuish | Councillor Robertson |
| Councillor Macdonald | Councillor Semple |
| Councillor McIntosh | Councillor Strong |
| Councillor D MacIntyre | Councillor Walsh |

Attending:

Sally Loudon, Chief Executive
 Douglas Hendry, Executive Director of Customer Services
 Cleland Sneddon, Executive Director of Community Services
 Sandy Mactaggart, Executive Director of Development and Infrastructure
 Bruce West, Head of Strategic Finance
 Charles Reppke, Head of Governance and Law
 Donald MacVicar, Head of Community Regeneration
 Dougie Dunlop, Head of Children and Families
 Malcolm MacFadyen, Head of Facility Services
 Carol Walker, Head of Education
 Angus Gilmour, Head of Planning

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Scoullar and Simon.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. POLITICAL MANAGEMENT ARRANGEMENTS

The Executive Director of Customer Services tabled a report which advised of the dissolution of the Coalition which had operated as the Administration of Argyll and Bute Council and invited the Council to consider the arrangements they now wished to put in place.

Motion

- (1) To note the dissolution of the Coalition between the Alliance of Independent Councillors and the SNP with effect from 2 December 2010.
- (2) (a) To amend the Council Constitution Scheme of Administration and Delegations paragraph 1.4.2
To add to the list of Executive positions contained at Section 1.4.2(1) "g Depute Provost"
- (b) To amend the Scheme of delegations as follows:-

Para 1.3.2. (1) to delete the current provision and substitute the undernoted:-

“(a) Sixteen Members, being 14 members drawn from the Partnership groups, including the Leader as Chair and the Depute Leader as Vice Chair, and 2 other Members (not being Members of a Partnership Group) in the composition of which regard will be had to the four decentralised areas of Argyll and Bute Council”.
- (3) That the undernoted appointments cease with immediate effect namely:-

Appointment

| | |
|--|-------------------------------|
| Depute Provost and Spokesperson for Education and Lifelong Learning | Councillor Isobel Strong |
| Depute Leader and Spokesperson for Economy Environment and Rural Affairs | Councillor Robert Macintyre |
| Spokesperson for Social Services | Councillor Donald McIntosh |
| Spokesperson for Third Sector | Councillor John Semple |
| Spokesperson for Housing and Communities | Councillor George Freeman |
| Depute Spokesperson for Housing And Communities | Councillor Anne Horn |
| Depute Spokesperson for Transport and Infrastructure | Councillor Roddy McCuish |
| Depute Spokesperson for Economy, Environment and Rural Affairs – Helensburgh & Lomond Area Chair | Councillor Ron Simon |
| Helensburgh & Lomond Vice Chair | Councillor George Freeman |
| Leader of the Largest Opposition Group – | Councillor Ellen Morton |
| Depute Spokesperson for Islands and European Affairs | Councillor Ellen Morton |
| | Councillor Alister MacAlister |

And as arising therefrom any position on any other body held as a consequence of said appointment will cease also with immediate effect.

- (4) (a) Having regard to 3 above that the following appointments be made to the undernoted positions and in terms of the Local Government (Scotland) Act 2004 (Remuneration) Regulations 2007 as amended, on the current basis of remuneration of such positions:-

Senior Councillors

| | |
|--|-------------------------|
| Depute Leader & Spokesperson for Education and Lifelong Learning | Councillor Ellen Morton |
|--|-------------------------|

| | |
|--|---------------------------|
| Spokesperson for Enterprise, Energy, Culture and Tourism . | Councillor Neil Mackay |
| Spokesperson for Social Affairs | Councillor Andrew Nisbet |
| Spokesperson for Environment | Councillor Bruce Marshall |
| Spokesperson for Rural and Islands Affairs, Housing and Gaelic | Councillor Robin Currie |
| Spokesperson for Third Sector and Communities | Councillor Rory Colville |
| Depute Provost & Spokesperson for European Issues | Councillor Len Scoullar |
| Chair Helensburgh and Lomond | Councillor Vivien Dance |

- (b) To note that the undernoted appointments continue on the current basis and remuneration.

| | |
|---|-----------------------------|
| Provost | Councillor William Petrie |
| Leader of the Council and Spokesperson for Leadership and Economy | Councillor Dick Walsh |
| Spokesperson for Transport and Infrastructure | Councillor Duncan MacIntyre |
| Chair - Bute and Cowal | Councillor Bruce Marshall |
| Chair – Mid Argyll, Kintyre and the Islands | Councillor Donald MacMillan |
| Chair – Oban, Lorn and the Isles | Councillor Duncan MacIntyre |
| Chair of PPSL | Councillor Daniel Kelly |

- (c) To appoint with immediate effect the undernoted Members shown in column 2 to the posts shown in column 1

| | |
|---|-----------------------------|
| Depute Spokesperson Education and Lifelong Learning | Councillor Vivien Dance |
| Depute Spokesperson Third Sector and Communities | Councillor Alex McNaughton |
| Depute Spokesperson Rural and Island Affairs, Housing and Gaelic. | Councillor Duncan MacIntyre |
| Depute Spokesperson Environment | Councillor Alison Hay |
| Depute Spokesperson Transport and Infrastructure | Councillor Al Reay |
| Depute Spokesperson Social Affairs | Councillor Elaine Robertson |
| Depute Spokesperson Enterprise, Energy, Culture and Tourism | Councillor Rory Colville |

- (d) To appoint with immediate effect Councillor Al Reay as Vice Chair of Helensburgh and Lomond Area Committee.

- (e) To note that Councillor Andrew Nisbet can no longer serve on the Audit Committee and to appoint a member of the opposition to the Audit Committee with immediate effect.

- (5) To note that the Executive be reconstituted consisting of 16 Members of the Council with immediate effect on the basis of a geographic spread of 4 Councillors from each Area as per the Schedule attached and to invite the Leaders of the Opposition groups to nominate one Member each from Bute and Cowal and Oban, Lorn and the Isles to be Members of the Executive.

- (6) To note that a further report will be submitted to the next Council on appointments to Outside Bodies.

APPENDIX

EXECUTIVE

| Area | Name |
|-------------|-----------------------------|
| B&C | Councillor Dick Walsh |
| MAKI | Councillor Rory Colville |
| MAKI | Councillor Robin Currie |
| H&L | Councillor Vivien Dance |
| H&L | Councillor Andrew Nisbet |
| MAKI | Councillor Alison Hay |
| B&C | Vacancy - opposition |
| B&C | Councillor Bruce Marshall |
| OLI | Councillor Duncan MacIntyre |
| MAKI | Councillor Donald MacMillan |
| H&L | Councillor Ellen Morton |
| H&L | Councillor Gary Mulvaney |
| OLI | Councillor Elaine Robertson |
| B&C | Councillor Len Scoullar |
| OLI | Councillor Neil Mackay |
| OLI | Vacancy - opposition |
| | Maureen Arthur |
| | David McEwan |
| | William Dalby |
| | Alison Palmer |
| | Vacant |

Moved by Councillor Walsh, seconded by Councillor Morton.

The Provost adjourned the meeting at 11.25am and reconvened at 11.50am.

Amendment

- (1) To note the dissolution of the Coalition between the Alliance of Independent Councillors and the SNP with effect from 2 December 2010.
- (2) To amend the Council Constitution Scheme of Administration and Delegations paragraph 1.4.2
To add to the list of Executive positions contained at Section 1.4.2(1) "g Depute Provost"
- (3) That the undernoted appointments cease with immediate effect namely:-

Appointment

| | |
|--|-----------------------------|
| Depute Provost and Spokesperson for Education and Lifelong Learning | Councillor Isobel Strong |
| Depute Leader and Spokesperson for Economy Environment and Rural Affairs | Councillor Robert Macintyre |
| Spokesperson for Social Services | Councillor Donald McIntosh |

| | |
|--|-------------------------------|
| Spokesperson for Third Sector | Councillor John Semple |
| Spokesperson for Housing and Communities | Councillor George Freeman |
| Depute Spokesperson for Housing And Communities | Councillor Anne Horn |
| Depute Spokesperson for Transport and Infrastructure | Councillor Roddy McCuish |
| Depute Spokesperson for Economy, Environment and Rural Affairs – Helensburgh & Lomond Area Chair | Councillor Ron Simon |
| Helensburgh & Lomond Vice Chair | Councillor George Freeman |
| Leader of the Largest Opposition Group – | Councillor Ellen Morton |
| Vice Chair of OLI | Councillor Ellen Morton |
| Depute Spokesperson for Islands and European Affairs | Councillor Roddy McCuish |
| | Councillor Alister MacAlister |

And as arising therefrom any position on any other body held as a consequence of said appointment will cease also with immediate effect.

- (4) (a) Having regard to 3 above that the following appointments be made to the undernoted positions and in terms of the Local Government (Scotland) Act 2004 (Remuneration) Regulations 2007 as amended, on the current basis of remuneration of such positions:-

Senior Councillors

| | |
|--|-----------------------------|
| Depute Leader | Councillor Robert Macintyre |
| Spokesperson for Education and Lifelong Learning | Councillor Isobel Strong |
| Spokesperson for Enterprise, Energy, Culture and Tourism . | Councillor Roddy McCuish |
| Spokesperson for Social Affairs | Councillor Donald McIntosh |
| Spokesperson for Environment | Councillor Robert Macintyre |
| Spokesperson for Rural and Islands Affairs, Housing and Gaelic | Councillor Ann Horn |
| Spokesperson for Third Sector and Communities | Councillor John Semple |
| Depute Provost | Councillor Isobel Strong |
| Spokesperson for European Issues | Councillor Len Scoullar |
| Chair Helensburgh and Lomond | Councillor George Freeman |

- (b) To note that the undernoted appointments continue on the current basis and remuneration.

| | |
|---|---------------------------|
| Provost | Councillor William Petrie |
| Leader of the Council and Spokesperson for Leadership and Economy | Councillor Dick Walsh |

| | |
|---|-------------------------------|
| Spokesperson for Transport and Infrastructure | Councillor Alister MacAlister |
| Chair - Bute and Cowal | Councillor Ron Simon |
| Chair – Mid Argyll, Kintyre and the Islands | Councillor John Semple |
| Chair – Oban, Lorn and the Isles | Councillor Donald Macdonald |
| Chair of PPSL | Councillor Daniel Kelly |

- (c) To appoint with immediate effect the undernoted Members shown in column 2 to the posts shown in column 1

| | |
|---|-----------------------------|
| Depute Spokesperson Education and Lifelong Learning | Councillor Vivien Dance |
| Depute Spokesperson Third Sector and Communities | Councillor Alex McNaughton |
| Depute Spokesperson Rural and Island Affairs, Housing and Gaelic. | Councillor Duncan MacIntyre |
| Depute Spokesperson Environment | Councillor Alison Hay |
| Depute Spokesperson Transport and Infrastructure | Councillor Al Reay |
| Depute Spokesperson Social Affairs | Councillor Elaine Robertson |
| Depute Spokesperson Enterprise, Energy, Culture and Tourism | Councillor Rory Colville |

- (d) To appoint with immediate effect Councillor Al Reay as Vice Chair of Helensburgh and Lomond Area Committee.

- (5) To note that the Executive be reconstituted consisting of 16 Members of the Council with immediate effect on the basis of a geographic spread of 4 Councillors from each Area as per the Schedule attached and to invite the Leaders of the Opposition groups to nominate one Member each from Bute and Cowal and Oban, Lorn and the Isles to be Members of the Executive.

- (6) To note that a further report will be submitted to the next Council on appointments to Outside Bodies.

APPENDIX

EXECUTIVE

| Area | Name |
|------|-----------------------------|
| B&C | Councillor Dick Walsh |
| MAKI | Councillor Rory Colville |
| MAKI | Councillor Robin Currie |
| H&L | Councillor Vivien Dance |
| H&L | Councillor Andrew Nisbet |
| MAKI | Councillor Alison Hay |
| B&C | Vacancy - opposition |
| B&C | Councillor Bruce Marshall |
| OLI | Councillor Duncan MacIntyre |
| MAKI | Councillor Donald MacMillan |
| H&L | Councillor Ellen Morton |
| H&L | Councillor Gary Mulvaney |
| OLI | Councillor Elaine Robertson |
| B&C | Councillor Len Scoullar |
| OLI | Councillor Neil Mackay |

OLI
Vacancy - opposition
Maureen Arthur
David McEwan
William Dalby
Alison Palmer
Vacant

Moved by Councillor R Macintyre, seconded by Councillor Strong.

The Provost adjourned the meeting at 12.10pm and reconvened at 12.20pm.

The requisite number of Members required the vote to be taken by calling the roll, and Members voted as follows:-

| Motion | Amendment | No Vote |
|-------------------------|------------------------|---------------------|
| Councillor Colville | Councillor Chalmers | Councillor McAlpine |
| Councillor Currie | Councillor Devon | Councillor Philand |
| Councillor Dance | Councillor Freeman | Councillor Robb |
| Councillor Hay | Councillor Horn | |
| Councillor Daniel Kelly | Councillor MacAlister | |
| Councillor Kinniburgh | Councillor McCuish | |
| Councillor D MacIntyre | Councillor Macdonald | |
| Councillor Mackay | Councillor McIntosh | |
| Councillor MacMillan | Councillor R Macintyre | |
| Councillor McNaughton | Councillor Semple | |
| Councillor McQueen | Councillor Strong | |
| Councillor Marshall | | |
| Councillor Morton | | |
| Councillor Mulvaney | | |
| Councillor Nisbet | | |
| Councillor Petrie | | |
| Councillor Reay | | |
| Councillor Robertson | | |
| Councillor Walsh | | |

Decision

The Motion was carried by 19 votes to 11 with 3 no votes and the Council resolved accordingly.

(Ref: Report by Executive Director of Customer Services dated 6 December 2010, tabled)

4. SERVICE REVIEWS

The Executive Committee had referred simpliciter for consideration by the Council today, all matters relating to the Service Reviews.

The Council considered the Report by the Head of Strategic Finance together with the Executive Summaries and Appendices as submitted with regard to the Service Reviews.

The Provost adjourned the meeting at 1.45pm and reconvened at 2.15pm.

Decision

The Council:-

1. Noted the terms of this report and the attached Appendices that contain the

executive summaries of the service reviews, the summary of preferred options, the consultation proposals for service reviews and the review of the impact of service reviews on GAE.

2. Noted that the preferred options detailed in Appendix 11 are management and operational matters and will be implemented by the relevant officers subject to the conclusion of any requirement for HR consultation.
3. Agreed to submit for public consultation the preferred options detailed in Appendix 12.
4. Approved the approach and timescale for consultation as laid out in Appendix 13 and noted that a report on the outcome of the consultation exercise will be submitted to the Council as part of its budget papers.
5. Noted the report on GAE implications.

(Ref: Report by Head of Strategic Finance dated 6 December 2010 and various Appendices, submitted)

5. AUDIT OF ACCOUNTS - EXTERNAL AUDITORS REPORT

The Council, at its meeting on 25 November 2010, previously agreed the Audited Accounts and the Audit Certificate with the External Audit report being deferred to this meeting. The Council considered the report by Head of Strategic Finance and External Audit report as submitted.

Decision

The Council noted:-

1. The External Auditors Governance Report for 2009-2010.
2. The External Auditors Final Report for 2009-2010.
3. That the action plans arising from the Governance Report and other reports prepared by the External Auditors will be monitored by the Audit Committee.

(Ref: Report by Head of Strategic Finance dated 1 December 2010 and External Audit report by Grant Thornton UK LLP, tabled)

**MINUTES of MEETING of ARGYLL AND BUTE COUNCIL held in the COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD
on WEDNESDAY, 5 JANUARY 2011**

Present:

Provost William Petrie (Chair)

| | |
|-------------------------|------------------------|
| Councillor Chalmers | Councillor R Macintyre |
| Councillor Colville | Councillor Mackay |
| Councillor Currie | Councillor MacMillan |
| Councillor Dance | Councillor McQueen |
| Councillor Devon | Councillor Marshall |
| Councillor Freeman | Councillor Morton |
| Councillor Hay | Councillor Mulvaney |
| Councillor Daniel Kelly | Councillor Philand |
| Councillor Donald Kelly | Councillor Reay |
| Councillor Kinniburgh | Councillor Robb |
| Councillor MacAlister | Councillor Robertson |
| Councillor McAlpine | Councillor Scoullar |
| Councillor McCuish | Councillor Semple |
| Councillor Macdonald | Councillor Simon |
| Councillor McIntosh | Councillor Strong |
| Councillor D MacIntyre | Councillor Walsh |

Attending:

Sally Loudon, Chief Executive
Douglas Hendry, Executive Director of Customer Services
Cleland Sneddon, Executive Director of Community Services
Carol Walker, Head of Education
Bruce West, Head of Strategic Finance
Charles Reppke, Head of Governance and Law
Malcolm MacFadyen, Head of Facility Services
Jane Fowler, Head of Improvement and HR

Prior to the start of Council Business, the Provost wished everyone a Happy New Year.

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Horn, McNaughton and Nisbet.

2. DECLARATION OF INTEREST

There were no declarations of interest intimated.

4. REVIEW OF THE SCHOOL ESTATE

This Special Meeting had been called in terms of a requisition under Standing Order 1.3.2 signed by Councillors Macintyre, Strong, Semple, Macdonald, McIntosh, Devon, McCuish, Chalmers and Philand for the purpose of revisiting the Review of the School Estate.

In terms of Standing Order 16.1 no motion which seeks to alter or revoke a decision of the Council or has that effect will be considered within a period of 6 months of the original decision. In terms of Standing Order 16.2 it would be competent to review a decision before the end of the 6 month period, provided that the Provost was satisfied

that a material change of circumstances had occurred.

The Provost ruled that he was satisfied that a material change of circumstance had occurred. He also ruled that items 3 and 4 on the Agenda were effectively about the same matter and that he would conjoin consideration of these and would deal firstly with the substantive item. The Council then considered the report by the Scottish Rural Schools Network as requested by the above named Councillors.

Motion

The Council:-

a) expresses its appreciation of the work which individuals, schools and communities have put in to the current consultation process; thus illustrating the benefits that have arisen from going out to consultation.

b) notes with concern the detail in the article that appeared in the Glasgow Herald article dated 4th January with the reference to the Minister for Education and requests that the Chief Executive of our council raises this issue with the senior Civil Servants in the Scottish Government. Further, seeks an assurance that our Council will receive a fair and impartial hearing as it progresses an outcome to its service review process, in particular, Education School Estate

c1) notes the Minister has apparently identified a list of 8/9 schools for closure with no consultation, analysis or public reasoning and is quoted as describing Council officers as "obdurate and working against him"

c2) regrets that the Minister has failed to respond to the letter of 6th December from the Education Spokesperson asking for a meeting with the Minister to discuss the Rural Schools Grant and authorises the Spokesperson for Education to write to the Minister requesting details of the 8 or 9 schools privately accepted by him for closure and details of the extra finance the council could obtain to "look at the issue in the round" to "allow itself some breathing space"

c3) notes that the Scottish Government's response to representations made by the council completely ignores that this "mainland" Council has the largest number of islands to support of any Scottish authority, 25 in total.

d1) notes that the average cut in Council funding across Scotland is 2.59%

d2) notes that Argyll & Bute Council face a funding cut of £11,429 million or 4.94%, the worst in Scotland, plus inflation and cost pressures meaning that £15.434 million savings need to be found.

d3) notes with concern the adverse impact that the current system of calculating small school support grants has on Argyll & Bute where 25 of our small schools have fewer than 20 pupils.

e1) The Council reaffirms its decision to review the entire primary school estate as

required by HMIE in 2005 / 2007 and by the independent auditors on behalf of our national scrutiny bodies.

e2) agrees that in the light of all the above factors, the current consultation process should be halted and authorises the Spokesperson for Education to bring forward a new set of consultation proposals to reflect on the consultation feedback already submitted and the knowledge acquired by the Spokesperson on her visits to schools across Argyll & Bute.

e3) agrees that if any schools are taken forward for merger, implementation will remain as in the current proposal i.e. October 2011

e4) agrees that the Spokesperson for Education bring back new proposals to the Council meeting on 3rd March.

Moved by Councillor Morton, seconded by Councillor Walsh

The Provost adjourned the meeting at 2.25pm and reconvened at 2.35pm.

Amendment

The Council :-

1. Expresses its appreciation of the work which individuals, schools and communities have put in to the current consultation process.
2. The Council reaffirms its decision to review the primary school estate.
3. Agrees that the current consultation process should be halted and authorises Council Officers to bring forward a new set of consultation proposals.
4. Parklands School should be removed from any School Estate Review as it is a special case. It should be the subject of a separate report and reviewed in the context of the specialised nature of its provision and the need/demand for such provision.

Moved by Councillor R Macintyre, seconded by Councillor Philand

The requisite number of Members required the vote to be taken by calling the roll, and Members voted as follows:-

Motion

Councillor Colville
Councillor Currie
Councillor Dance
Councillor Hay
Councillor Daniel Kelly
Councillor Kinniburgh
Councillor D MacIntyre
Councillor Mackay
Councillor MacMillan
Councillor McQueen
Councillor Marshall
Councillor Morton
Councillor Mulvaney
Councillor Petrie

Amendment

Councillor Chalmers
Councillor Devon
Councillor Freeman
Councillor Donald Kelly
Councillor MacAlister
Councillor McAlpine
Councillor McCuish
Councillor Macdonald
Councillor McIntosh
Councillor R Macintyre
Councillor Philand
Councillor Robb
Councillor Semple
Councillor Simon

Councillor Reay
Councillor Robertson
Councillor Scoullar
Councillor Walsh

Councillor Strong

Decision

The Motion was carried by 18 votes to 15 and the Council resolved accordingly.

(Ref: Report by the Scottish Rural Schools Network as requested by Councillors R Macintyre, Strong, Semple, Macdonald, McIntosh, Devon, McCuish, Chalmers, Philand, submitted)

There followed a Presentation by the Scottish Rural Schools Network.

ARGYLL AND BUTE COUNCIL
CUSTOMER SERVICES

COUNCIL MEETING
20 JANUARY 2011

POLITICAL MANAGEMENT ARRANGEMENTS

1.0 SUMMARY

- 1.1 The Council at its meeting on 6 December 2010 agreed that a further report would be submitted to the next Council Meeting on appointments to Outside Bodies in light of the dissolution of the Coalition.

2.0 RECOMMENDATION

- 2.1 Consider what action, if any, is necessary in regard to appointments to the various Outside Bodies to which the Council makes such nominations.

3.0 DETAIL

- 3.1 The Council Meeting on 6 December 2010 noted the dissolution of the Coalition which had operated as the Administration of the Argyll and Bute Council and the formation of the partnership. The Council also noted that the matter of appointments to statutory boards and other outside bodies would be considered at this meeting of the Council.
- 3.2 Attached herewith are the lists used by Customer Services to record current appointments to assist the Council in its deliberations. It should be noted that particularly in the case of appointments previously made by Area Committees, the information on groups may be out of date.

Douglas Hendry
Executive Director – Customer Services
10 January 2011

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MEMBERSHIP OF STATUTORY BOARDS/JOINT COMMITTEES AS AT JUNE 2010

| OUTSIDE BODY/ ORGANISATION | CONTACT NAME AND ADDRESS | NO OF APPOINTMENTS | MEMBERSHIP |
|---|---|-------------------------------|---|
| Scotland Excel | Dorothy Cowie, Director, Scotland Excel Unit 5, Anchor Mill, 7 Thread Street, Paisley, PA1 1JR Tel: 0141 842 6666 Email: Dorothy.cowie@scotland-excel.org.uk | 1 rep | Cllr D Philand Cllr N Mackay |
| Board of Strathclyde Fire & Rescue | Douglas Wilson, Clerk to the Board Board Offices Almada Street Hamilton ML3 0AA Tel. 01698 454669 | 2 reps 2 subs | Cllr J McAlpine Cllr D MacDonald Cllr I Strong Cllr N MacKay |
| Criminal Justice Partnership Committee | Stephen Brown, West Dunbartonshire Council, Legal & Admin Services, Garshake Road, Dumbarton, G82 3PU | 2 reps 2 subs | Cllr D McIntosh Cllr E Robertson Cllr A Horn (sub) 1 vacant sub |
| Dunbartonshire & Argyll and Bute Valuation Joint Board | Stephen Brown, Clerk to the Valuation Joint Board, Council Offices, Garshake Road, Dumbarton, G82 3PU | 5 reps & up to 5 subs | <u>Substantive Reps</u> Cllr D MacMillan Cllr V Dance Cllr D McIntosh Cllr G Mulvaney Cllr E Morton <u>Substitutes</u> Vacant Cllr R McCuish Cllr D MacDonald Cllr Donald Kelly Cllr N MacKay |
| Highlands and Islands Integrated Transport Forum (HITRANS) | Howard Brindley, HITRANS Co- ordinator, Building 25, Inverness | 1 rep 1 sub | Cllr D MacIntyre Cllr R McCuish |

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| | Airport, Inverness, IV2 7JB Tel. 01667 460464 | | |
| Strathclyde Concessionary Travel Scheme Joint Committee | Valerie Bone SPT Consort House 12 West George Street, Glasgow G2 1HN Tel: 0141 332 6811 | 1 rep 1 sub | Cllr D MacIntyre Cllr R McCuish |
| Strathclyde Police Authority (name change advised by James Robb June 10) | Mike Blair, Clerk to Strathclyde Police Authority, Glasgow City Council, City Chambers, Glasgow, G2 1DU Tel. 0141 287 4167 | 2 reps 2 subs | Cllr D MacMillan Cllr A MacAlister Cllr J McQueen Cllr A Reay |
| Strathclyde Partnership for Transport and Strathclyde Passenger Transport Authority | Valerie Bone SPT Consort House 12 West George Street, Glasgow G2 1HN Tel: 0141 332 6811 | 1 rep 1 sub | Cllr D MacIntyre Cllr R McCuish |
| North Strathclyde Community Justice Authority | Paul Gannon NSCJA Renfrewshire Council Room 1.5 North Building Cotton Street Paisley PA1 1TR | 1 rep 1 sub | Cllr D McIntosh rep Cllr E Robertson sub |
| West of Scotland European Forum | Malcolm Leitch Glasgow City Council Development & Regeneration Svs 229 George Street, Glasgow, G1 1QU | 1 rep 1 sub | Cllr L Scoullar (Rep) Cllr R Simon (Sub) |

MEMBERSHIP OF OUTSIDE BODIES/ORGANISATIONS AS AT AUGUST 2010

| OUTSIDE BODY/ ORGANISATION | CONTACT NAME AND ADDRESS | NO OF APPOINTS | MEMBERSHIP | | |
|--|---|---------------------------|---|--|--|
| HEALTH | | | | | |
| Argyll and Bute ADP (Chief Officers Group) | Superintendent Raymond Park (Chair) | 1 rep | Cllr D McIntosh | | |
| Argyll and Bute Community Health Partnership | Christine Gosman NHS Highland Victoria Infirmary 93 East King Street Helensburgh G84 7BU Tel. 01436 655032 | 2 reps | Cllr D McIntosh Cllr G Freeman | | |
| Argyll and Bute Health and Care Partnership | Jim Robb, Head of Integrated Care | 3 reps | Cllr D Walsh Cllr D McIntosh Cllr E Robertson | | |
| NHS Highland Board | Garry Coutts NHS Highland Assynth House Beechwood Park Inverness IV2 3HG | 1 nominee | Cllr E Robertson | | |
| EDUCATION | | | | | |
| Argyll College Board | Mr Mike Breslin Director Argyll College West Bay Dunoon PA23 7HP Tel. 01631 559 755 | 2 reps | Cllr I Strong Cllr V Dance | | |
| University of the Highlands and Islands Board | Mr James Fraser UHI Millennium Institute Executive Offices Ness Walk Inverness IV3 5SQ Tel. 01463 279000 | 1 rep | Cllr I Strong | | |
| ENTERPRISE/ECONOMY | | | | | |
| HIE Argyll and the Islands Board | Ken Abernethy Area Director HIE Argyll & the Islands The Enterprise Centre Kilmory Industrial | 1 nomination | Cllr R Macintyre | | |

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|---|--|----------------------|--|--|--|
| | Estate, Lochgilphead, PA31 8SH Tel 01546 602281 | | | | |
| Local Economic Forum - Argyll and the Islands | Jane Fowler A&B Council | 1 rep | Cllr R Macintyre | | |
| Local Economic Forum - Dunbartonshire | Mr Andrew McAllister Chair of Dunbartonshire Economic Forum, C/o Spectrum House Clydebank Business Park, Clydebank, G81 2DR Tel. 0141 951 2121 | 1 rep | vacant | | |
| Scottish Enterprise Dunbartonshire (SED) | Jim McAloon Operations Director Scottish Enterprise Dunbartonshire Spectrum House Clydebank Business Park, Clydebank, G81 2DR Tel. 0141 951 2121 | 1 rep | vacant | | |
| STRAMASH Enterprise Shadow Board (no longer a Shadow Board) | Stramash Auction Mart Upper Soroba Oban PA34 4SD | 3 reps 2 reps | Cllr R McCuish Cllr E Morton Cllr D Philand Cllr R McCuish Cllr E Morton | | |
| Argyll & Bute Local Biodiversity Partnership | Marina Curran- Colthart Kilbowie House Gallanach Road, Oban PA34 4PF | 1 rep | Cllr B Marshall | | |
| Argyll, Lomond and The Islands Energy Agency – Management Board | Audrey Martin Development Services | 2 nominees | Cllr R Simon Cllr A Nisbet | | |
| Argyll, Loch Lomond and Forth Valley Tourism Development Partnership | Scott Armstrong Regional Director VisitScotland Peffer House Strathpeffer IV14 9HA | 1 rep | Cllr B Petrie And Director of Development Services | | |

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|--|--|----------------|--|--|--|
| Argyll and Bute Agriculture Forum | Audrey Martin Development Services | 1 rep | Cllr R Macintyre Cllr R Colville | | |
| Highland and Islands Convention Aquaculture Forum | Rhona Moir Highlands Council Glenurquhart Road Inverness IV3 5NY Tel: 01463 702831 | 1 rep | Cllr B Marshall | | |
| KIMO (Kommuners International Kiljorganisation) | Secretariat Mr John Mouat KIMO, Western Isles Council 38 Francis Street Stornoway Isle of Lewis HS1 2NF John.mouat@kimo.shetland.org | 1 rep | Cllr L Scoullar | | |
| Loch Lomond and the Trossachs National Park Authority Board | Nominations made to: Helen Jones Scottish Executive Rural Directorate Landscapes and Habitats Division Victoria Quay Edinburgh EH6 6QQ Tel. 0131 244 6516 | 2 nominees | Cllr B Petrie Cllr R Simon | | |
| NADAIR Trust | Mr Derek McAdam C/o Tourist Information Centre, Albany Street Oban PA34 4AN | 1 rep | Cllr L Scoullar | | |
| Scottish Liaison Group on Radioactive Waste Management | Mr Rod Crawford Corporate Planning Dundee City Council 21 City Square Dundee DD1 3BY | 1 rep | Cllr G Freeman | | |
| West of Scotland Archaeology Service Joint Committee | Maureen Hughes Committee Services Section, Glasgow City Council, George Square, City Chambers, Glasgow, | 1 rep 1 sub | Cllr B Petrie rep Cllr R Colville sub | | |

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| | G2 1DU | | | | |
| Argyll Marine SAC Forum | Mark Steward, Marine & Coastal Manager, Argyll & Bute Council Lorn House Albany Street Oban | 2 Reps (1 of whom shall chair forum) | Cllr D Macdonald (Chair) Cllr R Currie | | |
| SOCIAL (INCLUDING ARTS AND LEISURE) | | | | | |
| Argyll & Bute Care & Repair Agency | Alasdair H J Oatts Co-ordinator Argyll & Bute Care & Repair Agency 120 George Street Oban PA34 5NT Tel. 01631 567780 | 2 reps | Cllr G Freeman Cllr N MacKay | | |
| COSLA – All of Scotland Group 2014 | Mike Calligan COSLA Roseberry House 9 Haymarket House Edinburgh EH12 5XZ | 1 rep | Cllr D Philand Cllr N Mackay | | |
| Highlands and Islands Film Commission | George Harper Director of Development Services Trish.shorthouse@scotfilm.org | 1 rep 1 sub | Cllr D Philand Cllr Donald Kelly sub Cllr N Mackay | | |
| Inter-Authority Standing Group on Gaelic | Hugh Stewart Secretary – IASG Comhairle nan Eilean Siar, Sandwich Road Stornoway Isle of Lewis HS1 2BW | 1 rep | Cllr R Currie | | |
| Museums Galleries Scotland No Councillor on this body | Museum Galleries Scotland 1 Papermill Wynd McDonald Road Edinburgh EH7 4QL | 1 rep | Cllr D Philand Cllr N Mackay | | |
| Argyll Community Housing | Mr Norman Beaton Chairman – ACHA | 5 reps | Cllr A MacAlister Cllr R McCuish | | |

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|---|--|----------------|---|--|--|
| Association (ACHA) | 63-65 Chalmers Street, Ardishaig, PA30 8DX Tel. 01546 604096 | | Cllr R Colville Cllr A Reay Cllr N Mackay | | |
| STRATEGIC/FINANCE | | | | | |
| The Convention of the Highlands and Islands | Convention Secretariat Enterprise Networks Division Enterprise, Transport & Lifelong Learning Dept, Bank House High Street Cromarty IV11 8UZ | 1 rep | Cllr D Walsh | | |
| Programme Monitoring Committee (Highlands and Islands) | Dennis Malone Programme Director Highlands & Islands Partnership Programme, Ness Walk Inverness | 1 rep | Cllr D Walsh | | |
| Scottish Islands Federation | Jane Fowler Development Services | 2 reps | Cllr L Scoullar Cllr G Chalmers | | |
| Strathclyde Pension Fund – Representative Forum | Richard McIndoe Charlotte House 78 Queen Street Glasgow G1 3DN | 1 rep 1 sub | Cllr R Currie rep Vacant sub to be advised by Leader | | |
| Association for Public Service Excellence (APSE) | Mr John Stobie Scottish Secretary APSE Floor 11, Council Offices, Almada Street, Hamilton, ML3 0AL Tel. 01698 454015 | 1 rep | Cllr J McAlpine | | |
| APSE – Roads and Lighting Group | As above | Chair of Group | Cllr R McCuish | | |

TRANSPORT

Indexes/Membership of Outside Bodies/Membership of Outside Bodies January 2010

| | | | | | |
|--|---|--|--|--|--|
| Clyde Ferry User Group | Mr Dave Duthie HITRANS Building 25 Inverness Airport Inverness IV2 7BJ Tel. 01667 460464 | 2 reps | Cllr B Marshall Cllr L Scoullar | | |
| Argyll Ferry User Group | HITRANS (as above) | 1 rep | Cllr R McCuish | | |
| Kintyre and the Islands Ferry User Group | HITRANS (as above) | 1 rep | Cllr R Currie | | |
| Raasay, Skye, Small Isles, Ardnamurchan & Mull Ferry User Group | HITRANS (as above) | 1 rep | Cllr G Chalmers | | |
| West of Scotland Road Safety Forum | Moya Ingram, Transportation Manager ABC | 1 rep 1 sub | Cllr D MacIntyre Cllr R McCuish | | |
| MISC | | | | | |
| Cardross Trust (Moore's Mortification Fund) | Lynn Smillie | 1 ex-officio local Member | Cllr E Morton | | |
| COSLA | Barbara Lindsay Strategic Director COSLA Rosebery House 9 Haymarket Terr Edinburgh EH12 5XZ Tel. 0131 474 9200 | 3 nominees | Cllr D Walsh Cllr R MacIntyre Cllr D MacIntyre | | |
| COSLA EXECUTIVE GROUPS | Allan Drysdale Executive Groups Policy Office COSLA (Address as above) | Health & Well-being Education, Children & Young People | Cllr D McIntosh Cllr I Strong Cllr G Freeman | | |

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|---|---|--|---|--|--|
| | | Communit ity Well- being and Safety | Cllr D MacIntyre | | |
| | | Regener ation and Sustaina ble Develop ment | Cllr D Walsh | | |
| | | Resourc es and Capacity | Cllr D Macdonald | | |
| | | Communit ity Safety | | | |
| Ex-Officio Justices of the Peace | Susan Mair, Head of Legal Services Ext 4130 | Nominat e up to ¼ of Members of Council | Cllr R Currie Cllr L Scoullar Cllr G Freeman Cllr Daniel Kelly Cllr D MacIntyre Cllr M.J Devon | | |
| Improvement Service Company | Westerton House East Mains Industrial Estate Broxburn EH52 5AU Tel: 01506 775558 | 1 rep | Cllr D Macdonald | | |

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|--|--|---|--|--|--|
| Prison Services Visiting Committees | Isabella Soudan 19 Kilmory Road Lochgilphead PA31 8SZ | | <u>Campbeltown Legalised Police Cells</u> John Milligan (Chair) Mrs H Joyce Gardiner Duncan Henderson (Assoc Rep) | <u>Dunoon Legalised Police Cells</u> Dr Christopher B Valentine John E Downie Seamus Neil Ferguson <u>Oban Legalised Police Cells</u> Ian Smyth (Chair/Assoc Rep) Kenneth MacIntyre Alexander Cameron <u>Greenock Prison</u> Alexander James MacPherson | |
| COMMON GOOD FUNDS | | | | | |
| Dunoon | Shirley MacLeod, Area Corporate Services Manager | 3 Dunoon Ward Members | Councillor Alister MacAlister, Councillor James McQueen and Councillor Dick Walsh | | |
| Rothesay | Shirley MacLeod, Area Corporate Services Manager | 3 Rothesay Ward Members | Councillor Robert Macintyre, Councillor Len Scoullar and Councillor Isobel Strong | | |
| Oban | Ken Macdonald, Area Corporate Services Manager | 4 Members – 2 from Oban South and the Isles, 2 from Oban North and Lorn | Councillor Donald MacDonald and Councillor Duncan MacIntyre (Oban, North and Lorn) Councillor Roderick McCuish and Donald McIntosh (Oban South & the Isles) | | |

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| Lochgilphead | Alison Younger, Area Corporate Services Manager | 3 Members from the Mid Argyll Ward | Councillor Alison Hay, Councillor Donald MacMillan and Councillor Douglas Philand | | |
| Campbeltown | Alison Younger, Area Corporate Services Manager | 3 Members from the South Kintyre Ward | Councillor Rory Colville, Councillor Donald Kelly and Councillor John Semple | | |

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MEMBERSHIP OF OUTSIDE BODIES/GROUPS AS AT NOVEMBER 2009**APPOINTED BY AREA COMMITTEES**

| OUTSIDE BODY/ ORGANISATION | CONTACT NAME AND ADDRESS | NO OF APPOINTS | MEMBERSHIP |
|---|---|---------------------------|---|
| Dunoon and the National Park Development Group | Shirley MacLeod | 6 reps | Cllr B Marshall Cllr A McNaughton Cllr R Simon Cllr A MacAlister Cllr J McQueen Cllr D Walsh |
| Cowal Games Partnership | Shirley MacLeod | 6 reps | Cllr B Marshall Cllr A McNaughton Cllr R Simon Cllr A MacAlister Cllr J McQueen Cllr D Walsh |
| Dunoon Pier Project Board | Shirley MacLeod | 6 reps | Cllr B Marshall Cllr A McNaughton Cllr R Simon Cllr A MacAlister Cllr J McQueen Cllr D Walsh |
| Dunoon and Cowal Marketing Group Partnership | Shirley MacLeod | 2 reps | Cllr B Marshall Cllr A MacAlister |
| Dunoon Grammar School Board | Shirley MacLeod | 2 reps | Cllr R Simon Cllr J McQueen |
| Cowal Women's Aid | Shirley MacLeod | 1 rep | Cllr A McNaughton |
| Cowal Drugs and Alcohol Misuse Group | Shirley MacLeod | 2 reps | Cllr B Marshall Cllr A MacAlister |
| Cowal Joint Locality Group | Jim Robb, Head of Adult Care, Argyll and Bute Council | 1 rep | Cllr B Marshall |
| Bute Youth Project | 12 Tower Street Rothesay PA20 0BZ | 1 rep | Cllr I Strong |
| Moat Centre Council | Shirley MacLeod | 1 rep | Cllr R Macintyre |
| Rothesay Academy School Board | Shirley MacLeod | 2 reps | Cllr I Strong Cllr R Macintyre Cllr L Scoullar on a |

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|---|--|-------------------------------|---|
| | | | rotational basis |
| Bute Substance Misuse Group | Shirley MacLeod | 1 rep | Cllr I Strong |
| Bute Council on Alcohol | Shirley MacLeod | 1 rep | Cllr I Strong |
| Bute Crime Prevention Panel | Crime Prevention Officer, Strathclyde Police High Street Rothesay | 1 rep | Cllr L Scoullar |
| Glasgow Airport Consultative Committee | Roy Brabender, Secretary, Glasgow Airport Consultative Committee, 4 Forsyth Gove, Greenock, PA16 8RG | 1 substantive 1 substitute | Cllr J McQueen Cllr V Dance |
| Lower Clyde Greenspace (formerly Lower Clyde River Valley Project) | Charlie Cairns, Inverclyde Council, Municipal Buildings, Paisley | 1 rep | Cllr B Marshall |
| Argyll Community Housing Association Area Committee | Norman Beaton, Chair, ACHA, 63-65 Chalmers Street, Ardrishaig | 1 rep | Cllr B Marshall |
| Bute Joint Service Development Group | Jim Robb Head of Adult Care Argyll and Bute Council | 1 rep | Cllr L Scoullar Cllr I Strong on a rotational basis |
| Helensburgh Crime Prevention Panel | Crime Prevention Panel Officer, Strathclyde Police, East King Street, Helensburgh | 1 rep | Cllr A Reay |
| Dunbartonshire Educational Trust | Mr I McMurdo, Director of Education, West Dunbartonshire | 1 rep | Cllr D Kinniburgh |
| Helensburgh Sports Council | | 1 rep | Cllr G Mulvaney |
| Helensburgh CCTV Trust | Lynn Smillie | 1 rep | Cllr J Robb |

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| Helensburgh and Lomond Substance Misuse Group | Lynn Smillie | 1 rep | Cllr E Morton |
| World Heritage Steering Group | Lynn Smillie | 1 rep | Cllr A Reay |
| NHS Locality Planning Group | Derek Leslie, Argyll and Bute CHP, Hardfield Clinic, Latta Street, Dumbarton | 3 reps | Cllr V Dance Cllr G Freeman Cllr A Reay |
| Careers Scotland Local Advisory Board | Danny Logue, Regional Manager, Careers Scotland, 50 Waterloo Street, Atrium Court, Glasgow, G2 6HQ Tel: 0141 242 8390 | 1 rep | Cllr V Dance |
| Glasgow Airport Consultative Committee | Roy Brabeder, Secretary, 4 Forsyth Grove, Greenock, PA16 8RG | 1 rep | Cllr R Kinloch Cllr V Dance |
| Lower Clyde Greenspace (formerly Lower Clyde River Valley Project) | Charlie Cairns, Inverclyde Council, Municipal Buildings, Paisley | 1 rep | Cllr A Ready |
| Argyll Community Housing Association Area Committee | Norman Beaton, Chair, ACHA, 63-65 Chalmers Street, Ardrishaig | 1 rep | Cllr Daniel Kelly |
| Dunbritton Housing Association Ltd Management Committee | Morven Short, Unit 14 Leven Valley Enterprise Centre, Castlehill Road, Dumbarton, G82 5BN | 1 rep | Cllr G Mulvaney |
| Hermitage Academy School Parent Council | Lynn Smillie | 2 reps | Cllr A Nisbet (sub D Kinniburgh Cllr D Kinniburgh (sub J Robb) Cllr J Robb (sub V Dance) |
| Helensburgh Partnership | Lynn Smillie | 3 reps | Cllr R Kinloch – now deceased Cllr E Morton |

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| | | | Cllr Mulvaney Cllr J Robb Cllr V Dance |
| Helensburgh and Lomond Community Safety Forum | Lynn Smillie | 1 Chair | Cllr J Robb |
| Kirkmichael/ Craigendoran /Rosneath & Garelochhead Area Development Group | Lynn Smillie | 1 Chair | Cllr G Freeman |
| Helensburgh and Lomond Joint Locality Meetings | Jim Robb, Head of Adult Care, Argyll and Bute Council | 1 rep | Cllr D Kinniburgh |
| Helensburgh Conservation Area Steering Group | Lynn Smillie | 3 reps | Cllr G Mulvaney Cllr A Reay Cllr A Nisbet Cllr E Morton (sub) |
| Kintyre Initiative Working Group | Alison Younger | 6 reps | Cllr R Colville Cllr Donald Kelly Cllr J Semple Cllr A Horn Cllr R Currie Cllr J McAlpine |
| Mid Argyll Partnership | Alison Younger | 6 reps | Cllr A Horn Cllr R Currie Cllr J McAlpine Cllr A Hay Cllr D MacMillan Cllr D Philand |
| Islay and Jura Liaison Group | Alison Younger | 3 reps | Cllr A Horn Cllr R Currie Cllr J McAlpine |
| MAKI Community Safety Forum | Alison Younger | 2 reps | Cllr A Hay Cllr R Currie |
| Argyll and Bute Renewables Trust (formerly Windfarm Trust) | Alison Younger | 2 reps | Cllr D MacMillan Cllr J Semple |

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| Carradale Harbour Users Group | Alison Younger | 3 reps | Cllr R Colville Cllr Donald Kelly Cllr J Semple |
| Campbeltown Action Group | Alison Younger | 3 reps | Cllr R Colville Cllr Donald Kelly Cllr J Semple |
| Inveraray Action Group | Alison Younger | 3 reps | Cllr A Hay Cllr D MacMillan Cllr D Philand |
| Ardrishaig Action Group | Alison Younger | 3 reps | Cllr A Hay Cllr D MacMillan Cllr D Philand |
| Initiative at the Edge | Alison Younger | 2 reps | Cllr A Horn Cllr R Currie Cllr J McAlpine |
| Gigha Development Trust | Alison Younger | 3 reps | Cllr A Horn Cllr R Currie Cllr J McAlpine |
| Campbeltown Area Development Group | Alison Younger | 3 reps | Cllr R Colville Cllr Donald Kelly Cllr J Semple |
| Joint Futures | Alison Younger | 3 reps | Cllr R Colville Cllr A Hay Cllr A Horn |
| Kintyre Way Committee | Alison Younger | 1 rep | Cllr A Horn |
| Auchendrain Museum | Mr MacDonald, Auchendrain, by Inveraray | 1 rep | Cllr A Hay |
| Dalriada Project Company Board | Alison Younger | 1 rep | Cllr D MacMillan |
| Kintyre Community Education Centre | Alison Younger | 1 rep | Cllr J Semple |
| Lochgilphead Community Centre Association | Alison Younger | 1 rep | Cllr D MacMillan |
| Islay and Jura Community Enterprise | Miss B MacFarlane, MacTaggart Leisure Centre, School Street, Bowmore, Islay | 1 rep | Cllr R Currie |

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|---|--|--------|---|
| Kilmartin Museum Trust | Sharon Webb, Director & Curator of Archaeology, Kilmartin House Museum, Kilmartin. | 1 rep | Cllr A Hay |
| Argyll Community Housing Association Area Committee | Norman Beaton, Chair, ACHA, 63-65 Chalmers Street, Ardrishaig | 1 rep | Cllr D MacMillan |
| West Highland Housing Association | Isabella Camerson, Director, Crannog Lane, Oban, PA34 4HB | 1 rep | Cllr R Currie |
| Kintyre Crime Prevention Panel | Crime Prevention Officer, Strathclyde Police, Castlehill, Campbeltown | 3 reps | Cllr R Colville Cllr Donald Kelly Cllr J Semple |
| Lochgilphead Crime Prevention Panel | Crime Prevention Officer, Strathclyde Police, Lochnell Street, Lochgilphead | 3 reps | Cllr A Hay Cllr D MacMillan Cllr D Philand |
| Mid Argyll, Kintyre and the Islands Joint Locality Group | Jim Robb, Head of Adult Care, Argyll and Bute Council | 1 rep | Cllr A Horn |
| Argyll Community Housing Association Area Committee | Norman Beaton, Chair, ACHA, 63-65 Chalmers Street, Ardrishaig | 1 rep | Cllr R McCuish |
| Catherine McCaig's Trust | Clerk to the Governors, McLeish, Carswell, Solicitors & Notaries Public, 29 St Vincent Street, Glasgow | 3 reps | Cllr D Macdonald Cllr D McIntosh Cllr D MacIntyre |
| Oban Crime Prevention Panel | Crime Prevention Officer, Strathclyde Police, Albany Street, Oban | 1 rep | Cllr N MacKay |
| Oban and Lorn Enterprise Atlantis Leisure | Atlantis Leisure Dalriach Road Oban | 1 rep | Cllr R McCuish |
| Oban Council on Alcohol | Ken MacDonald | 1 rep | Cllr E Robertson |
| Oban Youth & Community | Chair, Oban Youth & Community | 1 rep | Cllr E Robertson |

| | | | |
|---|--|-------|---|
| Association | Association, Soroba Lane, Oban | | |
| Oban Community Sports Field Management Committee | Ken MacDonald | 1 rep | Cllr R McCuish |
| Soroba Community Association | Ken MacDonald | 1 rep | Cllr D McIntosh |
| West Highland Housing Association | Isabella Camerson, Director, Crannog Lane, Oban, PA34 4HB | 1 rep | Cllr G Chalmers |
| Lorn and Islands Health Forum | Ken MacDonald | 1 rep | Cllr M J Devon |
| Oban, Lorn and the Isles Joint Locality Meeting | Jim Robb, Head of Adult Care, Argyll and Bute Council | 1 rep | Cllr E Robertson or Cllr Cllr D McIntosh |

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ARGYLL AND BUTE COUNCIL
CUSTOMER SERVICES

COUNCIL MEETING
20 JANUARY 2011

COMPOSITION OF COUNCIL

1.0 SUMMARY

This report is intended to provide information to the Council about the formation of a new political group named The Argyll and Bute Independent Councillors comprising Councillors Freeman and Chalmers. Written notification was received by the Executive Director of Customer Services signed by the members who wished to be treated as a political group.

2.0 RECOMMENDATION

The Council is invited to note the terms of the report.

3.0 DETAIL

3.1 At the date of this report the composition of groups on the Council is as follows:-

| Argyll and Bute Council | |
|--|--|
| Political Composition | |
| <p>ALLIANCE OF INDEPENDENT COUNCILLORS (13) Vivien Dance Mary-Jean Devon Daniel Kelly Duncan MacIntyre Neil Mackay Donald MacMillan Alex McNaughton James McQueen Bruce Marshall (Secretary) Billy Petrie Elaine Robertson Len Scoullar James Walsh (Leader)</p> | <p>LIBERAL DEMOCRATS GROUP (6) Rory Colville Robin Currie Alison Hay (Deputy Leader) Ellen Morton (Leader) Andrew Nisbet (Secretary) Al Reay</p> <p>SCOTTISH CONSERVATIVE AND UNIONIST GROUP (2) David Kinniburgh (Secretary) Gary Mulvaney (Leader)</p> |
| <p>Note: The Alliance of Independent Councillors and the Liberal Democrats and Conservative Groups have formed a Partnership for the purposes of the political administration of the Council.</p> | |

| |
|--|
| <p>SCOTTISH NATIONAL PARTY GROUP (9) Anne Horn (Secretary) Alister MacAlister Donald Macdonald Roderick McCuish Donald McIntosh Robert MacIntyre (Leader) John Semple Ron Simon Isobel Strong (Deputy Leader)</p> |
| <p>ARGYLL FIRST (3) Douglas Philand (Leader) Donald Kelly (Deputy Leader) John McAlpine</p> |
| <p>THE ARGYLL AND BUTE INDEPENDENT COUNCILLORS GROUP (2) George Freeman (Leader) Gordon Chalmers (Secretary)</p> |
| <p>OTHER COUNCILLORS (not members of any political group) James Robb</p> |

Douglas Hendry
Executive Director of Customer Services
10 January 2011

ARGYLL AND BUTE COUNCIL**COUNCIL MEETING****CUSTOMER SERVICES****20 JANUARY 2011**

FINANCIAL AND SECURITY REGULATIONS

1. SUMMARY

The Council, at its meeting on 1 October 2009 approved the Financial and Security Regulations and noted that the Appendices would be revised at a later date. The attached Appendix forms part of the Council Constitution, Section D of the Financial and Security Regulations.

2. RECOMMENDATIONS

The Council is invited to adopt the attached Appendix to the Financial and Security Regulations of the Constitution as circulated with this report.

3. DETAIL**3.1 The Constitution comprises a number of sections –**

- Part A The Constitution Overview
- Part B Standing Orders for Meetings
- Part C Scheme of Administration and Delegations
- Part D Financial and Security Regulations
- Part E Contract Standing Orders
- Part F Ethical Framework
- Part G Members Remuneration and Expenses

The revised parts of the constitution before the Council today relate to Part D the Financial and Security Regulations.

Douglas Hendry
Executive Director of Customer Services
2 November 2010

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APPENDIX 2 - TO THE FINANCIAL AND SECURITY REGULATIONS

ARGYLL AND BUTE COUNCIL

Anti-Fraud Strategy

Contents

1. Introduction
2. Our Written Rules
3. How we Expect our Members and Employees to Behave
4. Preventing fraud and corruption
5. Detecting and Investigating Fraud and Corruption
6. Training
7. Conclusion

Appendix 1 - Fraud Response Plan – Page 145

Appendix 2 - Public Interest Disclosure Policy – Page 149

Appendix 3 - Prosecution Policy – Page 157

Appendix 4 - Housing Benefit and Council Tax Benefit Security Strategy and Referral Policy – Page 159

Appendix 5 - Guidance on Responding to an Anti Fraud situation

1. **INTRODUCTION**

- 1.1 Argyll and Bute Council is a large organisation and the size and nature of our services puts us at risk of loss due to fraud and corruption both from within the Council and outside it.
- 1.2 We are committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is the possibility of fraud, corruption and other problems, we will deal with it in a firm and controlled manner.
- 1.3 An important part of this approach is an anti-fraud and anti-corruption strategy, which we will use to advise and guide members and staff on our approach to the serious issues of fraud and corruption. This document provides an overview of our policy in this matter and includes a 'fraud response plan' which provides more detailed guidance on how to deal with fraud and corruption.
- 1.4 The main message is that we expect all members, employees, consultants, contractors, and service users, to be fair and honest, and to give us any help, information and support we need to deal with fraud and corruption.

1.5 The strategy set out in this document covers the following areas:

- ❖ Our written rules
- ❖ How we expect our members and employees to behave
- ❖ Preventing fraud and corruption
- ❖ Detecting and investigating fraud and corruption
- ❖ Training
- ❖ Publicising our activities to prevent fraud

1.6 The Anti Fraud and Corruption Strategy is compliant with Equalities Bill 2006 and an E I A will be undertaken to ensure ongoing compliance

2. **OUR WRITTEN RULES**

2.1 We have a number of procedures and rules to make sure that our financial, working and organisational procedures are properly controlled. These are an important part of our internal control process, and it is important that all members and staff know about them.

2.2 The most important of these are as follows:

- ❖ Council Standing Orders
- ❖ Contract Standing Orders/Procurement manual
- ❖ Financial and Security Regulations
- ❖ Scheme of Delegation
- ❖ Guidance-Code of Conduct for Employees
- ❖ Protocol for Member / Officer Relations
- ❖ Public Interest Disclosure Policy
- ❖ Housing Benefit and Council Tax Benefit Security Strategy and Referral
- ❖ Employees' Conditions of Service

There is also the Councillors National Code of Conduct.

2.3 Individual departments have also introduced their own measures, which are designed to control their activities. Examples include accounting control procedures, working manuals and operating procedures.

2.4 Executive Directors must make sure that all staff have access to these rules and regulations and that staff receive suitable training.

2.5 Members and employees must make sure that they read and understand the rules and regulations that apply to them, and act in line with them.

- 2.6 If anyone breaks these rules and regulations we may take formal action against them. This may include ending their employment with the Council in respect of employees and, in respect of members. It will be the responsibility of the Executive Director of Customer Services as Monitoring Officer to report matters to the appropriate authority.

3. HOW WE EXPECT COUNCIL MEMBERS AND EMPLOYEES TO BEHAVE

- 3.1 We expect all people and organisations who are in any way associated with us to be honest and fair in their dealings with us and our clients and customers. We expect our members and employees to lead by example in these matters.
- 3.2 Our Ethical Framework, or internal rules, for members and employees set out an approach to work that is both honest and fair. Members and employees must act in line with the Ethical Framework at all times. The Council has also developed a Code of Corporate Governance which will assist in protecting the Council from fraud.
- 3.3 Our members and employees have an essential and integral part to play in dealing with fraud and corruption and we will encourage our staff and members to inform us if they suspect a case of fraud.
- 3.4 We will deal with all information fairly and confidentially. We will endeavour not to reveal the names of the people who gave us the information. Our fraud response plan (Appendix 1) and our Public Interest Disclosure Policy (Appendix 2) give more advice on this issue.
- 3.5 The Nolan Committee sets out the seven guiding principles that apply to people who serve the public. We will develop our working behaviour around these principles.
- 3.6 We expect our Executive Directors to deal firmly and quickly with anyone who is responsible for fraud or corruption. The Executive Director of Customer Services in consultation with the Chief Executive, the Executive Director within whose Department the fraud is alleged to have occurred and the Head of Strategic Finance and the Internal Audit Manager may refer matters to the police where they suspect any criminal activity has occurred.
- 3.7 We must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations against a colleague, will be dealt with as a disciplinary matter.

4. PREVENTING FRAUD AND CORRUPTION

- 4.1 We believe that if we are to beat fraud and corruption, we must prevent it from happening in the first place. It is essential that we have clear rules and procedures, within which members, employees, consultants and contractors can work. These include the main corporate rules, which are set out in section 2.
- 4.2 We must regularly review and update our written rules.
- 4.3 Managing the risk of fraud is the responsibility of the Council's Management. Executive Directors must make sure that suitable levels of internal check are included in working procedures, particularly financial procedures. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process being built into the system.
- 4.4 We must follow our procedures when employing new staff. If possible, we must check the previous employment records of anyone we are considering employing. This applies to both temporary and permanent staff.
- 4.5 We are committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, we will be prepared to help and exchange information, subject to the requirements of Data Protection, with other Councils and organisations to deal with fraud. We will participate in any national anti fraud initiatives.
- 4.6 This kind of work needs to be tightly controlled particularly in relation to data protection issues.
- 4.7 The Public Interest Disclosure Policy provides a process for people to give us information which may be given in confidence that may prevent fraud and corruption.
- 4.8 We will make sure that full details of reporting facilities are widely published to the public, members and employees, and that all information we receive in this way is investigated and dealt with. This will include an online form for any person to report suspected fraud. Such referrals will be carefully handled to ensure that the process is not subject to abuse.

5. DETECTING AND INVESTIGATING FRAUD AND CORRUPTION

- 5.1 You should read this section with our fraud response plan (Appendix 1) and our Prosecution Policy and Housing Benefit and Council Tax Benefit Security Strategy and Referral Policy (Appendices 3 and 4 respectively).
- 5.2 Employees must report any suspected cases of fraud and corruption to the appropriate line manager, or, may do so in terms of the Public Interest Disclosure Policy to the Executive Director of Customer Services. Reporting cases in this way is essential to the anti-fraud and corruption strategy and makes sure that:
- ❖ suspected cases of fraud and corruption are investigated properly,
 - ❖ the fraud response plan is carried out properly,
 - ❖ there is a standard process for dealing with all suspected cases of fraud and corruption,
 - ❖ people and our interests are protected.
- 5.3 The Council's Public Interest Disclosure Policy is intended to encourage and enable anyone to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998).
- 5.4 The Executive Director of Customer Services in consultation with the Chief Executive, and the Executive Director within whose Department the fraud is alleged to have occurred will decide on the type and course of the investigation. This will include referring cases to the police where necessary. The alleged fraud will also be reported to the Head of Strategic Finance and the Internal Audit Manager. We will prosecute offenders and we will carry out our disciplinary procedures where appropriate. We will ensure that any internal proceedings do not prejudice any criminal case. For further guidance on this see Appendix 5.
- 5.5 The Internal Audit Manager, whilst not participating in the investigation of the alleged fraud, will liaise with the Executive Director of Customer Services in his Investigation of the alleged fraud and in particular;
- 1 Examine current Council policies, procedures and financial controls, their current working and effectiveness in relation to the alleged fraud;
 - 2 Report to the Strategic Management Team in relation to the adequacy of current Council policies, procedures and financial controls in relation to the alleged fraud and make recommendations for their revision;

- 3 Provide advice and assistance to the Executive Director of Customer Services in relation to Council policies, procedures and financial controls and control issues relevant to the investigation of the alleged fraud.
- 5.6 In respect of any case of alleged fraud or corruption discovered by or referred to the Executive Director of Customer Services he shall;
- 1 Deal promptly and confidentially with the matter;
 - 2 Maintain full documentation of all evidence received and comply with the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002 in relation to the release of information in relation to the alleged fraud;
 - 3 Ensure that the investigation is carried out having regard to the Councils policy under the Regulation of Investigatory Powers (Scotland) Act 2000 and it's obligations under the Human Rights Act 1998;
 - 4 Ensure that the evidence is sound and adequately reported;
 - 5 Report findings to the Strategic Management Team;
 - 6 Liaise with the Internal Audit Manager in accordance with paragraph 5.5 hereof.
- 5.7 In cases relating to Housing Benefits and Council Tax Fraud the action taken will follow the prosecution policy outlined in Appendix 4. All other instances of fraud the action taken will follow the prosecution policy outlined in Appendix 3.
- 5.8 The Accounts Commission has powers to request or carry out an investigation into fraud and corruption.

6. TRAINING

- 6.1 We understand that the key to introducing a successful anti-fraud and anti-corruption strategy and making sure it continues to apply will depend on programmed training and the way all our employees respond.
- 6.2 We support the idea of providing training for our employees who are involved in or managing internal control systems to make sure that their responsibilities and duties are regularly reviewed and reinforced.
- 6.3 We are also committed to training and developing our employees who are involved in investigating fraud and corruption and we will provide suitable training.

7. CONCLUSION

- 7.1 We are committed to tackling fraud and corruption whenever it happens. Our response will be effective and organised and will rely on the principles included in this document.
- 7.2 We will continue to review our rules and procedures and will make sure that this strategy document is regularly reviewed to make sure it stays effective.

Appendix 1 to Anti Fraud Strategy

Fraud Response Plan

1. Introduction

- 1.1 Argyll and Bute Council is committed to the highest possible standards of openness, probity and accountability in all its affairs. It is determined to develop a culture of honesty and opposition to fraud and corruption.
- 1.2 In line with that commitment, the Council's Anti-Fraud Strategy outlines the principles we are committed to in relation to preventing, reporting and managing the investigation and prosecution of fraud and corruption.
- 1.3 This Fraud Response Plan reinforces the Council's robust approach by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption. It also outlines how the Council will deal with such complaints.

2. What Do We Want To Know About?

- 2.1 This Plan is intended to be implemented where suspicions of fraud or corruption have been raised.

Fraud is defined as:

"The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain".

Corruption is defined as:

"The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person".

- 2.2 Concerns or allegations which fall within the scope of other, existing, procedures (eg child protection or discrimination issues) will normally be referred for consideration under those procedures.

- 2.3 Fraudulent or corrupt acts may include:

Systems Issues - i.e. where a process/system exists which is prone to abuse by either employees or public (eg Planning Applications)

Financial Issues - i.e. where individuals or companies have fraudulently obtained money from the Council (eg invalid invoices/work not done, Housing Benefit fraud).

Equipment Issues - i.e. where Council equipment is used for personal use, (eg personal use of Council vehicles)

Resource Issues - i.e. where there is a misuse of resources (eg theft of building materials)

Other Issues - i.e. activities undertaken by officers of the Council which may be:

- ❖ unlawful,
- ❖ against the Council's Standing Orders or policies,
- ❖ below established standards or practices,
- ❖ improper conduct (e.g. receiving hospitality).

This is not an exhaustive list.

3. Safeguards

Harassment or Victimisation – The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.

Confidentiality – The Council will do its best to protect an individual's identity when he or she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

Anonymous Allegations – This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- ❖ the seriousness of the issues raised
- ❖ the credibility of the concern
- ❖ the likelihood of confirming the allegation from attributable sources

Untrue Allegations – If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

4. What Should An Employee Do If They Suspect Fraud Or Corruption?
 - 4.1 Employees are often the first to realise that there is something seriously wrong within the Council. If they have serious concerns in relation to fraud or corruption within the council they should report this to their line Manager. However, they may not express their concerns in this way because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
 - 4.2 The Council's Public Interest Disclosure Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or blowing the whistle to the media or other external bodies.
 - 4.3 A copy of the Public Interest Disclosure Policy is attached as Appendix 3.

5. What Should A Member Of The Public Do If They Suspect Fraud Or Corruption?
 - 5.1 The Council encourages members of the public who suspect fraud and corruption to contact the Chief Executive or Executive Director of Customer Services in the first instance. Members of the public may report matters to the Executive Director of Customer Services in terms of the Public Interest Disclosure Policy. Both the Executive Director of Customer Services and the Head of Strategic Finance have obligations to maintain and review the Council's Financial and Security Regulations and any suspected breach of these may be reported to either of them.
 - 5.2 Argyll and Bute Council wishes to maintain procedures with the following aims:
 - ❖ To develop an anti-fraud culture
 - ❖ To deter, prevent, detect and investigate fraud and corruption
 - ❖ To see appropriate action against those who commit or seek to commit some sort of fraud or corruption
 - ❖ To obtain compensation in respect of any losses to the Council
 - 5.3 The possible courses of action taken by the Council are outlined below.
 - 5.4 The Executive Director of Customer Services can be contacted by phone on 01546 602127 or by writing to; The Executive

Director of Customer Services, Kilmory Lochgilphead, Argyll. In addition the Council has an online enquiry form to allow information to be submitted in this way also.

6. How Will Allegations Of Fraud Or Corruption Be Dealt With By The Council?

6.1 For issues raised by employees or members of the public, the action taken by the Council will depend on the nature of the concern. The matters raised may:

- ❖ be investigated internally, and/or
- ❖ be referred to the Police

6.2 Within 10 working days of a concern being received, the Chief Executive, Executive Director of Customer Services or designated officer will write to the complainant:

- ❖ acknowledging that the concern has been received indicating how it proposes to deal with the matter
- ❖ giving an estimate of how long it will take to provide a final response
- ❖ telling them whether any initial enquiries have been made telling them whether any further investigations will take place, and if not, why not

6.3 The Council accepts that those people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, they will receive information about the outcomes of any investigation.

7. Alternative Methods For Taking A Complaint Forward

7.1 If either a member of the public or an employee feel it is right to take the matter outside these processes, the following are possible ways forward:

- ❖ your local Councillor – If you are unsure how to contact them, call the Council on 01546 602127 for advice.
- ❖ the Accounts Commission – who are the organisation appointed to scrutinise the Council's finances and performance. By law, they must be completely independent from the Council.
- ❖ your Trade Union – employees may invite their Trade Union to raise a matter on their behalf.
- ❖ the Police – suspicions of fraud or corruption may be reported directly to the Police.
- ❖ the Scottish Public Services Ombudsman– this is an independent body set up by the Government to deal with

complaints against public bodies such as Councils in Scotland

- ❖ Public Concern at Work – this is a charity which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 0171 404 6609 or can be e-mailed at whistle@pcaw.demon.co.uk.

APPENDIX 2 to Anti Fraud Strategy

PUBLIC INTEREST DISCLOSURE POLICY

1. INTRODUCTION

1.1 Argyll and Bute Council is committed to the highest standards of openness, probity and accountability. These high standards are coupled with a positive approach to enabling employees and others who become aware of wrongdoing, improper conduct or other failures of a substantive nature to bring attention to their concerns. The Council's Public Interest Disclosure Policy is, therefore, designed –

- To set out a process for the investigation of certain disclosures of information which are made in the public interest;
- To provide protection from reprisal or victimisation for individuals who make such disclosures in good faith; and
- Thus to provide a genuine recourse for legitimate representations without encouraging a climate in which they become malicious, trivial or routine.

1.2 There are existing procedures in place which enable employees of the Council to raise a grievance relating to their own employment. The Public Interest Disclosure Policy is designed to deal with matters which fall outwith the scope of the Grievance or Disciplinary Procedures

2. SCOPE

2.1 In the context of the work of Argyll and Bute Council, a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the person making the disclosure, tends to show one or more of the following –

- (a) That a criminal offence has been committed, is being committed or is likely to be committed,
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject,
- (c) That any person has failed, is failing or is likely to fail to comply with any obligation as to their conduct or otherwise imposed on that person by –
 - The Argyll and Bute Council Protocol governing relations between Members and Officers.
 - The Council's Standing Orders, Contract Standing Orders, Procurement Manual or Financial and Security Regulations.
 - The Argyll and Bute Code of Conduct for Officers.

- (d) That the health or safety of any individual has been, is being or is likely to be endangered.
- (e) That the Council has committed, is committing or is likely to commit to a course of action which is unlawful
- (f) That the Council has taken, is taking, or likely to take a course of action, or there has been a corresponding failure, which is likely to give rise to a finding of maladministration on the part of the Council
- (g) That information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

A qualifying disclosure is made in accordance with this policy if the person –

- (a) Makes the disclosure in good faith
- (b) Reasonably believes that the information disclosed, and any allegation contained in it, are substantially true
- (c) Does not make the disclosure for purposes of personal gain
- (d) In all the circumstances of the matter, believes it is reasonable for the person to make the disclosure.

2.2 Any disclosure alleging a breach of the Councillors Code of Conduct issued under the Ethical Standards & Public Life Etc (Scotland) Act 2000 in respect of a Councillor should be referred by the person making the disclosure to the Office of the Chief Investigating Officer, the Standards Commission for Scotland, Forsyth House, Innova Campus, Rosyth Euro Parc, Rosyth, KY11 2UU – telephone – 01383 428 033 – fax – 01383 428 019 – email: investigations @ standardscommision.org.uk

3. SAFEGUARDS

3.1 The Council recognises that taking a decision to report a concern of the type covered by this policy can be a difficult one, not least because of the fear of reprisal. The Council makes it clear that it will not tolerate any reprisals under any circumstances and will take action to protect a person who makes a qualifying disclosure.

- 3.2 If a disclosure is made in good faith but is not confirmed by subsequent investigation, no action will be taken against the person making the disclosure. The Council will, however, protect itself, its Members and Employees against malicious allegations and will take appropriate action against any person who makes such an allegation. The Council will also take such reasonable steps which may be open to it to minimise the impact on any of its Members or Employees of an allegation which is either malicious or unfounded.
- 3.3 Nothing in this Policy means that if a person is already the subject of any action or procedure against them (including in the case of employees, disciplinary procedures) that those procedures will necessarily be halted as a result of a disclosure made under this policy.

4. **CONFIDENTIALITY**

- 4.1 In a culture of openness, and against the Council's stated policy that it will protect a person who may make a disclosure in good faith and in the public interest, and to assist any investigative process, it is clearly desirable that the person who makes a disclosure should be prepared to do so on an attributable basis. The Council will, however, take reasonable steps, but cannot guarantee, to protect the identity of a person who makes a disclosure and does not wish his or her name to be disclosed, subject to the following factors –
- (a) The seriousness and nature of the issues raised
 - (b) The likelihood of confirming any allegation from other attributable sources
 - (c) The need for evidential statements as part of any investigation
 - (d) The credibility of the allegation, and, in all the circumstances, the need to allow a person against whom an allegation is made to test the veracity and substance of it
 - (e) The likelihood, in all the circumstances, of unwarranted reprisals being directed against a person who makes a disclosure.
- 4.2 The Officer conducting the investigation will, however, take all necessary steps to ensure that the name of a person who makes a disclosure is not disclosed to others within the Council except, strictly, on a need to know basis in order to further the due completion of the investigation and the Council's response to it. (See paragraph 5 below).
- 4.3 The Council will not disclose in any public document the name of any person who makes a disclosure, nor will the Council disclose that person's name to any third party outside the Council except –

- Where an offence may have been committed and there is considered to be an obligation to report that to the Police or Procurator Fiscal, or to co-operate with enquiries instituted by the Police or the Fiscal
- Otherwise where there would be any failure on the part of the Council to comply with any legal obligation on them.

4.4 Allegations expressed anonymously will not normally be considered. In exercising any discretion to consider any anonymous allegation, the factors which will be taken into account are –

- The seriousness and nature of the issues raised
- The credibility of the concerns
- The likelihood of confirming the allegations from other attributable sources

5. DISCLOSURES AND THEIR INVESTIGATION

5.1 As noted earlier, this Policy is designed to provide recourse for legitimate representations to be made about wrongdoing, improper conduct or other failure of a substantive nature. Any person making a disclosure in terms of this Policy should do so to the Council's Monitoring Officer. The Monitoring Officer will decide –

- (a) Whether the matter is one which should be dealt with under the Council's Grievance or Disciplinary Procedures, and, if so, will refer the matter to the appropriate Officer.
- (b) Whether the matter is one which should be dealt with under any Complaints or other procedure of the Council, and, if so, will refer the matter to the appropriate Officer.
- (c) Whether the matter is one which should be investigated in terms of this Policy and, if so, will conduct an investigation in terms of this Policy.
- (d) In the absence of an investigation in terms of this Policy, what other action, if any, should be taken.

5.2 Notwithstanding and without prejudice to the statutory obligations placed on the Monitoring Officer, for the purposes of this Policy the function of the Monitoring Officer is to investigate a disclosure of information, and any allegation contained in it, relating to any matter contained in paragraph 2.1 of this Policy.

5.3 The purpose of an investigation under this Policy will be to determine which of the following findings is the case –

- (a) That there is no evidence of any failure to comply with any of the matters set out in paragraph 2.1 above,

- (b) That no action needs to be taken in respect of the matters which are the subject of the investigation
- (c) That any matter which is the subject of investigation can be remedied by compliance with any recommendations which are made in the report of the investigation
- (d) That there is evidence of a failure on the part of a Councillor in relation to any of the matters referred to in paragraph 2.1 above in which case, with the exception of a matter in respect of which a criminal offence may have been committed, the report of the investigation will be submitted to the Council which will consider what action, if any, should be taken.
- (e) That there is evidence of a failure on the part of a person, who is not a Councillor but has been appointed or co-opted to any Committee or Sub-Committee or Policy Performance Group of the Council, in relation to any of the matters referred to in paragraph 2.1 above in which case, with the exception of a matter in respect of which a criminal offence may have been committed, the report of the investigation will be referred to the Audit Committee which will consider what action, if any, should be taken.
- (f) That there is evidence of a failure on the part of an Officer of the Council in relation to any matter referred to in paragraph 2.1 above, in which case the report of the investigation will be referred to the Chief Executive who will determine what action, if any, should be taken.
- (g) That there is evidence of a systematic or procedural failure on the part of the Council in relation to any matter referred to in paragraph 2.1 above, in which case the report of the investigation will be referred to the Chief Executive and /or the Council to determine what action, if any, should be taken.
- (h) That otherwise the matters which are the subject of the investigation should be referred to the Council's Audit Committee.

5.4 For the purpose of conducting an investigation in terms of this Policy, the Monitoring Officer –

- (a) May conduct the investigation personally, or may authorise another person to do so
- (b) May obtain information from such persons and in such manner, and make such enquiries, as she/he thinks fit

- (c) May require any Officer or Member to provide such information or explanation as may be necessary for the purpose of conducting the investigation
 - (d) Must give any person who is the subject of any allegation which is being investigated the opportunity or opportunities to respond to and comment on any allegation and must, in the course of any interview, allow that person to be accompanied by any other person
 - (e) May require any Officer or Member holding or accountable for any document or record (held in any medium) relating to the investigation to give access to such document or record.
 - (f) May, to assist the investigation, obtain advice from any person inside or outside the Council who is qualified to give it.
- 5.5 A copy of any report of any investigation must be given to any Member or Officer of the Council who is the subject of the report before the report is finally disposed of by the Monitoring Officer as set out in paragraph 5.3 above.

6. DECISIONS AND RECOMMENDATIONS OF AUDIT COMMITTEE

- 6.1 The audit Committee shall decide whether or not there has been a failure on the part of any person who is the subject of a report in terms of Paragraph 5.3(e), with the exception of a matter in respect of which a criminal offence may have been committed until any criminal proceedings have been disposed of.
- 6.2 Where the Audit Committee decides that there has been no such failure on the part of any such person it will give notice to that effect to the person concerned.
- 6.3 Where the Audit Committee decides that there has been such a failure as is mentioned in Paragraph 6.1 above, the Committee must decide, having regard to the Statutory authority or basis on which that person has been nominated, appointed or co-opted , whether the nature of the failure is such that either –
- (a) The Council is to advise the person concerned that there has been a failure on his or her part, and specify the details of that failure; or
 - (b) Submit a report to Council, which report will be considered in public, advising that there has been a failure on the part of such a person concerned, specifying the details of that failure, which report may include a recommendation that any one of the following courses of action should be taken by the Council –

- (i) That the person concerned be afforded the opportunity of apologising to the Council in respect of the failure; or
 - (ii) That the person concerned should be the subject of a resolution of censure expressing the Council's disappointment that there has been a failure on the part of such a person concerned; or
 - (iii) That the Council remove the person concerned from any one or more positions to which the person was appointed by the Council or any of its Committees or Sub-Committees, and/or that the person be removed from membership of any one or more Committee, Sub-Committee, or Policy Performance Group of the Council;
 - (iv) That the Council request the persons nominating or appointing body to remove or withdraw their nomination or appointment and remove that person from any Committee, Sub-Committee, or Policy Performance Group of the Council;
- 6.4 Before submitting a recommendation in terms of paragraph 6.3(b) to the Council, the Audit Committee will provide a copy of their report, including any recommendation contained in it, to the person concerned.
- 6.5 In considering a recommendation in terms of paragraph 6.3(b) the Council will afford an opportunity to the person concerned to make a statement to the Council, and it will not be open to the Council to pass a resolution which would, in respect of the person concerned, be more onerous than the course of action recommended by the Audit Committee.

Appendix 3

ARGYLL AND BUTE COUNCIL

Prosecution & Sanction Policy

2010/2011

Argyll and Bute Council Revenues and Benefits Unit

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1. INTRODUCTION

The intention of any prosecution and sanction policy should be to provide an appropriate punishment for those persons who commit benefit fraud and act as a deterrent.

The policy should also provide guidelines, which will achieve a consistency of approach to dealing with benefit fraud so that potential fraudsters are aware of the likely outcome of committing a fraud.

Only by deterring fraud, by prosecuting or, where appropriate, applying sanctions as an alternative to prosecution, can we hope to convey the message to the public that Argyll and Bute Council will not tolerate abuse of the benefits scheme and the Council is prepared to prosecute, or ask others to prosecute, appropriate cases throughout the full range of benefit fraud.

Sanctions can be in the form of either an Administrative Caution, or as an Administrative Penalty.

2. POLICY

The Council's policy in relation to fraud is:

- To prevent and deter fraud;
- To detect it as quickly as possible;
- To investigate it efficiently by the use of a formal risk analysis matrix to ensure concentration on high and medium risk cases.
- To prosecute offenders, or impose sanctions where appropriate.

Ultimately, the desired effect of regular prosecutions and sanctions is to deter potential offenders.

3. FORMS OF SANCTIONS

In cases where benefit has been paid as a result of a fraudulent claim, any overpayment will be recovered and the following sanctions may be considered:

- the offender may be prosecuted
- the offender may be offered an Administrative Penalty as an alternative to prosecution
- the offender may be offered an Administrative Caution as an alternative to prosecution.

Individual circumstances will be taken into account when considering the appropriate sanction to apply.

Decisions regarding the use of administrative sanctions are the responsibility of the Counter Fraud Manager or the Revenues and Benefits Manager. They will consider which, if any, sanction should be applied and make their decision in accordance with this policy.

Officers employed on investigative duties will be responsible for delivering administrative sanctions.

Prosecution will be considered where an offender has declined to accept an Administrative Caution or an Administrative Penalty.

Investigators will refer cases for possible prosecution to the Counter Fraud Manager. Where prosecution is considered appropriate, the Counter Fraud Manager will discuss the case with the Revenues and Benefits Manager who will decide whether to proceed. Where the offender is an employee of the council or an elected member, the case will be brought to the attention of the Director of the Department in which the employee works who shall consider what steps are necessary in the investigation and disciplinary process. If the identified case of fraud involves a Member of the Council then the issue will be referred immediately to the Chief Executive and the Director of Customer Services who as monitoring officer will refer the matter to the appropriate authorities.

In preparing the files for prosecution the Counter Fraud Unit will deal directly with the Procurator Fiscal and submit cases to the Crown Office and Procurator Fiscal Service electronically via their website www.copfs.gov.uk. The Unit will liaise with the Procurator Fiscals office in order to progress cases and obtain advice for future improvements in our fraud processes.

In cases that have been jointly investigated by Argyll and Bute Council and DWP Fraud Investigation Service, the decision to impose a sanction will be made in accordance with the Partnership Agreement that is in place at the time between the two organisations and with reference to current legislative guidance.

4. REVIEW

This policy will be reviewed in line with DWP guidance and or on the direction of the Procurator Fiscal.

5. CASES SUITABLE FOR PROSECUTION

Argyll and Bute Council proposes that prosecutions will be sought where there is clear evidence of fraud and either the amount of the fraud exceeds £5,000 or other factors apply which make the consideration of prosecution the first option.

Other factors may include cases where:

- the fraud has continued over a long period of time.
- the fraud was calculated and deliberate
- the fraud was committed by a person employed by Argyll and Bute Council.

However, automatic consideration for prosecution will be where the following factors apply;

- the person has previously been convicted of benefit fraud
- forged or counterfeit documents have been used
- the offer of an Administrative Caution or Administrative penalty is refused by the person who committed the fraud.
- the person has repeatedly failed to attend pre-arranged interviews under caution.

In considering whether prosecution is appropriate, thought should be given to other factors, which might weigh against this course of action. These include cases where:

- the person suffers from poor physical or mental health
- the person is elderly or infirm
- there are exceptional mitigating circumstances.

6. ADMINISTRATIVE PENALTY

The Council will consider financial penalties as an alternative to a criminal prosecution, in cases where the criteria for prosecution have been fulfilled but the offender's personal circumstances indicate that a financial penalty would be a suitable solution.

In considering a case for offering a penalty, due regard will be given to any exceptional circumstances of the offender (eg, age, health, finances) and or any mitigating circumstances , as well as the type and nature of the fraud committed.

Legislation surrounding the use of Administrative Penalties is contained in Section 115A (2) of the Social Security Administration Act 1992, as amended by the Social Security Administration (Fraud) Act 1997.

A person may be offered the option of agreeing to pay an administrative penalty, if they have, by act or omission, caused benefit to be overpaid to them.

The amount of the penalty is 30% of the value of the overpaid benefit.

There must be grounds for instituting criminal proceedings against the

person for an offence relating to the overpayment on which the penalty is based.

The decision to offer an administrative penalty is made by the local authority. There is no right of review against the decision to offer or not offer a penalty nor can the person ask the local authority to review the amount of the penalty, which is prescribed in the legislation. However, normal rights of review apply in respect of the overpayment determination.

Argyll and Bute Council will offer administrative penalties as an alternative to prosecution where there is clear evidence of fraud and the amount of the overpayment is less than £5,000.

The following conditions must be satisfied before a person is offered the choice of agreeing to pay an administrative penalty:

- the case is not so serious that the first option should be prosecution
- there are grounds to institute criminal proceedings.
- there has been no inordinate or inexcusable delay in the investigation or administration of the case, which may lead to the case being time-barred, or breaching the defendant's right to a fair trial under Article 6 of the Human Rights Act.
- the person has been notified of the decision and appeal rights on the amount and recoverability of the overpayment
- the administrative penalty can only be offered on any part of a recoverable overpayment that has accrued since 18 December 1997

There is no requirement for the person to admit to the offence before an administrative penalty can be offered.

Where a person agrees to pay the penalty, no proceedings will be instituted against them relating to the overpayment on which the penalty is based.

Any agreed administrative penalty will be recovered using the methods that are used to recover overpayments as per the Councils Overpayment Recovery Policy.

Administrative Penalties have no standing for the purposes of Court proceedings. Because of this, the fact that a person has previously agreed to pay an administrative penalty for an earlier overpayment cannot be mentioned in Court.

Where a person declines to accept an Administrative Penalty, criminal proceedings will be considered.

Whilst the penalty cannot be cited in Court, the Council can inform the Procurator Fiscal that the defendant declined to accept the offer of

an Administrative Penalty.

7. ADMINISTRATIVE CAUTION

An Administrative Caution is a warning given in certain circumstances as an alternative to prosecution to a person who has committed an offence. An administrative caution can only be considered when there is sufficient evidence to justify instituting criminal proceedings and the person has admitted the offence during an 'interview under caution'.

In considering a case for offering a caution, due regard will be given to any exceptional circumstances of the offender (i.e.:- age, health, finances) and/or any mitigating circumstances of the claimant, as well as the type and nature of the fraud committed.

The use of cautions is purely administrative and there is no legislation covering their use.

Argyll and Bute Council will offer an Administrative Caution as an alternative to prosecution where there is clear evidence of fraud and the amount of the overpayment is less than £5,000.

The following conditions must be satisfied before a person is offered a caution:

1. the person has admitted the offence during an interview under caution,
2. the person is 18 or over,
3. the offence is minor,
4. the person has not offended before,
5. the person's attitude towards their offence indicates that a caution would be an appropriate punishment

Where a person declines to accept an Administrative Caution, criminal proceedings will be considered.

Where criminal proceedings are taken, the Court will be informed that the case has been taken because the person refused the offer of an Administrative Caution. Whilst the caution cannot be cited in Court, the council can refer to it when submitting the case to the Procurator Fiscal (PF).

8. MITIGATING FACTORS

When considering whether criminal proceedings are appropriate, the following circumstances are taken into account:

- any distressing domestic or family circumstances
- any exceptional financial difficulties

- the age of the customer
- the mental and / or physical health of the customer or partner

Prosecution may not be appropriate if the customer or partner is affected by any of the above.

9. VOLUNTARY DISCLOSURE

Criminal proceedings will not be appropriate if the customer or partner makes a full and complete voluntary disclosure.

Voluntary disclosure occurs when an offender voluntarily reveals a fraud that the Council is previously unaware of. If this happens, the Council will continue to investigate the fraud but will not pursue a prosecution.

A disclosure is **not** voluntary if:

- the admission is not a complete disclosure of the fraud;
- admission of the fraud is only made because discovery of the fraud is likely, for example;
 - one of the offender's friends or neighbours is also caught defrauding the Council; or
 - the offender knows the Council is questioning their employer in the course of a survey or fraud drive;
 - the offender was already the subject of a criminal investigation and detection is likely.
- disclosure comes to light in some other way, for example, by the issue of a review form;
- offender admits all the facts as soon as challenged;
- offender supplies the correct facts when making a claim to Legal Aid.

10. MENTAL OR PHYSICAL CONDITION OF OFFENDER OR PARTNER

Criminal proceedings will not be appropriate if the mental or physical condition of the offender or partner means that prosecution is not desirable. The strain of an interview under caution or an appearance in Court might have serious consequences on a customer or partner who is not mentally or physically strong.

Points to consider:

1. if the offender suffers from a serious mental or physical condition i.e.:- a nervous disposition, particularly if they have contemplated suicide;
2. the offender suffers from a mental illness such that the Court might be more sympathetic towards them than towards the Council;

3. the offender is pregnant and confinement is either due within three months or she is not in good health. If the offence is serious take proceedings but consider deferring them until after the confinement;
4. the physical condition of the offender is such that the Court might be more sympathetic towards them than the Council. Weigh this possibility against the gravity of the offence;
5. the health of the offender's partner may suffer .This would normally only apply if the partner suffers from a serious condition that may worsen if proceedings are taken.

Medical evidence would be required before finalising the decision.

11. SOCIAL FACTORS

Social factors can make criminal proceedings undesirable for example when:

- the Court and / or the public would think a prosecution inappropriate, for example, when the customer is driven to an offence by a tragic domestic circumstance;
- prosecution is highly undesirable because of the possibility of trauma to an innocent third party, i.e.:- an illegitimate, adopted or foster child would become aware of their true status;
- the offender is young and immature and would appear to the Court as someone who could be dealt with effectively without proceedings.
- being a young offender does not automatically prevent proceedings from going ahead. For example, prosecution may be desirable when;
 - the offender has already been involved with the police;
 - the offence shows an adult degree of sophistication; or

12. TECHNICAL FACTORS

Technical factors that can affect a decision to prosecute or not are:

- inadequate evidence
- flawed investigation
- lax administration

13. INADEQUATE EVIDENCE

Criminal proceedings are not appropriate, if there is insufficient evidence to justify proceedings, or the evidence cannot be obtained, i.e.:- because of unreliable witnesses, corroboration.

14. FLAWED INVESTIGATION

Criminal proceedings are not appropriate if an investigation is deficient

and fails to provide all the necessary evidence to take proceedings. In this circumstance closure is appropriate. A flawed investigation might occur if a customer plausibly asserts that the Investigating Officer behaved improperly, for example by deceiving or intimidating them.

15. LAX ADMINISTRATION

Lax administration can allow a fraud to succeed. If the Council plays a significant part in allowing an offence to occur because of lax administration, in such circumstances criminal proceedings are not appropriate.

Lax administration can occur when:

- despite having incomplete information, benefit is still paid
- the interviewing officer completes the claim form badly
- obvious flaws in a statement or document are missed

16. DELAY

Criminal proceedings are not appropriate if any case is subject to unjustifiable delays. Courts look very critically at the:

- time it takes to bring offences to Court; or
- length of time the customer has been left, possibly in anxiety with the case unresolved.

Appendix 4

ARGYLL AND BUTE COUNCIL

Benefit Fraud Strategy 2010/2011

Argyll and Bute Council Customer Services Revenues and
Benefits Unit

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1 INTRODUCTION

In the management and provision of its services, Argyll and Bute Council is unequivocally set against any form of benefit fraud from within the council, external organisations, benefit claimants, landlords or employers.

The Council will develop and maintain the principles of openness, honesty and accountability in the provision of its services and the conduct of its business, while respecting the need for confidentiality when it is proper and lawful to do so.

The Council is committed to the prevention, detection and investigation of benefit fraud, and will seek to prosecute or apply other appropriate sanctions to perpetrators of benefit fraud.

The Council will introduce and operate confidential and effective arrangements for its staff, members, residents, taxpayers and any other persons to be able to report any suspicions or concerns they may have concerning any benefit fraud.

This strategy document also supports Argyll and Bute Councils Anti-Fraud Strategy, the Customer and Support Services Service Delivery plan, the Prosecution and Sanction Policy and Fraud Business plan.

2 INVESTIGATING BENEFIT FRAUD

The council is aware of the high risk within the benefit system for fraud, error or irregularity and the necessity to protect the public purse from abuse.

There are essentially three main ways of defrauding the system:-

- **Initial Eligibility** -claimants supply fraudulent information on their initial application form.
- **Changes in Circumstances** - claimants fail to notify changes, which could reduce or terminate their benefit entitlement.
- **Fraud by Landlords** - landlords create false tenancies or continue to receive benefit for individuals who have moved away.

The council has invested resources in establishing a team of officers dedicated to identifying, investigating and preventing Benefit fraud.

The council recognises that deliberate abuse of the Benefit scheme by an individual or individuals in order to obtain money from the council to which there is no legal entitlement is a criminal offence.

3. THE BENEFIT FRAUD INVESTIGATION TEAM

The principal objective of the Benefit Fraud Investigation Team is to 'Provide a professional and effective Investigation Service'. This will be delivered by the:-

- Confidential and consistent treatment of information received,
- Proper investigation by experienced and PINS (Professionalism in Security) accredited Counter Fraud Investigators,
- Effective channels of communication to receive information from sources both internal and external to the organisation.

The Counter Fraud Manager is responsible for following up any allegation of fraud received and will do so, through clearly defined procedures, and will ensure that

- Cases are dealt with promptly and are investigated to a satisfactory conclusion,
- All evidence received is recorded and kept securely,
- All evidence has been correctly obtained and adequately supported,
- A logical decision is made as to the appropriate sanction in accordance with the council's prosecution and sanction policy.

The Benefit Fraud Investigation Team will investigate in accordance with all appropriate legislation governing benefit fraud investigations and the Investigators Code of Conduct, by:

- Using all legislative powers,
- Pursuing all lines of enquiry,
- The application of new technology and the Fraud Management System,.
- Undertaking data matching exercises utilising data from Housing Benefit Matching Service and the National Fraud Initiative,
- Actively making use of shared intelligence with other organisations using all available legal gateways,
- Continuous review of working practises,
- Undertaking joint working with DWP Fraud Investigation Service (FIS),
- Identifying fraud trends and patterns and where possible instigates proactive investigations.

4. SURVEILLANCE

The Council acknowledges its responsibilities in relation to the Regulation of Investigatory Powers (Scotland) Act 2000. Legal Services have participated in the development of a corporate policy document which will

adhere to the provisions outlined with the legislation.

5. APPOINTMENT OF LOCAL AUTHORITY AUTHORISED OFFICERS

Argyll and Bute Council will appoint Local Authority Authorised Officers, authorised by the Chief Executive. The Authorised Officers will use their power as stipulated under the provisions within the Social Security Administration Act 1992, as amended by the Social Security Administration (Fraud) Act 1997. All Authorised Officers will be issued with a Certificate of Authority, detailing their powers under the Social Security legislation.

6. JOINT WORKING WITH DEPARTMENT OF WORKS AND PENSIONS (DWP)

Argyll and Bute Council is committed to joint working with the DWP Fraud Investigation Service (FIS) and has a current Memorandum of Understanding with the DWP FIS that will be reviewed annually.

The agreement sets out the framework for co-operation between Argyll and Bute Council and DWP FIS. This agreement sets out local arrangements and has been personalised to take into account local issues in association with the Joint Operational Board.

7. DATA MATCHING

Data matching is a powerful way of finding possible fraud. However, it requires careful preparation and management, and professionally conducted and managed investigations into the reasons for discrepancies.

Argyll and Bute Council intends to continue taking part in: -

- Housing Benefit Matching Service (HBMS)
- National Fraud Initiative (NFI)
- Credit Reference Agency (CRA)

These services facilitate the cross matching of data between Argyll and Bute Council, other Local Authorities and Government departments.

8. TRAINING

The council recognises that the success of its Benefit Fraud Strategy will significantly depend on the effectiveness of planned training, awareness and responsiveness of employees throughout the organisation.

To facilitate this, the council will ensure that employees are provided with the necessary knowledge, skills and awareness to help ensure the success of its Benefit Fraud Strategy.

This will be achieved by:-

- Ensuring fraud awareness training is incorporated into induction training for new staff, and is ongoing for all Customer Services staff at regular intervals
- Provide fraud awareness training to stakeholders and other relevant outside organisations

The fraud awareness training will be constantly reviewed to reflect changes in legislation.

9. SKILLS AND EXPERTISE

The Council will ensure that Counter Fraud Officers possess the expertise to interview, gather evidence, interview under caution and prepare evidence for court.

10. FRAUD REFERRALS

Referrals account for the majority of leads that the Counter Fraud Officers receive, therefore guidance in what to refer is of great importance.

All Benefit, Housing and Customer Service Centre (CIS) staff have intranet/desktop access to procedures advising them of the process to follow when fraud is suspected.

11. INTERNAL SECURITY

A Fraudulent claim made by an Employee or a Member of the Council

Any identified case of benefit fraud which involves an Employee of the Council will, in addition to actions outlined within the Prosecution and Sanction Policy, also be the subject of the Council's Disciplinary Procedures. In such instances, the case will be brought to the attention of the Director of the department in which the employee is employed who shall consider what steps are necessary in the investigation and disciplinary process.

Any identified case of fraud which involves a Member of the Council will be referred immediately to the Chief Executive and the Director of Customer Services who, as Monitoring Officer will refer the matter to the appropriate authorities.

It will be the responsibility of the Benefits Manager to advise the relevant persons, immediately after it becomes apparent that a fraudulent act may have been committed by an Employee or Member of the Council.

Complaints relating to an Elected Member may be made to the Standards Commission for Scotland.

Any complaint against employees of the council will be dealt with under the provisions of the council's Disciplinary Policy.

12. PROSECUTION AND SANCTION POLICY

A policy for determining which offences are to be dealt with through a criminal prosecution and a procedure for managing the process has been set by the council.

Argyll and Bute Council has agreed a Prosecution and Sanction Policy for the prosecution of offenders who have committed a fraudulent act in obtaining or attempting to obtain Housing Benefit and/or Council Tax Benefit.

Argyll and Bute Council has the right to refer cases to the Procurator Fiscal involving fraudulent claims for Housing Benefit and/or Council Tax Benefit.

We will also participate in prosecutions involving Housing Benefit and Council Tax Benefit where other relevant Social Security Benefits are/were also in payment, where the law allows.

13. HEALTH AND SAFETY

Officers involved on Counter Fraud duties will adhere to Argyll and Bute Council's Health and Safety Policy.

14. CONCLUSION

The council has in place a clear set of systems and procedures to assist it in combating the constant threat of fraud and corruption. The council is determined that these arrangements will be regularly reviewed to ensure that they keep pace with best practice in relation to fraud prevention and detection.

The council will maintain a continuous overview of existing systems of control, as well as reviewing on a regular basis all relevant policies, procedures and regulations.

APPENDIX 5A

Guidance on responding to a fraud situation - what you should do start

The golden rules for responding correctly

The ultimate golden rule is that evidence should be collected and handled without compromising it or a future criminal investigation and prosecution.

| | |
|---|--|
| RESPOND APPROPRIATELY TO INITIAL SUSPICION | If it is safe to do so, an initial investigation should be carried out to identify what further action is necessary. If there is an indication of fraud or anything requiring further investigation, this should be recorded and passed promptly to Internal Audit Services. All staff should be made aware of and follow the guidance in Appendix 2. |
| CONFIDENTIALITY | All information received as part of the fraud investigation should be treated as confidential and should only be shared with those who have a need to know. |
| GET ADVICE | Services should consult with HR before taking any action. Feel free at any point to contact Internal Audit for guidance or help. |
| PLAN CAREFULLY | Carefully evaluate evidence, assess risk and plan actions. Take the time to do this well. Again assistance can be provided by Internal Audit. |
| REFER EFFECTIVELY | If necessary agree with Internal Audit who will be responsible for the investigation. Internal Audit will be happy to act in an advisory capacity in a number of circumstances rather than lead the work. |
| STAY IN CONTROL | Investigation work should be well monitored and controlled with regular meetings with all parties involved to review progress and decide future actions. Controlling time and cost is also important. |
| KEEP GOOD RECORDS | Keep first class records, particularly where evidence of criminality is obtained. Evidence and documentation must be stored securely in its original condition. |
| BE CAREFUL ABOUT INTERVIEWING | Interviews, which should only be used for fact finding, should be carefully planned, undertaken and recorded. Interviews should always be carried out by two people. The interviewee should be allowed to be accompanied. A formal record should be kept of the interview. Never interview a criminal suspect before consulting the Police and giving them the opportunity to investigate. The Head of Governance and Law will be happy to advise. |
| STOP AT THE RIGHT TIME | Referring the matter at the right time is essential to achieving a successful outcome. Guidance will be provided by Internal Audit . |
| FOLLOW UP ACTION TAKEN | Make sure that the Council learns from the experience and strengthens internal control. |

APPENDIX 5B
Initial response checklist
Being told about a fraud

All information received must be treated as confidential and should only be shared with those who have a need to know

1. Note details of the informant.

- Name
- Address and telephone number
- Position
- Accept information that is provided anonymously, but encourage the person to give their details by suggesting this would help a future investigation if they can be contacted for further information.

2. Be responsive to concerns raised.

- Encourage an informant to voice concerns
- Assure them that their concerns will be taken seriously and properly looked into
- Make sure that the conversation is conducted privately and cannot be overheard inappropriately
- Listen carefully and attentively.

3. Refer to an appropriate Manager.

- If you are not the appropriate person it would be best to stop a conversation at a suitable opportunity so that they can be involved.
- If the informant has given contact details tell them that a senior member of staff will contact them.

4. Ask questions to try to get as much information as possible.

- Probe and clarify where necessary
- Find out if the informant has any evidence – e.g. documents
- Ask open questions – who, what, where, when, why, how.

5. Check if the informant wants to make a Public Interest Disclosure Act 1998 (PIDA).

- An informant may qualify to make a protected disclosure if they give their name and are an employee
- Tell them briefly about PIDA
- Ask them if they are making a disclosure or would like to do so
- Reassure the informant all information will be treated in confidence

Think you just found a fraud?

Consider personal safety and leave immediately if at risk from a suspect.

1. As soon as possible make a note of your concerns ensuring this is kept secure and cannot be overseen.

- Who
- What
- Where
- When
- Why
- How.

2. Make copies of any documentation on site that may be relevant and is readily accessible.

- Computer records and outputs – Seek support from Head of Support and Customer Services to ensure evidence is protected from contamination and destruction and is collected correctly
- Financial documents such as invoices
- Procedure documentation
- Reports

3. Convey your suspicions as soon as possible to the appropriate Manager.

- Initial information and evidence obtained should be evaluated
- Further investigation work should be carefully considered and planned
- Involve Audit Services if necessary

Don't do these!

1. Don't unduly challenge and never ridicule an informant about the reliability of their information.

- We want to know everything they know, even if it is wrong
- There will be time afterwards to evaluate what has been said and to determine what action should be taken
- Be open and approachable.

2. Don't confront anyone suspected or accused.

- A fraudster should not be alerted before the investigating parties are ready to take action
- Inappropriately interviewing a suspect can compromise a criminal investigation
- Wrongly accusing someone can do serious damage to careers, relationships and professional credibility.

3. Don't tell anyone who does not need to know.

APPENDIX 5C

How is an investigation managed?

Objectives

The objectives of an investigation are to:

- identify if fraud has taken place
- identify the dishonest persons
- estimate the financial loss and make recovery
- act fairly by collecting balanced evidence to support or disprove allegations and suspicions of fraud
- recommend and agree action to improve internal control
- consider taking formal action where needed.

How to investigate

The approach to investigation work is summarised below:

When fraud is suspected:-

- Evaluate the information, evidence and sources
- Assess risk
- Plan and prioritise the work required
- Gather evidence from records, documents and enquiries
- Decide on further courses of action

At all stages consideration should be given to the cost and benefits of doing the work.

The first and second steps of evaluation and assessing risk should always be undertaken. These are essential to gain an adequate understanding of the circumstances, risks and possible courses of action.

Meetings should be held regularly to re-evaluate evidence gathered and to re-assess risk as the investigation progresses. In making the assessment of risk, try to anticipate the whole potential extent for fraud. Think of the worse case scenario. For example, if an employee is able to commit a fraud in one area, how many other areas might also be at similar risk and should be checked? This will help to identify the gaps in knowledge towards which further investigative enquiries need to be made.

The investigation cycle continues until the objectives of the investigation have been achieved or further useful evidence is unlikely to be available. The evidence that has been obtained can then be evaluated in its entirety and appropriate action considered.

APPENDIX 5D

How should evidence be obtained and kept?

Evidence handling and record keeping must be excellent.

Golden rules for evidence gathering and record keeping

The ultimate golden rule, here again, is that evidence should be collected and handled without compromising it or a future criminal investigation and prosecution. The guidance covers investigations which involve a team of staff. Most investigations in Services will be done by a single manager and not all the steps will be required.

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| ESTABLISH A FILING SYSTEM STRAIGHT AWAY | Chronicle in an investigation logbook every action taken during the investigation. Also keep an exhibits record for evidence gathered. |
| GET ENOUGH ADMINISTRATIVE SUPPORT | Keep right up to date with filing and record keeping. |
| OBTAIN ORIGINAL DOCUMENTARY EVIDENCE | Obtain original documentary evidence (e.g. invoices) where possible. Give a receipt and a copy of what is taken. |
| RECORD INTERVIEWS AND CONVERSATIONS | Conversations, information received and actions taken should be recorded contemporaneously. |
| MAINTAIN EVIDENCE SECURELY IN ORIGINAL CONDITION | Make sure original documents or items are not marked or damaged in any way. Store securely and work on copies. |
| GET ADVICE ABOUT OBTAINING AND USING IT AND FORENSIC EVIDENCE | IT and forensic evidence requires specialist skills to meet criminal standards. Get advice from the Head of Governance and Law and head of Support and Customer Services. |
| DON'T THROW ANYTHING AWAY | File everything including rough notes and working papers to avoid potential allegations of destroying evidence. |

APPENDIX 5E

What you shouldn't do

This section looks at the main risks and how they can be avoided.

The cardinal sins

The ultimate cardinal sin is to compromise a future criminal investigation by the Police or other agency and therefore the chances of a successful prosecution.

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| RUSH AN ILL PLANNED INVESTIGATION | Poorly managed investigations may jeopardise criminal prosecution and other action. Investigations should be well planned and involve staff with appropriate skills and experience. If in doubt call Internal Audit . |
| CONDUCT A CRIMINAL INVESTIGATION | This is the responsibility of the Police. When reasonable suspicion of a criminal offence is established, report the matter to Internal Audit and discuss the way forward. |
| INTERVIEW CRIMINAL SUSPECTS | This is the responsibility of the Police. Stop any ongoing interviews once reasonable suspicion arises or a confession is made. Don't start any new interviews of suspects. Never try to interview under caution. Report the matter to Internal Audit and discuss the way forward. |
| COMPROMISE EVIDENCE | The courts expect the original evidence to be produced in its original condition. Make a copy to work on and keep the original in a secure and safe file. |
| COMPROMISE COMPUTER EVIDENCE | If you switch a computer on or off you immediately compromise the evidence it may contain. Taking evidence from a computer involves specialist skills to copy hard drives and access networks appropriately. Specialist advice must be obtained. Report this to Head of Support and Customer Services and discuss the way forward. |
| THROW EVIDENCE AWAY | Keep everything. The law generally requires the prosecution to disclose all material evidence to the defence. This may include the audit files. |
| MOUNT COVERT SURVEILLANCE | Whilst the Council is a body to which the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) applies, we do not normally use covert surveillance. Don't follow people around or take pictures of them without their knowledge. This would be committing an offence. |
| USE INFORMANTS | Whilst the Council is a body to which the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) applies, we do not normally use covert surveillance. You cannot direct someone to find out information outside the normal course of the audit. So, for example, you cannot direct a member of the public "to keep an eye on things and let me know when it happens again". You can encourage them to contact you with further information which you are willing to take into account as part of the audit if they wish. |

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| INTERCEPT COMMUNICATIONS | Accessing personal e-mail and post without the permission of the individual concerned can be illegal under <i>RIPSA</i> and / or the <i>Data Protection Act 1998</i> . Get legal advice about your proposed enquiries in advance of taking any actions of this nature. |
| BREACH DATA PROTECTION REQUIREMENTS | Under <i>Section 29 of the Data Protection Act 1998</i> , data can be shared between organisations for purposes of preventing and detecting crime. However, obtain legal advice about the specific acquisition, use and sharing of computer data. |
| BECOME AN EXPERT WITNESS | The evidence should speak for itself and the expression of opinion should be unnecessary or properly limited. Always take legal advice if you are asked to make a statement to the Police or you have been called as a witness at trial. An ordinary witness states what they found, heard or saw. An expert witness offers professional opinion on the evidence and this should be avoided. |

It is important to keep in mind that evidence gathered during an audit investigation may subsequently be called upon in a criminal prosecution, civil law action or disciplinary / dismissal case. The action that can be taken against a fraudster will be compromised if it is possible to highlight procedural weaknesses in the investigation or evidence gathering process which may lead to evidence being ruled inadmissible or otherwise discredited.

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