
Report To:	Audit Committee	Date:	8 February,2022
Report By:	Interim Director of Finance & Corporate Governance	Report No:	FIN/05/22/AP/LA
Contact Officer:	Alan Puckrin	Contact No:	01475 712223
Subject:	Review of Standing Orders relating to Contracts and Financial Regulations		

1.0 PURPOSE

1.1 The purpose of this report is to seek Committee comment regarding proposed changes to two of the Council's key Governance documents prior to submission to the 17 February Council for approval.

2.0 SUMMARY

2.1 It is a core requirement of the Council's Governance process that the key Governance documents are reviewed on a regular basis. Covid-19 has meant there has been a delay in the scheduled review however this has also afforded the opportunity to factor in any changes in light of any changes to working practices arising from remote working etc.

2.2 A senior officer group has carried out a review of both the Financial Regulations and the Standing Orders relating to Contracts plus the Scheme of Delegation and Scheme of Administration which will be reported separately to the Council. In line with previous practice the Audit Committee is the appropriate Committee for reviewing changes to the Financial Regulations and the Standing Orders relating to Contracts and any the feedback from the Audit Committee will be intimated to the Full Council on the 17 February 2022 which will be asked to formally approve all the Council's key Governance documents.

2.3 Section 5 of the report highlights the main changes to the Standing Orders relating to Contracts which are also summarised in Appendix1. There are limited changes to the Financial Regulations with a smaller table in Appendix 2. The revised documents are shown in full in Appendix 3 and 4 respectively.

2.4 The Corporate Management Team have reviewed the proposed changes and supportive of the proposals.

3.0 RECOMMENDATIONS

3.1 It is recommended that the Committee review the changes proposed to the Council's Financial Regulations and Standing Orders relating to Contracts, provide any observations to be included in the report to the next scheduled meeting of the Inverclyde Council on the 17 February 2022.

4.0 BACKGROUND

- 4.1 It is a core requirement of the Council's Governance process that the key Governance documents are reviewed on a regular basis. Covid-19 has meant there has been a delay in the scheduled review however this has also afforded the opportunity to factor in any changes in light of any changes to working practices arising from Covid.
- 4.2 A senior officer group has carried out a review of both the Financial Regulations and the Standing Orders relating to Contracts plus the Scheme of Delegation and Scheme of Administration which will be reported separately to the Council
- 4.3 In line with previous practice, the Audit Committee is the appropriate Committee for reviewing changes to the Financial Regulations and the Standing Orders relating to Contracts and any observation by the Audit Committee will be intimated to the Full Council on the 17 February 2022 which will be asked to formally approve all the Council's key Governance documents.

5.0 CHANGES PROPOSED

- 5.1 The proposed revisions to the Council's Standing Orders relating to Contracts for 2022 are detailed in a summary table attached as Appendix 1, with the main proposed changes highlighted.
- 5.2 A clean version of the document is attached at Appendix 3.
- 5.3 Along with minor updates to job titles and dates and revisions to reflect previous committee decisions, substantial proposed amendments to the Council's Standing Orders relating to Contracts 2022 include revisions reflecting:
 - The UK's exit from the EU and the effect of this on procurement procedures, with the Public Contracts (Scotland) Regulations now being the principal procurement legislation that all contracts must comply with;
 - A proposed increase, at new SO 8, to the quick quote thresholds for supplies and services (from £25,000 to £50,000) and works (from £100,000 to £250,000);
 - A proposed increase, at new SO 20, to the tender acceptance levels, with delegated authority to the Head of Legal & Democratic Services to accept tenders with a value of up to £1million (increased from £500,000). Any tenders with a value of more that £1million (increased from £500,000) require to be accepted by Committee; and
 - A proposal to include Health and Social Care Contracts within the Standing Orders.
- 5.4 Subject to approval, it is proposed that the revised Standing Orders relating to Contracts are adopted with effect from 1 March 2022.
- 5.5 The proposed revisions to the Financial Regulations are less numerous but includes changes to ensure the Regulations "read across" to the Standing Orders relating to Contracts.
- 5.6 Appendix 2 provides a summary table of the main changes with a clean version of the proposed Regulations attached at Appendix 4.
- 5.7 Subject to approval, it is proposed that the revised Financial Regulations are adopted with effect from 1 March 2022.

6.0 IMPLICATIONS

6.1 Finance

There are no financial implications directly arising from this report.

Financial Implications:

One off Costs

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

Annually Recurring Costs/ (Savings)

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

6.2 Legal

Legal Services will continue to work with Procurement and services to support compliance with processes, the Standing Orders relating to Contracts and all relevant procurement legislation.

6.3 Human Resources

There are no HR implications arising from this report.

6.4 Equalities

Equalities

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

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

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
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X	NO
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6.5 **Repopulation**

There are no repopulation issues arising from this report.

7.0 **CONSULTATIONS**

7.1 An officer group including the Interim Head of Legal & Democratic Services, Corporate Procurement Manager, Interim Head of Property Services, Head of OD, Policy & Communications, Chief Internal Auditor, Legal Services Manager and Finance Manager (Finance Strategy and Corporate Services) have developed these proposals which are supported by the CMT.

8.0 **BACKGROUND PAPERS**

8.1 None

SUMMARY OF PROPOSED REVISIONS FROM REVISED STANDING ORDERS RELATING TO CONTRACTS – 2022

PAGE:	NEW SO REF:	SO TITLE:	PROPOSED CHANGE
n/a	n/a	n/a	Updated Index
n/a	n/a	n/a	Changes throughout the SOs to remove reference to the European Procurement Rules. Changes throughout the SOs to reflect up to date officer titles.
1	1.1	Definitions	Expanded and updated Definitions section to include new definitions of terms used throughout the SOs. Removal of reference to the European Procurement Rules.
2	2.0	Introduction	Change of title from “Preliminary Matters” to “Introduction”
2-3	2.1-2.4	Introduction	New SOs to reflect legislative basis of the SOs, definition of contract, the purpose of the SOs, ALEOs and requirement to seek Best Value.
3	2.5	Introduction	The removal of various EU procurement rule references. Reference now made to the legislative provisions that all contracts must comply with.
3	2.5(v) (was 2.5)	Introduction	Reference to contracts being subject to the Scheme of Delegation moved from old 2.5 to new 2.5(v)
4	3.1	Variation and Revocation	New SO to allow the Head of Legal & Democratic Services to vary the SOs in limited circumstances, with reporting of any changes to the next available meeting of the Council.
4	5.1	Review	Changed to state that SOs will be reviewed at least every 4 years, rather than 3, by the Head of Legal & Democratic Services.
4	6.1-6.3	Breach of SOs and/or Procurement Process	New SOs 6.1-6.3 setting out the process for reporting contravention or non-compliance with the SOs

5	7.1 and 7.2	Disaggregation	New SOs 7.1 and 7.2 on disaggregation to replace previous SO 6.3.
5	8.1	Excluded Contracts (Below Threshold Contracts/Quick Quotes)	<p>Removal of references to materials to reflect updated legislation.</p> <p>A new proposed upper threshold for supplies and services quick quotes of £50,000 (increased from £25,000).</p> <p>A new proposed upper threshold for works quick quotes of £250,000 (increased from £100,000).</p> <p>Raising the upper threshold for work quick quotes to £250,000 will improve opportunities for local businesses and SMEs to be successful in winning Council works contracts.</p> <p>Addition to clarify that the thresholds also apply to Health and Social Care Contracts.</p>
5	8.3	Excluded Contracts (Specific Exclusions)	<p>The removal of references to EU procurement rules.</p> <p>Addition of National Care Home Contracts to excluded contracts.</p> <p>Amendment to reference regarding contracts regarding the purchase of land and buildings. (Was 6.5)</p> <p>Removal of reference to excluded contracts including Health and Social Care Contracts (now included in SOs at new SO 11.)</p>
6	8.4	Framework and Exempt Collaborative Agreements	Inclusion of participation in SCAPE Scotland and ESPO (Eastern Shires Purchasing Organisation) Frameworks as per 16/11/21 Policy and Resources Committee (SCAPE) and 14/1/21 Environment & Regeneration Committee (ESPO)
6	8.6	Framework and Exempt Collaborative Agreements	<p>Deletion of previous SO 6.8 which provided t frameworks must be used and alternative procurement routes need approval.</p> <p>New SO 8.6 to reflect current position – officers will not automatically use a framework where available without also considering traditional procurement which should be captured through the procurement contract strategy process.</p>
7	9.0	Pre-Procurement Procedures	Change of SO Title.
7	9.3	Pre-Procurement Procedures	New SO to reflect the VAT position in respect of estimated values referred to in the SOs.
7	9.6	Pre-Procurement Procedures	New SO setting out requirement to check existing contract register before commencing a procurement exercise.

7	10.3 and (was 8.4)	Tendering Procedures – General	Deletion of references to non-electronic tenders.
7	11.0	Health and Social Care Services	New SO to ensure that the SOs apply to all Health and Social Care Services contracts with modifications to procedures set out in appendix 1.
9	19.2	Opening of Tenders	Revision to reflect decision of Inverclyde Council on 18 February 2021 to reflect the remote opening process. (Previously all tenders had to be opened in the presence of an officer within or acting on behalf of the procuring service and an officer within Legal Services).
9-10	20.3(i) and 20.3(ii)	Acceptance of Tenders	20.3(i) – all tenders <£1million to be accepted by the Head of Legal & Democratic Services (increased from tenders <£500,000) 20.3(ii) – all tenders >£1million to be accepted by the Head of Legal & Democratic Services with committee approval (increased from tenders >£500,000)
10	20.4	Acceptance of Tenders	Revision to reflect 6 monthly reporting to committee of all contract awards (including direct awards), to be led by the Procurement Manager.
10	21.3	Register of Tenders	Revision – Register of Tenders now to be kept and maintained by the Procurement Manager rather than Head of Legal & Democratic Services.
11	22.0	Direct Contract Awards	The removal of references to EU Procurement Rules. The direct award process for all contracts, including Health and Social Care Contracts, is set out in the Procurement Manual.
11	22.3	Direct Contract Awards	Revised to reflect the following process for direct awards: - services and supplies below the Regulated Procurement Threshold (i.e. £50,000) need the approval of the Procurement Manager, CFO and Head of Legal; - works of up to £250K need Procurement Manager, CFO and Head of Legal approval; and - works between £250K to £2m and above need committee approval.
13	26.1	Framework and Non-Exempt Collaborative Agreements	Maximum period of participation in Framework or non-exempt collaborative agreements increased from 3 to 4 years. The usual length of such agreements is 4 years and ties in with SO review every 4 years.
14	30.0	Performance Bonds	Revised to reflect the practical application of the SO.

APPENDIX 1

15			<p>Requirement for security now includes a formal parent guarantee or other sufficient security for the due performance of a contract.</p> <p>Increase in threshold of total contract sum for obtaining sufficient security increased from £500,000 to £1million.</p>
17-18	33.0	Technical Standards	<p>The removal of reference to European industry standards. British and international standards still referred to.</p>
	Appendix 1	Procedures for Commissioning of Health and Social Care Services	<p>New appendix as referred to in SO11.0.</p> <p>These are the procedures which apply specifically to the procurement of Health and Social Care contracts, which are now subject to the SOs.</p> <p>For Direct Awards, the procedure set out in the Procurement Manual must be followed.</p>

SUMMARY OF PROPOSED REVISIONS FROM REVISED FINANCIAL REGULATIONS – 2022

PAGE:	NEW SO REF:	SO TITLE:	PROPOSED CHANGE
n/a	n/a	n/a	Updated Index
n/a	n/a	n/a	Changes throughout Financial Regulations to update Chief Officer Designations.
n/a	n/a	n/a	Throughout the document, updated Service from Legal & Property Services to Legal & Democratic Services
3	1.2	General Interpretation	New, added statutory meaning for Chief Financial Officer.
4	1.15	General Interpretation	New, included a statement re acceptance of email authorisation in absence of wet signature
8	4.3	Virement	Removed Service examples and updated definition for Service.
11	6.1	Procurement and Purchasing	Updated to read "purchase of goods, services and works".
11	6.6	Procurement and Purchasing	Removed reference to payment made by cheque.
12	6.10	Procurement and Purchasing	Threshold increased from £0.5 million to £1 million
12	6.12	Procurement and Purchasing	Updated to read Internal Council Services
12	6.16	Procurement and Purchasing	Updated to consult Chief Financial Officer and Head of Legal & Democratic Services.
16	8.5	Travel and Subsistence Allowances	Sentence added – Claims after this date may not automatically be paid
20	10.5	Capital Programme	Section replaced. Updated for cost of variations exceeding £50,000 or 20% whichever is the lower, the Chief Officer shall report to the relevant Committee.
20	10.7	Capital Programme	Section deleted

APPENDIX 2

24	13.7	Asset Register	Updated to include ICT equipment.
29	17.5	External Organisations	Matrix has been added to document.

Standing Orders Relating to Contracts



Inverclyde Council

**Standing Orders
Relating to Contracts**

Approved - ##### 2022

STANDING ORDERS RELATING TO CONTRACTS

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1.0 DEFINITIONS

1.1 In these Standing Orders relating to Contracts the following definitions and provisions shall apply:

“2014 Act” means the Procurement Reform (Scotland) Act 2014 (as amended);
“2015 Regulations” means the Public Contracts (Scotland) Regulations 2015 as amended by the Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020;

“2016 Regulations” means the Procurement (Scotland) Regulations 2016;

“ALEO” means arm’s length external organisation used by the Council to deliver services e.g. Inverclyde Leisure and Riverside Inverclyde;

“Direct Award” means an award directly to a supplier without advertising or competition or when used in relation to a Framework, means a permissible direct call-off.

“Directors” shall include the Chief Executive and the Chief Officer of the Integration Joint Board;

“appropriate committee” shall mean the committee to which the procuring Service reports in terms of the Council’s Scheme of Administration;

“Best Value” means the legal duty to secure continuous improvement in the performance of the Council’s functions as set out in section 1 of the Local Government (Scotland) Act 2003 which requires the Council to attain an appropriate balance of quality and cost for any particular requirement having regard to efficiency, effectiveness, economy, equal opportunity requirements and sustainability;

“Emergency” shall be deemed to mean an actual or potential event involving or likely to involve any of the following:

- (i) danger to life or health;
- (ii) serious damage or destruction of property;
- (iii) major financial penalties; or
- (iv) significant unforeseen and unplanned financial consequences;

“Fair Work First” means the commitment by employers to investment in skills and training, no inappropriate use of zero hours contracts, action to tackle the gender pay gap, genuine workforce engagement, including with trade unions and payment of the Real Living Wage;

“Framework” means an overarching arrangement under which the terms and conditions are agreed, but where there is normally no commitment to subsequently place orders or call-off contracts;

“FTS” means Find a Tender Service, the new UK e-notification system which replaced requirements to advertise in the online journal of the EU;

“FTS Thresholds” means those thresholds (formerly referred to as EU thresholds) for the Council’s procurement requirements caught within the ambit of the 2015 Regulations: currently £213,477 for supplies and services and £5,336,937 in relation to works¹;

¹ These values changed on 1st January 2022 and shall change biennially thereafter

“FTS Contracts/ Procurements” means those procurements required to be advertised on FTS since they fall within the remit of the 2015 Regulations;

“General Duties” means (i) treating relevant economic operators equally and without discrimination, (ii) acting in a transparent and proportionate manner and (iii) complying with sustainable procurement duty set out in the 2014 Act

“Health and Social Care Services” means any of the services as defined by Regulation 12(1) and 13(1) of the 2014 Act, Regulations 74 to 76 and schedule 3 of the 2015 Regulations along with the associated schedule of the 2016 Regulations;

“other Specific Services” means the services listed in Schedule 3 to the 2015 Regulations excluding Health and Social Care Services;

“PCS” means Public Contracts Scotland and Public Contracts Scotland Tender being the advertising portal provided by the Scottish Government for the advertising of public contract opportunities;

“Procurement” means the process leading to the award of the of a public contract for the acquisition of services, supplies or work from an economic operator;

“Procurement Manual” means the Procurement Manual issued by the Procurement Manager setting out the detailed requirements and processes for the conduct of the Council’s procurement activity;

“Quick Quote” means an online request for a priced quotation provided through the PCS website used to obtain competitive quotes for low value/low risk procurement exercises from suppliers who are registered on PCS;

“Real Living Wage” means the hourly rate of pay which is independently calculated each year and overseen by the Living Wage Foundation;

“Regulated Contracts/Procurement” means those procurements which fall within the remit of the 2014 Act;

“Regulated Contracts/ Procurement Threshold” means those thresholds for the Council’s procurement requirements caught within the ambit of the 2014 Act – being £50K for goods and services and £2M for works; and

“Retained EU law” means any retained EU law within the meaning of the European Union (Withdrawal) Act 2018.

- 1.2 The title of every officer referred to in the Standing Orders relating to Contracts shall be read to include any alternative title which the Council may from time to time ascribe to that officer. Further, in the event that functions ascribed at the date hereof to a particular officer are re-ascribed, the relevant provisions herein shall transfer to that other officer(s).

2.0 INTRODUCTION

- 2.1 These Standing Orders Relating to Contracts (“Standing Orders”) are made under Section 81 of the Local Government (Scotland) Act 1973 and set out how contracts for all supplies, services and works will be made by or on behalf of the Council. The term ‘contract’ includes any form of agreement, written or unwritten, to which the Council is a party which creates rights and responsibilities for any of the parties involved.

- 2.2 The purpose of these Standing Orders is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality, and are procured in an open way that demonstrates probity and compliance with the Council's policies.
- 2.3 These Standing Orders apply to the Council carrying on its own procurement activity and any activity that the Council conducts on behalf of other parties such as ALEOs and the Health and Social Care Partnership.
- 2.4 In entering contracts for or on behalf of the Council, every officer or such other person as may have the power of entering into contracts on the Council's behalf, regardless of whether any such contracts are otherwise exempted from the application of these Standing Orders, shall be subject to an obligation to seek Best Value for the Council and be able to demonstrate equal treatment, non-discrimination, proportionality and transparency in the process of awarding contracts.
- 2.5 Notwithstanding the provisions and requirements of these Standing Orders, all contracts must comply with:
- (i) The requirements of the 2015 Regulations;
 - (ii) The requirements of the 2014 Act;
 - (iii) All other relevant legislation including Retained EU law;
 - (iv) the Council's Financial Regulations;
 - (v) the Council's Scheme of Delegation (Officers);
 - (vi) the Procurement Manual and the guidance on procedural requirements contained therein issued from time to time by the Procurement Manager; and
 - (vii) Rules of procedure for national contracts set up by Scotland Excel and Procurement Scotland;

Due consideration should also be given to all Guidance and Policy Notes in respect of procurement matters which may be issued by the Scottish Government and the Crown Commercial Services which may be issued from time to time.

- 2.6 In the event of any conflict between these Standing Orders and such legislation or rules or guidance, the legislation or rules and guidance shall take precedence.
- 2.7 Where any tender is likely to:-
- (i) equal or exceed the FTS Thresholds from time to time; or
 - (ii) equal or exceed the Regulated Procurement Thresholds,

the Director and relevant Head of Service will remain responsible for complying with the requirements of applicable procurement law but will consult fully with the Procurement Manager and the Head of Legal & Democratic Services to ensure that (a) the various requirements of the 2015 Regulations and/or the 2014 Act are fully complied with and (b) where the 2015 Regulations apply, to determine the appropriate procurement route: open; restricted; negotiation; competitive procedure with negotiation; or, competitive dialogue.

3.0 VARIATION AND REVOCATION

3.1 Other than alterations of a nature which fall within Standing Order 3.2, these Standing Orders relating to Contracts may from time to time be varied or revoked by the Council.

3.2 The Head of Legal & Democratic Services shall have the power to vary these Standing Orders relating to Contracts but only in the following circumstances:

- (i) to reflect changes in job titles, re-organisations of services and directorates and vacancies in posts;
- (ii) to change references to any pieces of legislation where the legislation is repealed, and to insert references to new pieces of legislation where the new pieces of legislation largely re-enact the provisions of the repealed legislation;
- (iii) to change the financial values of FTS Thresholds or Regulated Contracts/Procurement Threshold where referred to in these Standing Orders relating to Contracts, to implement any changes made to those thresholds.

Any alterations made in terms of this Standing Order 3.2 shall be reported to the next meeting of the Council.

4.0 SUSPENSION

4.1 The appropriate committee, on receiving a joint recommendation from the relevant Director, the Head of Legal & Democratic Services and the Chief Financial Officer that there are special circumstances justifying suspension of one or more provisions of these Standing Orders relating to Contracts and that it is in the interests and within the powers of the Council to do so, may suspend the application of such provision(s) to any contract.

4.2 The Chief Executive, in terms of the specific delegation to them by the Council to deal with matters of Emergency and following appropriate consultation, may authorise action which otherwise would require suspension of one or more provisions of these Standing Orders relating to Contracts.

5.0 REVIEW

5.1 These Standing Orders relating to Contracts shall be reviewed at least every four years by the Head of Legal & Democratic Services.

6.0 BREACH OF STANDING ORDERS AND/OR PROCUREMENT PROCESSES

6.1 Any contravention of or non-compliance with these Standing Orders and/or procurement processes must be reported immediately to the Procurement Manager and the Head of Legal & Democratic Services who may discuss the matter with senior managers as appropriate, to determine any action to be taken.

6.2 Any incidents of suspected fraud must be directed to the Chief Financial Officer immediately.

6.3 Disciplinary action may be taken as a result of any of the events in Standing Orders 6.1 and/or 6.2 being found to have occurred.

7.0 **DISAGGREGATION**

7.1 Contracts must not be disaggregated, packaged or split into separate smaller contracts or requirements to avoid the application of any provision of these Standing Orders, FTS Procurements, Regulated Procurements or any other legislative provision including Retained EU law.

7.2 In determining whether either the FTS Procurement Threshold or the Regulated Procurement threshold has been exceeded in respect of any single requirement for works, services or supply contracts, the value of that requirement shall be aggregated across the entire Council.

8.0 **EXCLUDED CONTRACTS**

A – Below Threshold/Quick

Quote Contracts

8.1 Contracts for the supply of goods or materials, the provision of services or for the execution of works are excluded from the application of the Standing Orders relating to Contracts where the estimated price of the contract is less than:

Supplies and Services	£50,000
Works	£250,000

For the avoidance of doubt, 'services' includes without limitation Health and Social Care Services and other Specific Services

8.2 Competitive quotes or Quick Quotes must still be sought for the excluded contracts referred to at Standing Order 8.1 above in line with the procedures detailed in the Procurement Manual.

B) Specific Exclusions

8.3 The following specific contracts are excluded from the application of the Standing Orders relating to Contracts:-

- (i) any contract for supplies and services or for the execution of works which, in the opinion of the Chief Executive, in consultation with the relevant Director, Head of Legal & Democratic Services and the Chief Financial Officer, are urgently required for the prevention of damage to life or property or which the Chief Executive believes would avert, alleviate or eradicate the effects or potential of an Emergency. Any such contracts, and the relevant circumstances, shall be reported by the relevant Director to the appropriate committee as soon as possible after the event;
- (ii) a contract which has been extended for a period of up to six months in terms of the Council's Scheme of Delegation (Officers);
- (iii) contracts of employment;
- (iv) the appointment of legal agents or legal counsel in accordance with the 2014 Act and 2015 Regulations;
- (v) the allocation of direct payments or personal budgets under options 1, 2 or 4 of the Social Care (Self Directed Support) (Scotland) Act 2013;

- (vi) any contract awarded under the National Care Home Contract;
- (vii) appointed guardians or legal services instructed by a court or tribunal from the panel of persons appointed by the Council under The Curators ad Litem and Reporting Officers (Panels) Scotland Regulations 2001 and the appointment of board members required by statute; and
- (viii) any proposals, transactions or contracts regarding the acquisition or disposal of lands or buildings by the Council (which shall be subject to separate procedures contained within the Procurement Manual).

C) Framework and Exempt Collaborative Agreements

- 8.4 Frameworks and Collaborative Agreements are excluded from the application of the Standing Orders relating to Contracts where the contract is for supplies and services or for the execution of works made on behalf of the Council by Scotland Excel, Procurement Scotland, the Crown Commercial Service, Strathclyde Partnership for Transport, hub West Scotland, SCAPE Scotland, ESPO (Eastern Shires Purchasing Organisation) or any successor body or bodies for whom the Council has approved its membership or participation in furtherance of collaborative purchasing or admission to contractual arrangements providing Best Value to the Council. For the avoidance of doubt, Standing Order 26 (*Framework and Non-exempt Collaborative Agreements*) shall apply in all other cases.
- 8.5 Any participation agreement required to secure the Council's right to participate in a particular collaborative purchasing contract set up by a body listed at Standing Order 8.4, shall, irrespective of value, be signed on behalf of the Council by the Procurement Manager.
- 8.6 In accordance with the agreed contract strategy, the Procurement Manager, in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer, may approve a recommendation for a tender exercise not being undertaken in terms of a Framework or Collaborative Agreement in terms of Standing Order 8.4 subject to the appropriate Director or relevant Head of Service evidencing the value of an alternative procurement route.
- 8.7 If the appropriate Director or relevant Head of Service believes that such collaborative purchasing is not achieving Best Value the Director or Head of Service must obtain the prior approval of the Procurement Manager in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer for any alternative procurement route.
- 8.8 Any matter relating to the Council's membership of the bodies listed at Standing Order 8.4 shall be referred to the Council's Policy & Resources Committee or its equivalent from time to time.

D) Other Specific Services

- 8.9 Where the 2015 Regulations apply, other Specific Services shall be procured in accordance with those Regulations as explained in the Procurement Manual.

9.0 PRE-PROCUREMENT PROCEDURES

- 9.1 No tender shall be invited or offer made or accepted for any contract for supplies and services or for the execution of works unless there is sufficient financial provision within approved budgets for the net estimated expenditure.
- 9.2 The values stated in these Standing Orders are the total estimated values of the contract concerned for the entire duration of the contract including any extensions and not the estimated annual value of the contract.
- 9.3 The estimated values in these Standing Orders are calculated inclusive of VAT in relation to FTS Thresholds but exclusive of VAT in relation to Regulated Procurement and any requirement lower than the Regulated Procurement thresholds.
- 9.4 Where it is likely that a supply of goods or services or execution of works will be required on a continuing basis for a number of years the anticipated duration of the continuing supply shall be taken into account when estimating the value of the contract for the purposes of these Standing Orders.
- 9.5 For purposes of any financial checks of tenders, the amount of the annual value shall be a sufficient and appropriate basis of assessment. The financial check process is set out in the Procurement Manual.
- 9.6 Prior to commencing with a procurement exercise, the relevant Head of Service, in consultation with the Procurement Manager, shall check the Council's contract register to establish whether any existing corporate contracts are in existence which may already fulfill the requirement in question.

10.0 TENDERING PROCEDURES - GENERAL

- 10.1 All contracts exceeding the values specified in Standing Order 8.1 require to be advertised in a sufficiently open manner to ensure that the principles of openness, transparency and equality are fully met.
- 10.2 Public notice shall be given of all contracts over the values specified in Standing Order 8.1 on the Public Contracts Scotland Portal. Where, in particular circumstances, the Head of Service considers it necessary, public notice may also be given in appropriate trade journals or newspapers.
- 10.3 Tenders must be invited by advertising the contract opportunity on the Public Contracts Scotland Portal.

11.0 HEALTH AND SOCIAL CARE SERVICES

- 11.1 Subject to the modifications set out in Appendix 1 and in accordance with the 2015 Regulations and the principles set out in the Statutory Guidance issued by Scottish Ministers in terms of the 2014 Act, as well as the Best Practice Guidance on the Procurement of Care and Support Services 2016 issued in terms of the 2014 Act, these Standing Orders shall apply to contracts for Health and Social Care Services subject to the special procedures set out in Appendix 1.
- 11.2 Any contract for Health & Social Care Services which has an estimated value in excess of the FTS Threshold for Health & Social Care Services must be procured by following a procedure which conforms to the Council's duties as outlined in the 2015 Regulations.

12.0 **SUSTAINABILITY**

- 12.1 (i) The 2014 Act requires that prior to procuring any contract for supplies or services equal to or greater than £50,000 or procuring any contract for the execution of works equal to or greater than £2million, the Council must, in line with the sustainable procurement duty consider how its actions can improve the social, environmental and economic wellbeing of the Inverclyde Council area, focusing particularly on inequality and then procure in a manner which secures those identified improvements; and
- (ii) seek to facilitate the involvement of SMEs, third sector bodies and supported businesses and support innovation in its procurement processes.
- 12.2 Advice must be sought from the Procurement Manager on the requirements set out at Standing Order 12.1 prior to issuing a tender.

13.0 **AWARDING CONTRACTS IN LOTS**

- 13.1 Where the 2015 Regulations apply, a contract may be awarded in the form of separate lots. Where the decision is taken not to award in the form of separate lots the main reason(s) for this must be explained in the contract documents or within the reporting requirements set out in the 2015 Regulations.
- 13.2 Where the 2015 Regulations apply, prior to issuing a tender, advice must be sought from the Procurement Manager on whether or not it is possible to separate the contract into lots.

14.0 **RESTRICTING TENDERS TO SUPPORTED BUSINESSES**

- 14.1 The Council can restrict participation in any tender opportunity to providers operating supported businesses, supported employment programmes or supported factories where more than 30% of the workers are disabled or disadvantaged persons in accordance with the 2015 Regulations.
- 14.2 The restriction set out in Standing Order 14.1 must be advertised in the relevant public notice specified in accordance with Standing Order 10.2 above. Prior to exercising this right, advice must be sought from the Procurement Manager in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer.

15.0 **FAIR WORK FIRST AND COMMUNITY BENEFITS**

- 15.1 All procurement planning and tendering procedures and contractual arrangements entered into shall, in accordance with Council policy and guidance, encourage Fair Work First working practices and payment of the Real Living Wage and, where appropriate, shall include the use of community benefit clauses.
- 15.2 Advice must be sought from the Procurement Manager on the requirement set out at Standing Order 15.1 prior to issuing a tender.

16.0 **TENDER EVALUATION**

- 16.1 The evaluation methodology of tenders shall be transparent, fair, and proportionate and comply with Council guidance on evaluation criteria contained within the Procurement Manual and shall be fully disclosed to prospective tenderers in the tender documentation.

16.2 Unless otherwise provided for in the Procurement Manual, each and every contract must be awarded to the 'most economically advantageous tender' and the balance between cost/quality must not fall below 60/40, where 60 represents cost and 40 represents quality.

16.3 Where the relevant Director is of the opinion that the ratio specified at Standing Order 16.2 requires to be varied to the extent that cost represents a smaller percentage of the overall total, then prior to commencing the procurement process, the Director shall prepare a report for the approval of the appropriate committee. Any such report shall be prepared in consultation with the Procurement Manger, the Head of Legal & Democratic Services and the Chief Financial Officer.

17.0 **CONTRACT TERMS AND CONDITIONS**

17.1 Officers shall procure using current standard industry form terms and conditions and/or current framework terms and conditions. Where no such terms are available, officers shall procure using the Council's current Standard Terms and Conditions of Purchase.

17.2 Officers shall give specific consideration to the inclusion of an alternative dispute resolution clause in the terms and conditions of a contract if such a clause is not already included in the applicable terms.

18.0 **LATE TENDERS**

18.1 No tenders received after the closing date and time for submission shall be considered and arrangements shall be made for their rejection. Tenderers shall be advised of this provision in the invitation to tender.

18.2 The Council expressly reserves the right to require any tenderer to provide additional written information supplementing or clarifying any of the information provided by that tenderer in response to requests for information or questions contained in the pre-qualification questionnaire, the Single Procurement Document or invitation to tender.

19.0 **OPENING OF TENDERS**

19.1 All tenders relating to a specific project shall be opened at the one time.

19.2 Tenders in excess of £1million shall be opened by 2 Procurement Officers (Grade 7 or above) using the date and time stamp element of the PCS portal to record offers received. All other tenders shall be opened by one Procurement Officer (Grade 7 or above) using the date and time stamp element of the PCS portal to record offers received.

20.0 **ACCEPTANCE OF TENDERS**

20.1 Except as hereinafter provided, the most economically advantageous tender shall be accepted.

20.2 The lowest price shall only be accepted (if desired for any particular procurement) where the value of the Council's requirement falls below the Regulated Procurement Threshold Procurement Manual.

20.3 Tenders may only be accepted on behalf of the Council:-

- (i) in the case of tenders where the total estimated value or the amount does not exceed £1,000,000 by the Head of Legal & Democratic Services;

- (ii) in the case of tenders where the total estimated value or amount exceeds £1,000,000 by the Head of Legal & Democratic Services with authority from the appropriate committee; and in relation to tenders beneath the PCS-FTS threshold, where the tender recommended for acceptance is not the most economically advantageous, by the Head of Legal & Democratic Services only with authority from the appropriate committee.
- 20.4 The Procurement Manager shall, on a bi-annual basis, submit a report for noting to the appropriate committee detailing all awards (including Direct Awards) which have been placed within the previous six month period.
- 20.5 If the appropriate Director or Head of Service recommends that none of the tenders submitted should be accepted, the relevant Head of Service or his/her authorised representative shall notify all tenderers accordingly.
- 20.6 No tender shall be accepted unless the appropriate Director or Head of Service and the Chief Financial Officer respectively are or have been satisfied as to the technical capability and professional fitness and financial standing of the tenderer.

21.0 **PROCUREMENT STRATEGY, RECORDS AND REPORTING**

Procurement Strategy

- 21.1 The Procurement Manager shall, in consultation with the Head of Legal & Democratic Services and the Corporate Management Team, prepare and publish an annual procurement strategy setting out how the Council intends to carry out procurements regulated by the 2014 Act.

Annual Procurement Report

- 21.2 The Procurement Manager shall, in consultation with the Head of Legal & Democratic Services, in relation to any financial year, prepare and publish an annual procurement report on procurements regulated by the 2014 Act as soon as reasonably practicable after the end of the relevant financial year.

Register of Tenders

- 21.3 The Procurement Manager shall keep and maintain a register of all tenders received which register shall be made available for inspection at any time, and in which shall be entered, in respect of each tender:
- (i) the number of tenders received in respect of each contract;
 - (ii) the date and time of opening of each tender; and
 - (iii) the name and address of each tenderer, the value or amount of each tender and a statement as to the acceptance or otherwise of the tender.
- 21.4 Standing Order 21.3 shall not apply to Health and Social Care Service contracts. The relevant Head of Service shall keep and maintain a register of tenders relating to Health and Social Care Services containing the information (where relevant) outlined in (i) – (iii) above.

22.0 **DIRECT CONTRACT AWARDS**

22.1 In relation to a FTS Procurement or a Regulated Procurement, a contract can only be awarded directly without competition if the Direct Award can be justified under the relevant law.

22.2 Where the circumstances of Standing Order 22.1 apply the Director or Head of Service must obtain advice from the Procurement Manager, in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer before submitting a report to the appropriate committee for prior approval to make a Direct Award.

22.3 In other exceptional cases:

(i) where the contract is for the provision of services and supplies and the proposed spend falls below the Regulated Procurement Threshold, if the Director or Head of Service considers on the application of Best Value principles that a contract can be directly awarded without competition, the Director shall obtain the prior approval of the Procurement Manager, in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer.

(ii) where the contract is for the execution of works and the proposed spend is below £250,000, if the Director or Head of Service considers on the application of Best Value principles that a contract can be directly awarded without competition, the Director shall obtain the prior approval of the Procurement Manager, in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer.

(iii) where the contract is for the execution of works and the proposed spend is between £250,000 and the Regulated Procurement Threshold relating to the execution of works (£2million), the Director or Head of Service must obtain advice from the Procurement Manager, in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer before submitting a report to the appropriate committee for prior approval for a Direct Award.

22.4 Any report required in terms of Standing Orders 22.2 and 22.3(iii) shall confirm the identity of the party to which the contract is to be directly awarded and the proposed contract terms.

22.5 The process set out in the Procurement Manual must be followed before the making of any Direct Award in terms of Standing Orders 22.1 and 22.3.

22.6 The Direct Award process for all contracts (including Health and Social Care contracts) is set out in more detail in the Procurement Manual.

23.0 **CONTRACT EXTENSIONS**

23.1 A contract extension affects the duration and potentially the value of the contract.

23.2 A contract can only be extended in certain defined circumstances:

(i) the right to extend must have been referred to in the initial procurement advert for the contract and the terms and conditions of the contract must contemplate such an extension; or

(ii) the extension constitutes a permissible and justifiable Direct Award under Standing Order 22 (*Direct Award Contracts*).

In all other cases a contract extension is not permitted.

23.3 This Standing Order does not apply to contracts for the execution of works where extensions of time are expressly contained in standard industry form terms and conditions of contract.

23.4 The relevant Head of Service must obtain advice from the Procurement Manager in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer prior to extending any contract under Standing Order 23.2(ii) and must follow the process for Direct Awards set out in the Procurement Manual.

24.0 **CONTRACT MODIFICATIONS**

24.1 A contract modification affects the scope of the contract.

24.2 Examples of when a contract modification may be required include circumstances where there is a need for additional works, services, goods or materials which were not specified in the initial procurement or where a new contractor replaces the contractor to whom the contract was initially awarded.

24.3 The 2015 Regulations set out when it is permissible to modify a contract to which the Regulations apply. Where it is not possible to modify a contract, the contract must be re-tendered unless the modification constitutes a permissible and justifiable Direct Award under Standing Order 22 (*Direct Contract Awards*).

24.4 The relevant Head of Service must obtain advice from the Procurement Manager in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer prior to modifying any contract.

25.0 **EARLY TERMINATION OF A CONTRACT**

25.1 In relation to tenders falling within the scope of the FTS thresholds, tender documents must include an early termination clause to permit effect to be given to Regulation 73 of the 2015 Regulations namely the Council must have the right to terminate the contract or framework early where:

- (i) the contract or framework has been subject to such substantial modification that a new procurement exercise is required; or
- (ii) the tenderer has been in a situation which constitutes a ground for exclusion at the time the contract was awarded and should therefore have been excluded from the procurement process; or
- (iii) A court or tribunal of competent jurisdiction has declared that a contract or framework should not have been awarded due to a serious breach of the 2015 Regulations.

25.2 If the relevant Head of Service decides that an operational contract which has no significant implications for the Council and no significant unplanned budgetary impact, including a contract falling within the scope of Standing Order 25.1, requires to be terminated prior to the expiry date, the Head of Service must explain the circumstances and obtain the prior written approval for the early termination from the Procurement Manager in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer.

25.3 In all other cases where the relevant Head of Service decides that a contract requires to be terminated prior to the expiry date, including a contract falling within the scope of Standing Order 25.1, the Head of Service must, in consultation with the Procurement Manager, Head of Legal & Democratic Services and the Chief Financial Officer, submit a report explaining the circumstances and implications for the Council and seeking the approval of the appropriate committee.

26.0 **FRAMEWORK AND NON-EXEMPT COLLABORATIVE AGREEMENTS**

26.1 The Procurement Manager may seek the approval of the appropriate committee to participate in framework or non-exempt collaborative agreements with a body or organisation which is not listed at Standing Order 8.4 (*Framework and Non-Exempt Collaborative Agreements*) for a maximum period of 4 years provided the Procurement Manager is satisfied that any such framework or non-exempt collaborative agreement:

- (i) has been established in accordance with the 2015 Regulations or the 2014 Act; and
- (ii) is achieving Best Value.

26.2 No further committee approval will be required to purchase from a framework or non-exempt collaborative agreement approved in terms of Standing Order 23.1 unless the total estimated value or amount of the contract exceeds £1,000,000 in which circumstances Standing Order 20.3(ii) (*Acceptance of Tenders*) will apply.

26.3 Where a Director or Head of Service deems it Best Value, they may enter into or participate in a framework or non-exempt collaborative agreement which has not been approved in terms of Standing Order 26.1 provided the Director or Head of Service has obtained the prior approval of the appropriate committee for the participation and level of spend. Before doing so, the Director or Head of Service shall consult fully with the Procurement Manager, the Head of Legal & Democratic Services and the Chief Financial Officer.

26.4 Any participation, membership or similar agreement required to secure the Council's right to participate in collaborative purchasing contracts duly approved under Standing Orders 26.1 or 26.3 shall be signed by the Head of Legal & Democratic Services in consultation with the Chief Financial Officer and the Procurement Manager.

27.0 **POST TENDER CLARIFICATION**

Errors in computation

27.1 Where examination of tenders received reveals obvious errors in the computation of the offer which would affect the tender figures, these errors will be dealt with in the following manner:-

- (i) any obvious arithmetical errors will be rectified by the appropriate officer checking the tenders and the amount of tender shall be held to be the amount of the documents so rectified and the tenderer informed in writing of the corrected amount; and
- (ii) where there is an obvious and genuine error in rates occurring, the tenderer will be given the opportunity of either (a) confirming that they agree to their tender being considered with the error remaining, (b) correcting the error, or (c) withdrawing their tender. This procedure must be undertaken in writing. Should the tenderer decide to withdraw their tender, it will not be considered for acceptance. The tenderer must be permitted only to amend the obvious or

genuine error and must not be given the opportunity to amend any other part of their tender.

Requests for clarification

27.2 A full written record shall be kept by the relevant Head of Service of all contracts where post tender clarification has been used and the written record will be retained with the original tender. The written record will include the justification for authorising post tender clarification, the nature of the clarification undertaken, the outcome of such clarification and shall detail any additional terms agreed by the Council.

28.0 CONTRACT TERMS REGARDING CONSULTANTS AND SPECIALIST SERVICE PROVIDERS

28.1 Where appropriate, it shall be a condition of engagement of consultants and specialist service providers that:-

- (i) they and their staff shall comply with these Standing Orders as though they were officers of the Council;
- (ii) at any time during the performance of the contract, the consultant/specialist service provider shall, on a request by the relevant Head of Service, produce all records maintained by them in relation to the contract and on completion of the contract, transmit all such records to the Council, if so required; and
- (iii) copyright and intellectual property rights in and to all documentation produced by or on behalf of the consultant/specialist service provider exclusively for the Council in the course of providing the services shall vest and remain vested in the Council.

28.2 In the event that a Head of Service wishes to depart from the requirements of Standing Order 28.1, the Head of Service shall only do so with the prior agreement of the Procurement Manager in consultation with the Head of Legal & Democratic Services and the Chief Financial Officer.

29.0 FORM OF CONTRACT

29.1 Except where otherwise agreed between the appropriate Director and the Head of Legal & Democratic Services, every contract shall be in writing and in the name of the Council, shall be signed by the Head of Legal & Democratic Services or other proper officer(s) designated by him/her and shall be subject to the laws of Scotland.

30.0 PERFORMANCE BONDS

30.1 A contract guarantee bond, formal parent company guarantee or other sufficient security for the due performance of a contract must be obtained from a building contractor for capital and infrastructure projects in the following circumstances:

- (i) where the total contract sum for the project exceeds £1,000,000; or
- (ii) where the Council as funder contributes more than £250,000 to the project, or
- (iii) Where otherwise considered necessary by the relevant Head of Service.

30.2 The security provided must have a minimum value of 10% of the total contract sum and any contract guarantee bond must be based on the standard Association of British Insurers Model Form of Guarantee Bond duly amended to include the insolvency of the building contractor as a default.

31.0 **COLLATERAL WARRANTIES**

31.1 A collateral warranty may be required where goods or materials, services or works are provided by a party which is not a party to the Council's main contract. A collateral warranty enables the Council to raise a contractual claim directly against the party which is not a party to the main contract.

31.2 Collateral warranties may also require to be provided in associated but separate or phased tender exercises. For example, a building contractor appointed by the Council may require a collateral warranty to be provided by a specialist consultant appointed by the Council to provide a specialist structural report. In such circumstances, the contractual terms of the original specialist consultant appointment must oblige the original specialist consultant to provide collateral warranties where required by other parties to the project.

31.3 Officers shall consider whether it is appropriate to obtain a collateral warranty or warranties including whether a collateral warranty or warranties may require to be provided as part of an associated but separate or phased tender approach. Advice must be sought from the Procurement Manager in consultation with the Head of Legal & Democratic Services prior to issuing any tender or contract if collateral warranties may be required by the Council or another party.

32.0 **FREEDOM OF INFORMATION**

32.1 All tender documents shall clearly state that the Council is a body to whom the Freedom of Information (Scotland) Act 2002 applies in accordance with the procedure detailed in the Procurement Manual

33.0 **TECHNICAL STANDARDS**

33.1 All tenders for supplies, services or works shall be based on a defined specification except where the Council otherwise decides.

33.2 Where there is a recognised international or British Standards Specification or British Standard Code of Practice current and applicable at the date of tender, every contract shall require, as the case may be, that all goods, materials used or supplied, services provided and all workmanship shall at least meet the requirements of that standard.

33.3 In the absence of any such recognised standard as referred to at Standing Order 33.2, the contract documents shall require an appropriate equivalent standard shall be used, where available.

34.0 **EQUALITIES & PREVENTION OF DISCRIMINATION**

34.1 No contract shall be awarded without the relevant Head of Service having obtained from the tenderer confirmation in writing that, to the best of the tenderer's knowledge and belief, the tenderer-

- (i) has complied with all statutory requirements relating to equal opportunities in employment; and
- (ii) is not unlawfully discriminating within the meaning and scope of the Equality Act 2010 (or any statutory modification or re-enactment thereof).

34.2 No contract shall be awarded unless the relevant Head of Service has obtained satisfactory information from the tenderer in relation to their statutory obligations under the said Equality Act 2010.

35.0 **ETHICS AND STANDARDS**

35.1 Dealings with suppliers and tenderers must at all times be transparent, honest and fair.

35.2 Any conflict of interest which arises in relation to an officer's official duty and their personal interest must be resolved so that any conflicted individual is not in a position to influence decisions made.

35.3 The actions of officers should not be, nor give the impression that they have or may have been, influenced by a gift or consideration to show favour or disfavour to any person or organisation. Officers must be aware of their responsibilities when procuring and that there are criminal penalties for offences which are specified in the Bribery Act 2010.

35.4 Officers must keep sufficient records to establish an audit trail to demonstrate that ethical standards have been observed throughout any procurement process.

36.0 **ASSIGNATION/NOVATION**

36.1 Except where otherwise provided in the contract, a contractor shall not assign, novate or sub-let a contract or any part thereof without the previous written consent of the Council.

Appendix 1

Procedures for Commissioning of Health and Social Care Services

1. Introduction

- 1.1 In accordance with Standing Order 11.0, the Standing Orders relating to Contracts shall apply to the procurement of contracts for Health and Social Care Services subject to the special procedures set out in this Appendix.
- 1.2 These procedures are intended to accord with and reflect the principles set down in the Statutory Guidance issued by Scottish Ministers in terms of the Procurement Reform (Scotland) Act 2014 as well as the Best Practice Guidance on the Procurement of Care and Support Services 2016 issued in terms of the Procurement Reform (Scotland) Act and the 2015 Regulations.
- 1.3 Any competitive process must be carried out in line with the requirements of these Standing Orders relating to Contracts including provisions regarding possible contract extensions or modifications.
- 1.4 All Health and Social Care Services procurement will be undertaken by the Health and Social Care Partnership (HSCP) Commissioning Team, supported by Corporate Procurement.
- 1.5 All Officers must follow the process and procedures set out at Paragraph 3 and in the Procurement Manual in relation to the Commissioning of Health & Social Care Services.

2. Governing Bodies (Care Inspectorate)

- 2.1 Any tenderers wishing to provide Health and Social Care Services to the Council must be registered with Care Inspectorate (or its statutory successor(s)) or any other relevant regulatory bodies that are a mandatory requirement to the service provision, where required in terms of the contract.

3. Procedures for Procuring Contracts for Health and Social Care Services

TOTAL VALUE FOR DURATION OF CONTRACT (AGGREGATION RULES APPLY)*	PROCEDURE	APPROVAL PROCESS	COMMITTEE APPROVAL
£663,540** and above	Must be advertised in FTS and the light touch provisions in the 2015 Regulations apply	HSCP Chief Officer in conjunction with Chief Financial Officer, Procurement Manager and Head of Legal & Democratic Services up to £1,000,000	Approval to award must be sought from the appropriate Committee where the value exceeds £1,000,000
£50,000 - £663,539.99	May award without seeking offers, but should consider the General Duties where	HSCP Chief Officer in conjunction with Procurement	Not required

	<p>relevant. For any contract over £50,000, a contract award notice must be published on PCS. Certain other rules also apply (see paragraph 8.12 of Guidance on the Procurement of Care and Support Services 2021 (Best Practice))</p> <p>Or</p> <p>May choose to seek offers: in which case all provisions of the 2014 Act apply</p>	<p>Manager shall be responsible for deciding whether a particular contract is one which may be awarded without advertisement and competition in accordance with Section 12 of the Reform Act.</p>	
Below £50,000	Not a Regulated Procurement	Procurement Manager in conjunction with the relevant Head of Service.	Not Required

* the estimated value of the Contract is the value of the total consideration which the Council expects to be payable under or by virtue of the Contract. Contracts must not be artificially disaggregated as per Contract Standing Order 7.0. Advice must be sought from the Chief Financial Officer on a case by case basis in relation to whether the Contract is exempt from VAT.

** or the applicable FTS Threshold for Social and other specified services as defined in Schedule 3 of the 2015 Regulations.

4. Direct Award Process

4.1 The procedure in relation to procuring a contract for Health and Social Care Services without advertisement and competition that has an estimated value below the FTS Threshold for Health and Social Care Services is fully detailed in the Procurement Manual.



FINANCIAL REGULATIONS

Revised January 2022

Foreword

- i. The Council positively promotes the principles of sound corporate governance within all areas of the Council's affairs.

Corporate governance is about the structures and processes for decision-making, accountability, controls and behaviour throughout the Council. It is based around the key principles of openness, equality, integrity and accountability.

- ii. The fundamental principles of corporate governance should be reflected in the various dimensions of Council business which should include;

- ◆ Ensuring that a community focus underpins the Council's own vision and priorities;
- ◆ Ensuring the effective delivery of local services on a sustainable basis;
- ◆ Establishing effective management structures and processes which include clearly defined roles and responsibilities for officers;
- ◆ Developing and maintaining effective risk management systems that form part of the Council's strategic decision making process;
- ◆ Ensuring high standards of propriety and probity in the stewardship of the Council's funds and the management of the Council's affairs;
- ◆ Commitment to openness in the Council's affairs and the provision of full, accurate and clear information to all stakeholders.

- iii. These Regulations are an essential component of the corporate governance of the Council.

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1. GENERAL INTERPRETATION

- 1.1 These Regulations are made in terms of Section 95 of the Local Government (Scotland) Act 1973 which requires every local authority to make arrangements for the proper administration of its financial affairs and to ensure that the proper officer of the authority has responsibility for those affairs.

The Chief Financial Officer has been designated as "the proper officer" and shall be responsible for advising the Council on financial matters including the determination of Accounting Policies.

- 1.2 In these regulations unless the context requires otherwise the following expressions shall have the meanings respectively assigned to them, that is to say:-

Council means Inverclyde Council;

Committee means all the committees of the Council including sub-committees;

Chief Officer means the Chief Executive, Directors and Heads of Service. This also refers to and includes other Officers when the stated duties have been delegated;

Chief Financial Officer means the Officer responsible for managing the financial affairs of the Council as designated by the Council in terms of Section 95 of the Local Government (Scotland) Act 1973.

Budget Manager is a general term for any employee who has been delegated responsibility for the control of a budget.

- 1.3 These Regulations are designed to facilitate the smooth running of the Council and to protect its interests and the interests of Councillors and Officers. These regulations are made for the proper administration of the Council's financial affairs, Trading Accounts, Trust Funds, The Common Good and Sundry Accounts.

Head Teachers must comply with these Regulations, with the exception of Virement which is defined within the Delegated Management of Resources (DMR) Scheme.

- 1.4 It shall be the duty of the Chief Financial Officer to ensure that Chief Officers maintain adequate financial and accounting arrangements. Chief Officers must comply with all guidance on accounting matters issued by the Chief Financial Officer and no accounting arrangements shall be introduced, discontinued or amended without the prior agreement of the Chief Financial Officer.

- 1.5 Each Chief Officer shall consult with the Chief Financial Officer on the financial implications of any proposals not provided for under the approved revenue budgets or capital programme before any commitment is made or before reporting thereon to the appropriate Committee of the Council.

- 1.6 Each Chief Officer shall ensure that proper internal controls are developed and maintained within financial and other operating systems of their Service. These controls shall be subject to review from time to time as part of the audit process but day to day monitoring of the adequacy and effectiveness of these controls is the responsibility of the Chief Officer concerned.

- 1.7 Chief Officers shall be responsible for ensuring that these Regulations are complied with in respect of matters falling within their remit and that all Officers with responsibility for financial matters within their Services are aware of these Regulations and comply with them.
- 1.8 Compliance with these Regulations is compulsory. If any difficulty is encountered in practice with the Financial Regulations or no provision is applicable to a particular circumstance then the matter should be immediately raised with the Chief Financial Officer. Failure to observe the Financial Regulations may lead to disciplinary action being taken against the Officer responsible.
- 1.9 These Regulations should be read alongside the Financial Regulations of the Inverclyde Integrated Joint Board (IJB) when dealing with budgets delegated to the Council by the IJB.
- 1.10 These Regulations have been approved by the Council and will be formally reviewed and approved every 4 years.
- 1.11 These Regulations may be jointly varied or revoked by the Chief Financial Officer, Head of Legal & Democratic Services and the Chief Executive outwith the 4 yearly formal review cycle.
- 1.12 All terms in these Regulations should be considered generic.
- 1.13 All monetary values within these Regulations are stated exclusive of VAT.
- 1.14 In all circumstances where a signature is required an electronic substitute may be considered appropriate within the authorisation procedures of the relevant system.
- 1.15 In the absence of a wet signature, email approval from the budget holder may be considered appropriate.

2. EMERGENCY AUTHORITY

2.1 Where due to an emergency it is not possible to obtain the necessary Committee approvals in terms of the Financial Regulations or Standing Orders prior to committing the Council to expenditure the following action should be taken:-

2.1.1. Where there is immediate danger to life and limb and therefore a requirement for the Council to safeguard life and property and the prevention of suffering or severe inconvenience, all necessary steps should be taken to remove the immediate danger. Homologations for action taken should be obtained from the next available Committee.

2.1.2. In other emergencies the Chief Executive must be made aware of the following, prior to works being carried out or other appropriate action being taken, and prior to any commitment being entered into:-

- (a) The nature of the problem;
- (b) The likely consequences of delay;
- (c) Approximate costs and timescale involved;
- (d) Longer term solutions (where appropriate).

The Chief Financial Officer, Council Leader and Committee Convenor must be advised at the earliest opportunity of the above and of the actions taken.

2.2 In all cases the Chief Executive is authorised to approve or not to approve the carrying out of the proposed actions. In all such situations quotes shall be obtained if at all possible. A retrospective advisory report must be submitted to Committee at the earliest opportunity.

3. REVENUE BUDGET - PREPARATION AND MONITORING

- 3.1 The detailed form and timetable to be followed in respect of the Revenue Budget process shall be determined by the Chief Financial Officer subject to any direction of the Policy & Resources Committee, and following consultation with the Corporate Management Team.
- 3.2 Estimates of income and expenditure shall be prepared by the Chief Financial Officer in conjunction with the Corporate Management Team. These estimates will be approved by the Council prior to the 31st March and shall constitute the Revenue Budget for the next financial year.
- 3.3 The appropriate Committees and the Chief Financial Officer shall be entitled to receive from any Chief Officer such clarification as is deemed necessary on any item of income and expenditure.
- 3.4 The inclusion of items in the approved Revenue Budget shall constitute authority for the appropriate Chief Officer to incur such expenditure in the year concerned, subject to:-
 - 1) The Council's Standing Orders and these Regulations; and
 - 2) Any prior reporting requirements of the appropriate Committee.
- 3.5 The Chief Financial Officer shall provide Chief Officers with financial statements of income and expenditure compared with the Revenue Budget on a regular basis and Chief Officers shall be entitled to receive any clarification deemed necessary on any item of expenditure or income.
- 3.6 Responsibility for ensuring that Revenue Budget provisions are not exceeded shall rest with the Chief Officer concerned, this responsibility shall not extend to depreciation (the responsibility of the Chief Financial Officer) and those allocations from other Services over which the officer has no control. In these cases responsibility rests with the budget holder of origin.
- 3.7 If it appears that expenditure under any budget head may be exceeded or that an income estimate may not be achieved and if the shortfall cannot be accommodated by the Chief Officer exercising powers of virement in terms of Regulation 4, the Chief Officer, after consultation with the Chief Financial Officer, shall report fully to the Committee concerned. In the event that the Committee is unable to find the amount required elsewhere in its budget, the matter shall be referred to the Corporate Management Team and thereafter the Policy & Resources Committee for consideration.
- 3.8 Any proposal which would involve incurring revenue expenditure which is not allowed for in the Revenue Budget shall be reported to the relevant Committee. The report prepared in consultation with the Chief Financial Officer, shall give reasons why the additional funding is necessary and, where appropriate, make proposals for virement in terms of Financial Regulations 4. Should virement not be possible details of the proposal must be reported to the Corporate Management Team prior to reporting to the relevant Committee and thereafter the Policy & Resources Committee for consideration.

- 3.9 Windfall savings arising from factors outwith the control of the Chief Officer cannot be used to supplement Service budgets without the initial approval of the Corporate Management Team followed by approval by the Policy & Resources Committee. For the avoidance of doubt the Chief Financial Officer will determine whether or not a saving is a windfall saving.
- 3.10 The Chief Financial Officer and the relevant Chief Officers, will jointly submit periodic Revenue Budget Monitoring Reports to each Committee detailing expenditure/income incurred and projected for the year and highlighting any relevant matters. Thereafter the Chief Financial Officer shall produce a consolidated position for the Policy & Resources Committee.
- 3.11 Whilst the monitoring report will highlight any relevant matters, all budget variances in excess of £20,000 will be specifically reported to Committee.
- 3.12 Councillors shall be entitled to seek explanations for any figure in the Monitoring Reports and if necessary may refer any matter to the relevant Committee.

4. VIREMENT

4.1 The term virement refers to the transfer of budgetary provision from one budget head to another.

4.2 Subject to limitations referred to in Regulations 4.3 to 4.6, virement may be exercised by Chief Officers, by Service Committees and by the Policy & Resources Committee. Chief Officers must use the on-line virement approval or a Virement Approval Form to smooth administration and provide a clear audit trail.

4.3 Chief Officers may vire unlimited sums within the subjective heading within a Service with the approval of the Chief Financial Officer.

A subjective heading relates to, for example, supplies and services, property costs, transport and plant, administrative costs etc.

A Service is defined as the full group of functions managed by a discrete Head of Service.

4.4 Chief Officers may vire between subjective headings within a Service to a maximum of £20,000 with the approval of the Chief Financial Officer. Any virement above £20,000 requires initial approval of the Chief Financial Officer then approval of the relevant Committee.

4.5 Head Teachers are constrained as to their powers of virement as set out in the DMR Scheme.

4.6 Virement affecting budgets delegated to Social Care by the IJB requires to comply with both the requirements of these regulations and, where appropriate, the IJB Financial Regulations.

4.7 Chief Officers may vire between Services within a Directorate with the approval of the Chief Financial Officer and thereafter approval of the relevant Committee(s).

4.8 Chief Officers may vire between Directorates with the agreement of all Chief Officers concerned, the approval of the Chief Financial Officer and thereafter approval of all relevant Committees.

4.9 Where the virement proposed involves a change in Council policy the prior approval of the Policy & Resources Committee is required.

4.10 All virement requested is deemed to be permanent, i.e. to be carried forward into future financial years, unless specifically highlighted as being “one-off” at the time of submitting the virement request.

4.11 Limitations

Virement cannot be used to reinstate an item deleted by the Council during budget considerations unless with the prior approval of the Corporate Management Team and thereafter the Policy & Resources Committee.

5. AUTHORITY TO INCUR EXPENDITURE

- 5.1 Each Chief Officer shall have authority to incur expenditure included in the approved Revenue Budget for the Services for which they are responsible up to the level of the budget provision subject to 5.2 below.
- 5.2 For this purpose a Chief Officer may delegate the processing of expenditure to authorised employees within a Service but the Chief Officer will retain ultimate responsibility for the related budget unless that budget has been formally delegated as part of the Council's Budget Delegation process. Within the Education Service Head Teachers shall be responsible for budgets transferred in terms of the Devolved Management of Resources (DMR) Scheme.
- 5.3 Except where specific arrangements exist within a Service Level Agreement, expenditure on new buildings or on the alteration, repair or maintenance of existing buildings may not be incurred without technical or professional advice having been received from the Interim Head of Property Services. Professional fees will be charged where appropriate.
- 5.4 Each Chief Officer shall comply with the Standing Orders relating to Contracts when incurring expenditure.
- 5.5 Each Chief Officer shall furnish the Chief Financial Officer with a list of authorised signatories together with specimen signatures, details of the areas of responsibility and financial limits of authorisation of each employee and shall also promptly advise the Chief Financial Officer in writing of any additions to or deletions from the list. An annual review of this list will be undertaken by Finance Services and Chief Officers are required to assist with this exercise.
- 5.6 Each Chief Officer shall also ensure that electronic signature authorisation limits for their employees are approved by them and that additions or deletions are notified promptly to Finance Services. Such authorisation limits will be reviewed annually by Finance Services with the assistance of Chief Officers.
- 5.7 Chief Officers seeking approval to lease non-property assets must obtain advice from the Chief Financial Officer and Head of Legal & Democratic Services and incorporate such advice into any report presented to a Committee.
- 5.8 Any consultants considered for appointment must have the appropriate professional indemnity/public liability insurance which must be evidenced to the Insurance Section before appointment. The Head of Legal & Democratic Services or the relevant designated Procurement Officer will issue a letter of appointment which will advise that compliance with the Council's operating procedures and regulations is compulsory.
- 5.9 Expenditure on Council properties repairs, maintenance and jobbing works shall only be authorised when provided by Contractors registered under the terms of the HMRC Construction Industry Scheme.

6. PROCUREMENT AND PURCHASING

- 6.1 All relevant purchases of goods, services and works shall be made through such purchasing arrangements as may be approved from time to time by the Council. Centralised contract arrangements must be used where appropriate, and Services must comply with the Procurement Manual and associated guidance issued by the Procurement Section.
- 6.2 Unless specified within a formal contractual arrangement approved by the Chief Financial Officer and Head of Legal & Democratic Services no purchases shall be paid for in advance of receipt of goods, services or works ordered. In general terms, purchases over the Internet or telephone are acceptable using a Council purchasing card but must be in accordance with the approved Purchase Card Policy.
- 6.3 Orders shall be in a format approved by the Chief Financial Officer. All orders shall be approved by an authorised signatory (see paragraph 5.5 & 5.6).
- 6.4 Chief Officers are required to ensure that there is adequate segregation of duties of employees between the ordering of goods and the approval of payment.
- 6.5 All Officers incurring expenditure covered by the exemptions clause in the Standing Orders for Contracts shall ensure that due consideration is given to securing Best Value.
- 6.6 Excepting petty cash and other payments made from Imprest Accounts the method of payment of monies due by the Council shall be by electronic funds. A request to use any other instrument drawn on the Council's bank account requires prior approval by the Chief Financial Officer.
- 6.7 All invoices will be input directly by Finance staff to the Financial Management System from where the certifying officer shall authorise the invoice for payment
- 6.8 Before certifying an account the certifying officer shall be satisfied that:-
1. The works, goods or services to which the account relates have been received, carried out, examined or approved and the relevant expenditure has been properly incurred;
 2. The prices, calculations, trade discounts, other allowances, credits and VAT are correct;
 3. Appropriate entries have been made on stores records or asset records as required;
 4. The account has not been previously passed for payment and it is a proper liability of the Council.

- 6.9 Chief Officers shall be responsible for procuring works, goods or services in accordance with the Standing Orders Relating to Contracts supported by the Procurement Manual and associated Procurement Guidelines.
- 6.10 Where a Chief Officer wishes to accept a tender with a value of greater than £1 million, a report shall be prepared by the relevant Service and be submitted to the relevant Committee prior to tender acceptance following advice from the Head of Legal & Democratic Services and Chief Financial Officer. The report shall include:-
- (a) Comparison of the tendered costs with the approved available budget.
 - (b) How the tender was evaluated including Price/Quality split.

Where the tender costs cannot be met from within the approved budget, the matter shall be referred back to the Committee and if required, the Policy and Resources Committee to confirm the funding route.

- 6.11 Where the lowest acceptable tender is in an amount which cannot be contained within the approved budget for the project but the excess amount can be contained within any general contingency allowance within the Committee's approved Capital Programme then the tender may be accepted provided the Chief Financial Officer is satisfied the necessary funding is available and the matter is reported to the next meeting of the relevant Committee.
- 6.12 Works may be carried out by internal Council's Services e.g. Roads, Building Services subject to compliance with the Council's Standing Orders Relating to Contracts and the appropriate transparency conditions as laid down in the Local Government in Scotland Act 2003 and the Council's own Best Value protocol.
- 6.13 Payments to contractors shall be made on an approved payment request document authorised by the appropriate Chief Officer. Where contracts provide for payments to be made by instalments, the Chief Officer managing the contract shall ensure that a contract register is being properly maintained to show the state of account on each contract between the Council and the Contractors together with any other payments and related professional fees.
- 6.14 All instructions to contractors for variations to approved capital works or major revenue projects shall be instructed by the architect/engineer using an appropriate technical instruction form as relevant to the type of contract.
- 6.15 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Head of Legal & Democratic Services for consideration of the Council's liability and, where necessary, to the Chief Financial Officer for financial consideration before attempting a resolution.
- 6.16 Where there is an unreasonable delay in completion of a contract, it shall be the duty of the Chief Officer concerned to consult the Chief Financial Officer and Head of Legal & Democratic Services prior to determining any action in respect of claims for liquidate or other damages.
- 6.17 Duly certified accounts must be processed, authorised, coded and passed as soon as possible to the Chief Financial Officer who shall arrange for the examination to the extent that is considered necessary. For this purpose he shall be entitled to

make such enquiries and to receive such information and explanations considered necessary.

- 6.18 Final accounts must be agreed as early as practicable after expiry of the defects liability period.
- 6.19 Payment will only be made on a duplicate or copy invoice when the certifying officer is satisfied that the copy has not previously been paid.
- 6.20 All amendments to payment request vouchers (CRI's) shall be in ink and initialed by the certifying officer. VAT Invoices must be returned to the creditor for alteration.
- 6.21 The Chief Financial Officer shall have authority to pay duly certified accounts/vouchers.
- 6.22 Each Chief Officer shall, after the end of each financial year, notify the Chief Financial Officer of all outstanding expenditure relating to that year in accordance with the year-end guidance notes.

7. CONTROL OF INCOME

- 7.1 The processes for the collection and banking of all monies due to the Council shall be subject to the approval of the Chief Financial Officer. Changes to processes cannot be made without first obtaining the approval of the Chief Financial Officer.
- 7.2 Income due to the Council for work done, goods supplied or services provided and not paid for at the time must be recovered via the raising of an invoice which records the service delivery date. Chief Officers must ensure preparation and issue of such invoices in order to record and collect the amounts correctly. Invoices must be raised no later than 30 days after the last day of service delivery specified on the invoice. In rendering charges (whether by issuing an invoice or for goods supplied/services and paid for at the time), Chief Officers shall ensure that the correct VAT treatment is applied on which advice can be sought from Finance Services. In particular, transactions involving joint ventures and land sales can be particularly complex and in all such cases advice shall be obtained from the Chief Financial Officer and Head of Legal & Democratic Services before proceeding.
- 7.3 The Chief Financial Officer shall be notified as soon as is practicable of all monies due to the Council and of all contracts, leases and other arrangements entered into which involves a receipt of money by the Council and the Chief Financial Officer shall have the right to inspect all documents in this connection as may be required.
- 7.4 All receipt forms, books, tickets and other such items shall be designed, ordered, supplied and obtained subject to a consultation with and approval of the Chief Financial Officer. No Officer shall give a receipt on behalf of the Council on any form other than that of an official receipt form or ticket.
- 7.5 All money, cash or otherwise, received by an Officer on behalf of the Council shall without delay be paid to the Chief Financial Officer or as he may direct to the Council's bank account. No deduction may be made from such money save to the extent that the Chief Financial Officer may specifically authorise. Each Officer who directly banks money shall complete a corresponding income analysis sheet and forward it together with the bank pay-in slip and counterfoil to the Chief Financial Officer; alternatively deposits can be made at the Council's Customer Services Centre.
- 7.6 All offices or establishments receiving income by post shall secure appropriate mail opening procedures involving clear separation of duties wherever possible. All cheques and postal orders received shall be suitably crossed. Personal cheques shall not be cashed out of money held on behalf of the Council.
- 7.7 Each transfer of official cash from one employee to another will be evidenced in the records of the Service concerned by the signature of the officer receiving the funds. Arrangements shall be developed at each office to secure all income collected on behalf of the Council until such time as these funds are banked.
- 7.8 Not less frequently than once per year scales of charges or tariffs (not fixed by statute) shall be reviewed for the following year. Any such review to comply with the Council's Budget Strategy and Charging Policy.

- 7.9 The Chief Financial Officer shall maintain a Debt Management Policy to secure effective recovery of all sums due to the Council. This Policy shall be applied for all monies due to the Council for rent or services provided. No debt due to the Council once correctly established shall be discharged otherwise than by payment in full or by write off following the certification of the Chief Financial Officer.
- 7.10 The Chief Financial Officer shall where necessary act on advice from the Head of Legal & Democratic Services, external debt managers and/or sheriff officers when determining debts to be written off for accounting purposes. Details of debts written off in terms of this Regulation shall be retained for credit control purposes and to allow the debts to be pursued at any stage until they become time prescribed. A report on debt recovery performance for the preceding financial year shall be submitted annually to the Policy & Resources Committee, no later than 31 October.

8. TRAVEL & SUBSISTENCE ALLOWANCES

- 8.1 All payments in respect of employees travel and subsistence allowances shall be at rates determined by the Council from time to time and in accordance with the scheme for payment of travel and subsistence allowances.
- 8.2 All claims for payment of subsistence allowances, travel and incidental expenses shall be submitted in a form approved by the Head of OD, Policy & Communications. All claim forms shall be signed by an authorised signatory (see Regulations 5.5 & 5.6).
- 8.3 Certification by or on behalf of the Chief Officer shall be taken to mean that the certifying officer is satisfied that the journeys have been authorised, the expenses properly incurred wholly, necessarily and exclusively for Council purposes and that the allowances are properly payable by the Council.
- 8.4 Claims forms other than those relating to journeys made by the Chief Executive must always be authorised for payment by an officer senior to the claimant. The claims submitted by the Chief Executive must be countersigned by a Corporate Director.
- 8.5 Claims shall be submitted promptly, and on a regular basis. Claims applicable to a financial year shall be submitted not later than one month after 31 March of that financial year. Claims submitted after this period may not be automatically paid.
- 8.6 Requests by Councillors to travel outwith the United Kingdom on Council business (being funded from the Council budget) must be considered and approved by the Chief Executive in consultation with the Leader and Depute Leader prior to the journey taking place. Where such approval is granted it is for the relevant Committee to determine reasonable limits for travel. Subsistence limits for Councillors will be calculated by reference to the Members Salaries and Expenses Scheme.
- 8.7 Requests by employees to travel outwith the United Kingdom on Council business (being funded from the Council budget) must be considered and approved by the relevant Corporate Director in consultation with the Chief Executive, who will advise the Council Leader prior to the journey taking place. Where such approval is granted the Chief Financial Officer shall be consulted on reasonable limits for travel and subsistence payments on an individual journey basis.
- 8.8 Except in cases where a spouse or partner forms part of an approved group or delegation, the spouse or partner travel costs and additional accommodation costs shall not be met by the Council, unless previously approved by Committee.
- 8.9 Where an advanced payment is required in order to fund expenses which have not yet been incurred e.g. for attendance at an overseas conference, employees may request an advanced payment of expenses. Such a request shall be made to the Chief Financial Officer. Any advance agreed shall not exceed a reasonable estimate of the expenses to be incurred. Where an advance is granted, a claim form detailing actual expenses incurred, together with receipts, must be submitted to the Head of Organisational Development Policy & Communications within one month of the completion of the event.

- 8.10 Advance claims shall be made no later than 5 working days in advance of requirement. Advances will be made by electronic transfer to the employee's bank account. No cash advances shall be made unless the requirement is for "foreign currency".
- 8.11 Any failure to account for an advance of expenditure within the timescales indicated above shall result in the advance being recovered from the next available payroll run and employees will be required to sign a mandate authorising such recovery before an advance is made.

9. SALARIES, WAGES AND ESTABLISHMENTS

- 9.1 With the general exception of pensions to former employees the payment of salaries, wages, compensations and other emoluments to all employees of the Council shall be made by the Head of Organisational Development Policy & Communications.
- 9.2 Without the authority of the Council on the recommendation of the Policy & Resources Committee:-
- ♦ No permanent employee at Grade 12 or above shall be employed in excess of the approved establishment.
 - ♦ Amendments to the permanent establishment below Grade 12 require approval from the Chief Executive, Head of Organisational Development Policy & Communications, Chief Financial Officer and Corporate Management Team.
 - ♦ Employees shall normally be appointed to the first incremental point of the salary scale of the post. Where there are extenuating factors e.g. experience or existing salary required the placing can be reviewed by the Chief Officer in conjunction with the Head of Organisational Development, Policy & Communications with the Chief Executive having the final say in the event that agreement cannot be reached;
 - ♦ The appropriate conditions of service shall apply to all employees.
- 9.3 Alterations to rates of wages and salaries and to conditions of service for employees agreed by the relevant national negotiating bodies, shall be applied from the effective dates specified, subject to the reference to the Council of any matter in which there is a discretion.
- 9.4 Each Chief Officer shall ensure that the Head of Organisational Development, Policy & Communications is informed immediately and upon the prescribed form of all matters affecting the payment of such salaries and wages and in particular:-
- ♦ Appointments, resignations, dismissals, suspensions, secondments and transfers;
 - ♦ Changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - ♦ Absences from duty for sickness or other reason, apart from approved leave;
 - ♦ Information necessary to maintain records of service for superannuation, income tax, etc.
- 9.5 Appointments of all employees shall be made in accordance with the regulations of the Council and approved establishments, grades and rates of pay.
- 9.6 All individuals employed by the Council shall be paid through the payroll system and no "self-employed" person shall be appointed without the specific prior written approval of the Chief Executive or relevant Director.

9.7 All time records or other "pay" documents shall be in a form prescribed or approved by the Head of Organisational Development, Policy & Communications and shall be certified in manuscript by or on behalf of the appropriate Chief Officer and returned timeously to the Head of Organisational Development, Policy & Communications. The Certifying Officer must be satisfied that:-

- ◆ Hours claimed have been worked;
- ◆ Where applicable, overtime hours have been correctly calculated;
- ◆ Summations are correct.

10. CAPITAL PROGRAMME - PREPARATION AND MONITORING

- 10.1 The Council produces a capital programme for the current financial year and a minimum of the following two financial years. The resources available over this period are estimated by the Chief Financial Officer.
- 10.2 A report seeking the consideration of a standalone project to be included within the draft capital programme shall include the following:-
- (a) Details of any assets to be created/enhanced.
 - (b) The need for the project and the anticipated benefits which will accrue to the Council and community. The benefit should be quantified wherever possible and linked to the Council's strategic objectives.
 - (c) The total estimated capital costs of the project including fees, equipment and other ancillary costs.
 - (d) Details of any other proposed funding sources including partner contributions.
 - (e) The estimated future revenue implications (or savings) arising from the project and the proposed source from which any additional costs (excluding loans charges) are to be met.
 - (f) A detailed phasing of capital costs over financial years on the basis that the project will be approved as part of the next budget round.
 - (g) For significant capital projects an option appraisal an option appraisal should be incorporated within the report highlighting options, risks and sustainability implications.
- 10.3 The relevant Chief Officer shall submit the report outlined in Regulation 10.2 to the Corporate Management Team for comment prior to submission to the relevant Committee for approval. If approved, by Committee the report thereafter requires approval by the Policy & Resources Committee prior to inclusion in the draft capital programme.
- 10.4 The Chief Financial Officer shall prepare a draft capital programme for consideration by the Council as part of the annual Budget approval process.
- 10.5 If, during the course of a contract, a variation or accumulation of variations to the contract or other cause will result in the approved cost being exceeded by either £50,000 or 20%, whichever is lower, the Chief Officer concerned shall report to the relevant Committee.
- 10.6 It shall be the responsibility of each Chief Officer to ensure that approved projects proceed in line with approved timescales and the expenditure does not exceed the sum allocated for each project in the capital programme.

- 10.7 In line with Council policy, post project evaluations require to be carried out by the Client/Technical Lead Officer for all projects with a contract value in excess of £2 million approximately 12-18 months after completion.
- 10.8 The Chief Financial Officer shall report each cycle to the Policy & Resources Committee updating the financial position of the approved capital programme. In addition the Chief Financial Officer and the relevant Director shall report on the progress of all current capital projects to each meeting of the appropriate Committee.

11. SECURITY

- 11.1 Each Chief Officer is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc. under their control. The Chief Executive and the Chief Financial Officer must be notified in any case where it is considered that special security arrangements may be needed.
- 11.2 Maximum limits for cash holdings shall be agreed with the Chief Financial Officer and shall not be exceeded without specific written permission.
- 11.3 Keys to safes and similar receptacles are to be kept in the custody of persons with delegated responsibility at all times. The loss of any such keys must be reported to the Chief Financial Officer immediately.
- 11.4 Each Chief Officer shall arrange for registers to be kept of pre numbered accountable stationery e.g. receipt books, tickets, and other such items under their control.

12. POLICY ON VOLUNTARY FUNDS

- 12.1 Many employees within Council establishments are involved in the handling of money for and on behalf of the Council. Employees can also be responsible for other monies as a consequence of their employment by the Council either directly (e.g. schools, social work establishments, etc.) or indirectly as treasurer of a representative body relating to Council activities. These other monies are known as voluntary or unofficial funds.
- 12.2 Voluntary funds maintained by or at an establishment can be defined as "any fund other than an official fund of the Council, which is controlled wholly or in part, by an Officer of the Council by reason of his or her employment".
- 12.3 The aims and objectives of these funds are mainly complementary to and sometimes are not easily distinguishable from those of the Council. Thus, to protect the interests of not only the persons to whom the funds belong but also to safeguard the employees who administer and are responsible for them, suitable financial records must be maintained.
- 12.4 These regulations do not prescribe the detailed form and content of records to be maintained but in all cases written records shall be kept to show the nature and value of all receipts and disbursements. These records shall be kept up to date, be accessible to all parties connected with the funds and be subject to annual audit by a suitably qualified independent person.
- 12.5 Advice on the adequacy of any voluntary funds arrangement should be sought from the Chief Financial Officer.

13. ASSET REGISTER

- 13.1 An asset register for “accounting purposes” shall be compiled by the Chief Financial Officer which records an adequate description of property plus items of equipment, plant and machinery which exceed de minimus thresholds. The extent to which the owned and leased property of the Council shall be recorded and the asset register is to be kept in accordance with the recommended Chartered Institute of Public Finance and Accountancy guidance.
- 13.2 Each Chief Officer shall be responsible for maintaining a regular check on all assets under their responsibility and advise the Chief Financial Officer of any amendments to the asset register accordingly.
- 13.3 The Interim Director Environment and Regeneration shall ensure that a register of all land, properties and structures owned by the Council is maintained, which records the current user, the purpose for which held, the location, the extent, purchase price and rents payable and particulars of tenancies granted.
- 13.4 The Head of Legal & Democratic Services shall ensure custody of all title deeds under secure arrangements.
- 13.5 It is the responsibility of the Chief Financial Officer to ensure a five year rolling revaluation programme of assets is adhered to.
- 13.6 The Interim Director of Environment and Regeneration is responsible for maintaining the register of heritable and moveable assets subject of a leasing arrangement.
- 13.7 Council property shall not be moved otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Chief Officer concerned. Where Officers are authorised to retain equipment at home for the purposes of home working (either during or outwith normal working hours) each Chief Officer shall maintain a register giving details (including serial numbers where applicable) of all non ICT equipment held by each employee. It is the obligation of a Service to inform ICT if any item is moved or reallocated to allow the Configuration Management Database to be updated accordingly.

14 DISPOSAL OF ASSETS

- 14.1 All surplus plant, vehicles, equipment, scrap materials or any other assets deemed as having a value, where no suitable trade-in arrangements have been made and with a cumulative value estimated as over £500, shall be offered for sale by the appropriate Chief Officer. The manner of the sale will be as directed within the Procurement Manual.
- 14.2 Where it is estimated that the cumulative annual value of the surplus items specified in 14.1 will exceed £10,000 then the disposal of the items should be carried out by a suitably qualified contractor. The identification of a suitably qualified contractor will be the subject of a competitive bid process. Advice in all instances, must be sought from the Head of Legal & Democratic Services and the Procurement Manager in consultation with the Chief Financial Officer.
- 14.3 All land and buildings on becoming surplus to requirements by a particular service will be returned to the control of the Interim Head of Property Services. Property will be allocated to another Service or declared surplus to the Council's requirements. All surplus properties shall be sold by the Head of Legal & Democratic Services. In arranging any sale the relevant Chief Officer shall consult with the Chief Financial Officer to ensure all financial implications including accounting for VAT are fully considered.
- 14.4. The Council shall not be bound to accept the highest or any offer but where an offer other than the highest offer is recommended for acceptance approval of the Environment & Regeneration Committee is required and the reasons for accepting said offer must be duly recorded in the Minute of the Meeting. Where such a decision has financial implications for approved budgets/funding models then the approval of the Policy & Resources Committee is also required.
- 14.5 Where the Council wishes to dispose of land, officers shall have regard to Section 74 of the Local Government (Scotland) Act 1973 and any relevant regulations and statutory guidance, including any and all amendments which may from time to time be in force (the Framework).
- 14.6 In circumstances where the value of the land to be disposed is greater than or equal to £10,000 and the difference between the proposed consideration and the Best value consideration that can be obtained is greater than 25%, then the relevant Director shall present a report to the appropriate committee which shall:-
- (i) appraise and compare the costs and other disbenefits with the benefits of disposal at less than best value consideration;
 - (ii) state whether the disposal for the proposed consideration is reasonable and if so, explain why it is reasonable and;
 - (iii) outline whether the proposal is likely to contribute towards (a) promotion or improvement of economic development or regeneration, (b) health, (c) social well-being or (d) environmental wellbeing, for the whole or any part of the area in question or any person resident or present in that area of land.

- 14.7 In determining the best value consideration which could be achieved for land, the Framework provides that this should be determined by a suitably qualified valuer who shall:-

Be a chartered member of or authorised to practice by the Royal Institute Of Chartered Surveyors;

Be suitably experienced in the valuation of the type of property concerned with a reasonable knowledge of the locality concerned; and take into account, when valuing the land, the requirements of the latest edition of the RICS valuation standards applicable at the date when he is undertaking the valuation.

- 14.8 The Procurement Manual shall contain detailed provisions which shall be applied in relation to the procedures to be followed in relation to the disposal of land.
- 14.9 For the avoidance of doubt, 'disposal of land' includes sale, lease, license to occupy or other arrangements whereby the Council relinquishes ownership or occupation of land and/or buildings.
- 14.10 Details of any IT equipment which a Chief Officer deems surplus to requirements shall be advised to the ICT Service Manager who will consider the equipment's suitability for use within the Council and or sale to a secondary ICT market in line with Regulation 14.1.

15. STOCKS AND STORES

- 15.1 Chief Officers shall be responsible for the custody of the stocks and stores in their Services
- 15.2 Chief Officers shall arrange for periodic examination of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every financial year. No adjustment of stock valuation (for writing off, writing down, obsolescence etc.) shall be made without the approval of the Chief Financial Officer.
- 15.3 The Chief Financial Officer shall be entitled to receive from each Chief Officer such information as he requires in relation to stores for accounting, costing and financial recording purposes.
- 15.4 Stocks and stores records must be kept in a form approved by the Chief Financial Officer.
- 15.5 Surplus material, stores or equipment (including scrap) shall be disposed of in terms of Regulation 14 unless otherwise agreed with the Chief Financial Officer. Payment must be received before such items are removed by the purchaser.

16. IMPRESTS

- 16.1 The Chief Financial Officer shall provide such imprests as he considers appropriate for those Officers of the Council who may need them for the purposes of defraying petty cash and other expenses.
- 16.2 The Chief Financial Officer shall open bank accounts where considered appropriate. In no circumstances shall the imprest holder overdraw the account.
- 16.3 Income received on behalf of the Council shall not be paid into an imprest account. It must be banked or paid to the Council as provided under Regulation 7.5.
- 16.4 Payments from an imprest account shall be limited to minor items of expenditure and to such other items as the Chief Financial Officer may approve and shall be supported by a receipted voucher to the extent that the Chief Financial Officer may require.
- 16.5 On no account shall any allowances or personal expenses or subsistence payments be paid to employees from an imprest account, instead all such claims shall be processed through the travel and subsistence scheme in terms of Regulation 8.2.
- 16.6 Any officer responsible for an imprest account shall maintain a proper account and shall provide a certificate of balance when requested.
- 16.7 Any officer ceasing to be entitled to hold an imprest, for any reason, shall account for the amount advanced in full. A formal record of this accounting shall be prepared and retained within the relevant Service concerned for inspection.

17. BANKING ARRANGEMENTS

- 17.1 The Council's main bank account will be kept with the bank approved by the Council and where required the Chief Financial Officer shall arrange for subsidiary accounts to be kept with that bank.
- 17.2 All bank accounts shall be in the name of, or incorporate the name of, the Council.
- 17.3 Except where in special circumstances it is not possible to borrow on or gain access to the money market, the bank account shall not be drawn in excess of the sum authorised by the Council and agreed with its bankers.
- 17.4 All bank accounts shall be reconciled to supporting records at regular monthly intervals and copies of reconciliations, if requested, shall be forwarded to the Chief Financial Officer for review.
- 17.5 Payments over £50,000 must be countersigned by an authorised bank signatory before the payment is released.
- 17.6 Arrangements for electronic funds transfer shall be authorised by the Chief Financial Officer or his nominee.

18. ANNUAL ACCOUNTS

- 18.1 Chief Officers shall provide all information requested in the year end accounting instructions issued by the Chief Financial Officer and comply with the timetable in order to ensure that the annual accounts can be completed in line with the statutory deadline.
- 18.2 An unaudited copy of the annual accounts shall be submitted to the Audit Committee for review prior to formal submission to Audit Scotland.
- 18.3 The accounts together with the auditor's report, shall be submitted to the Council for final approval following completion of the external audit.

19. INSURANCES AND INDEMNITIES

- 19.1 The Chief Financial Officer shall effect all insurance cover and negotiate all claims in consultation with other officers where necessary.
- 19.2 Chief Officers shall notify the Chief Financial Officer without delay of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.
- 19.3 Chief Officers shall notify the Chief Financial Officer in writing of any loss, liability or damage or any event likely to lead to a claim and shall inform the Police Scotland where appropriate.
- 19.4 All employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 19.5 The Chief Financial Officer shall review all insurance arrangements in line with the contract term and report annually on the Insurance Fund performance to the Policy & Resources Committee.
- 19.6 Chief Officers shall consult with the Head of Legal & Democratic Services and the Chief Financial Officer about the terms of any indemnity which the Council is required to give.

20. TREASURY MANAGEMENT

- 20.1 The Council actively works to promote best practice for all aspects of its treasury management operation. The Council has adopted the CIPFA “Treasury Management in Public Services – Code of Practice”.
- 20.2 A Treasury Management Policy Statement (TMPS) will be approved annually as part of the treasury strategy unless there is a requirement to revise the policy in the interim period. The TMPS will state the policies and objectives of the treasury management activities.
- 20.3 Treasury Management Practices (TMP’s) will be established and maintained setting out the manner in which the Council will seek to achieve these policies and objectives, and prescribing how it will manage and control these activities as a supplement to the CIPFA Code of Practice. The Chief Financial Officer has delegated authority to change the TMP’s to reflect changes to the Council structure, bankers, treasury advisors or credit worthiness selection methodology.
- 20.4 At the start of the financial year the Chief Financial Officer shall report to the Policy & Resources Committee on the proposed strategy for treasury for the coming financial year. This strategy will also include the Council’s investment Strategy. Thereafter this requires approval by the Council.
- 20.5 All monies in the hands of the Council shall be under the control of the Officer designated for the purposes of Section 95 of the Local Government (Scotland) Act 1973, referred to in the Code as the Responsible Officer.
- 20.6 The Council has delegated the execution and administration of the treasury management decisions to the Chief Financial Officer who will act in accordance with the Council’s Policy Statement and Treasury Management Practices and CIPFA’s Standard of Professional Practice and Treasury Management. In the absence of the Chief Financial Officer the Finance Manager (Corporate Services and Strategic Finance) will deputise in this regard.
- 20.7 The Policy & Resources Committee will receive an annual report by 30 September on the Council’s Treasury Management activities for the preceding financial year. Thereafter this report requires approval by the Council.

21. INVESTMENTS AND LOANS, COMMON GOOD AND TRUST ETC FUNDS

- 21.1 The Chief Financial Officer shall manage funds in accordance with the limits and conditions imposed by statute, by the relevant deed of trust etc. and by the Council and shall ensure the proper and safe custody of funds.
- 21.2 All investments of monies under its control shall be made in the name of the Council or in the name of nominees approved by the Council; bearer securities shall be excepted from this Regulation but any purchase of such security shall be reported to the Council.
- 21.3 All securities, which are the property of, or in the name of the Council or its nominees shall be held in the custody of the Chief Financial Officer or according to their instruction.
- 21.4 The title deeds of all property in the ownership of the Common Good and Trust etc. Funds shall be held in the custody of the Head of Legal Services.
- 21.5 All Trust Funds shall wherever possible be in the name of the Council, all monies left in trust to the Council or to be administered by its officials shall be notified as soon as possible to the Chief Financial Officer.
- 21.6 All officers acting as trustees by virtue of their official position shall deposit all securities etc. relating to the trust with the Chief Financial Officer unless the Deed otherwise provides.
- 21.7 The Chief Financial Officer has a duty to prepare annual accounts in an appropriate format and submit these accounts to trustees for approval.

22. HOSPITALITY

- 22.1 Each Director shall be entitled to extend hospitality within their area up to £1,000 (excluding VAT) per occasion, subject to budget availability.
- 22.2 When hospitality is estimated to cost in excess of £1,000 but not more than £2,000 per occasion, written approval shall first be obtained from the Chief Executive.
- 22.3 Hospitality estimated to cost in excess of £2,000 per occasion shall require the prior approval of the appropriate Service Committee.
- 22.4 Reasonable hospitality extended to Council employees by current or prospective clients, customers, suppliers etc. is an accepted practice, but the acceptance of excessive hospitalities or gifts, other than mere tokens, goes beyond what is proper for a public official, regardless of whether such gifts do, or are intended to, influence them in an official capacity. The acceptance of an offer of any hospitality or gift deemed likely to exceed £20 in value must be approved by the relevant Director or the Chief Executive prior to its acceptance, and intimated in writing to the Head of Legal & Democratic Services for recording in a central register of gifts and hospitality.
- 22.5 Officers have a duty to report to the Head of Legal & Democratic Services any offers of hospitality which could be viewed as being excessive or if accepted which would run the risk of bringing the Council into disrepute.

23. INTERNAL AUDIT

- 23.1 A continuous internal audit Service, under the control and direction of the Head of Legal & Democratic Services shall be arranged to carry out an independent examination of the adequacy and effectiveness of financial and operational controls of the Council, including governance arrangements, as part of the Council's assurance processes. Operational responsibility for the delivery of the service shall be vested in the Chief Internal Auditor.
- 23.2 The Chief Internal Auditor shall be consulted on any significant proposed changes to the Council's internal control mechanisms.
- 23.3 The work of the Internal Audit Section shall be approved and monitored by the Audit Committee. This shall involve the Committee:-
- ♦ Considering and approving the annual audit plan;
 - ♦ Seeking clarification on and approving of reports summarising the findings arising from Internal Audit work; and
 - ♦ Directing in consultation with the Head of Legal & Democratic Services that Internal Audit conducts audits of matters of concern to Councillors and reports in full on these to the relevant Committee of the Council.
- 23.4 The Head of Legal & Democratic Services or his authorised representative, shall have authority to:-
- ♦ Enter at all reasonable times any Council premises or land;
 - ♦ Have access to all records, documents and correspondence relating to any financial and other transactions of the Council, where such access is necessary to investigate the financial propriety of the transaction;
 - ♦ Require and receive such explanations as are necessary concerning any matter under examination; and
 - ♦ Require any employee of the Council to produce cash, stores or any other Council property under that employee's control which is relevant to any investigation being carried out.
- 23.5 Whenever any matter arises which involves or is thought to involve fraud or irregularities concerning cash, stores or other property of the Council or any suspected fraud or irregularity in the exercise of the functions of the Council, any employee having knowledge thereof shall as soon as possible notify Internal Audit in accordance with the Council's Anti-Fraud and Irregularity Policy or alternatively shall comply with Council's Whistleblowing Policy which is contained within the Code of Conduct for Employees.

23.6 The Chief Internal Auditor shall investigate any such matters in consultation with the Head of Legal & Democratic Services and report in terms of the Council's policy to combat fraud and corruption. A decision to refer a matter to the Police Scotland will be taken by the Chief Executive and the Monitoring Officer in consultation with the Chief Internal Auditor and the relevant Director where appropriate.

24. RISK MANAGEMENT

24.1 The Council will actively promote a positive risk management culture in respect of all working practices within the Council while liaising with partnership organisations and local people in risk related matters.

24.2 The Council has adopted a risk management policy statement dedicated to managing the risks within its control to enhance the corporate governance process and in so doing aims to:-

- ◆ Safeguard its employees;
- ◆ Protect its assets;
- ◆ Preserve and enhance service delivery to its population;
- ◆ Maintain effective stewardship of public funds;
- ◆ Promote a favourable corporate image.

24.3 The Council, supported by the Chief Internal Auditor, has responsibility for:-

- ◆ The establishment of the Council's risk management philosophy;
- ◆ Setting objectives and standards;
- ◆ Linking risk management to Council objectives and stakeholder values;
- ◆ Setting appropriate objectives and policies on risk management and controls assurance; and
- ◆ Embedding risk management at every level of Council activity.

24.4 The risk management policy statement is supported by approved risk management framework which ensures there is an effective framework in place to ensure that the Council can :

- ◆ Identify, assess and prioritise risk
- ◆ Determine what steps should be taken to reduce or eliminate risk
- ◆ Monitor and reporting on the effectiveness of risk mitigation strategies

24.5 These Financial Regulations are integral to the delivery of the corporate risk management process.

24.6 All Chief Officers are responsible for the continuous review and management of Directorate and Service risk registers with appropriate support from the Chief Internal Auditor.

25. EXTERNAL ORGANISATIONS

- 25.1 The Council has adopted a process to ensure that it fulfills its overall governance responsibilities towards external organisations effectively
- 25.2 A simple matrix has been adopted by the Council by which to determine the level of oversight which the Council should have over organisations to which it makes material payments. The scores which result from this matrix require Lead Officers to take specific courses of action and this can only be varied with the approval of the Chief Financial Officer in consultation with the Head of Legal & Democratic Services.



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- 25.3 A list of all relevant organisations will be prepared on an annual basis by the Chief Financial Officer and thereafter submitted to the Policy & Resources Committee for approval. The approved list can be amended during the year with the approval of the Chief Financial Officer based on the advice of the relevant Chief Officer and the Procurement Manager.
- 25.4 For the Council's Arms Length External Organisations (ALEO) then there is a requirement for an Annual Monitoring Report submitted to the relevant Committee shall cover -
- 1) The aims and objectives of the External Organisation and how these have been met.
 - 2) The overall financial position of the External Organisation.
 - 3) Performance against targets and any value for money indicators and an overall assessment of the governance risk to the Council.
 - 4) Key issues for the forthcoming period.
- 25.5 Lead Officers require to support any Council members involved with relevant organisations.