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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b> 18 <sup>th</sup> September 2012
<b>Report By:</b>	<b>Chief Financial Officer</b>	<b>Report No:</b> FIN/65/12/AP/LA
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<b>Subject:</b>	<b>Significant Trading Operations – Future Proposals</b>	

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to obtain Committee approval for proposals on the future of Significant Trading Operations operated by the Council and to obtain Committee approval on the process for awarding work within the Council.

## 2.0 SUMMARY

- 2.1 Following the introduction of the Local Government Scotland Act 2003 which brought an end to Compulsory Competitive Tendering (CCT) the Council has on an annual basis considered which of its operations it would define as a Significant Trading Operation (STO).
- 2.2 For the last 2 years the Council has operated a single STO; Building Services. The STO is required to produce a business plan on an annual basis and this was presented to the Environment and Regeneration Committee in August 2012.
- 2.3 The workload of Building Services has changed considerably over the last 5 years following the transfer of the Council's housing stock and thereafter the loss of a significant contract for external work with Riverclyde Homes. The source of the vast majority of Building Services income now comes from internal Council budgets, both Revenue and Capital and this is no different from many other Council services.
- 2.4 As a result it is proposed that Building Services should be treated in line with other Council Services and should no longer have a requirement to be an STO on the basis that the work it carries out forms no greater risk to the public purse than other services the Council provides.
- 2.5 At the same time it is proposed to rectify an anomaly which has existed since CCT in respect of the rules to be followed for awarding work to trading operations. The proposals are contained in Appendix 1 and have been approved by the Corporate Management Team. If approved it is proposed that these rules are adopted with immediate effect.
- 2.6 The Committee should note that by having no Significant Trading Operations this in no way precludes Council Services from demonstrating Best Value and cost effectiveness. Existing Directorate planning guidance requires all Directorates to demonstrate competitiveness and this will be further enhanced in the new Directorate planning guidance which is being developed. However by eliminating STOs within Inverclyde Council it will save in bureaucracy and more importantly will ensure that all Council services are treated on an equal footing.

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### **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that the Council agree that Building Services be no longer treated as a Significant Trading Operation as from the 1<sup>st</sup> April 2012.
- 3.2 That the Committee approve the proposals in respect of awarding work internally within the Council contained in Appendix 1.

Alan Puckrin  
Chief Financial Officer

## **4.0 BACKGROUND**

- 4.1 The Local Government Scotland Act brought formal end to CCT and a requirement for activity defined on the previous acts (1990 and 1998) to be operated on the basis of trading accounts. The 2003 act introduced a need for STO in those circumstance where a service is provided on a commercial basis, thus requiring a publication of accounts to provide assurance that the service is not being subsidised by the tax payer.
- 4.2 The Council has reviewed the number and nature of STO's on an annual basis for a number of years and currently has one such operation namely Building Services.
- 4.3 There is a statutory requirement for all STO's to be make a 3 year rolling surplus after the application of certain statutory adjustments. For the period ending 31<sup>st</sup> March 2012 the Building Services STO failed to meet its statutory target following a significant down sizing exercise which took place following the loss of its major external contract with Riverclyde Homes. The costs of reducing the workforce required to be scored against the STO and resulted in not only a significant loss in 2011/12 but meant that the surpluses generated in 2009/10 and 2010/11 were more than cancelled out by last year's deficit.

## **5.0 CURRENT POSITION**

- 5.1 As indicated above Building Services lost its major external contract with Riverclyde Homes during 2011/12. As a result the vast majority of Building Services income now comes from internal sources both Revenue and Capital.
- 5.2 As a result Building Services is no different from any other Council services where a separate part of the service, Directorate or the Council makes internal payment for services delivered by another part of the Council.
- 5.3 As a result of the above it is proposed that Building Services be no longer treated as an STO from 1<sup>st</sup> April 2012. If approved this will eliminate the requirement for the Council to report separate statutory accounts, produce an annual business plan and produce separate financial monitoring reports for Members.

## **6.0 DEMONSTRATING COMPETITIVENESS**

- 6.1 An action within the existing Organisational Improvement Plan relates to the Council developing its approach to competitiveness whereby Council Services demonstrate that they deliver best value for the Council Tax payer.
- 6.2 Directorate planning guidance provides advice as to how competitiveness can be demonstrated and this guidance is being reviewed as part of the overall review of the Council's approach to Corporate Planning.
- 6.3 Competitiveness can be demonstrated in a number of ways such as benchmarking with fellow Councils, benchmarking with other parts of the public sector or the private sector. Where it is apparent from benchmarking that improvements are required in the delivery of value for money and work needs to be undertaken and considered in terms of learning from best practice, reviewing processes and ultimately potentially market testing.
- 6.4 It can be seen therefore that proper application and scrutiny of the competitiveness element of Directorate Plans is not a soft option and Building Services will be subject to this scrutiny in line with all other services of the Council.

## **7.0 AWARDING WORK INTERNALLY**

- 7.1 A hangover from the compulsory competitive tendering days has been the requirement for certain services to compete with external organisations for Council contracts in excess of a certain value. Currently this limit is £50,000.
- 7.2 At the same time as addressing the anomaly of Building Services being an STO it is proposed that all Council Services be treated consistently regarding the awarding of work.
- 7.3 Appendix 1 outlines the rationale and proposals in this regard and Members are asked to approve this proposal which has been endorsed by the Corporate Management Team.
- 7.4 It should be noted however that in line with proposed changes to the Standing Orders which are due to be submitted to the Council on 4<sup>th</sup> October 2012, where the Council intends to submit a bid for external work over £100,000 this will still require Council approval.

## **8.0 CONCLUSIONS**

- 8.1 Following the loss of the major Riverclyde Homes contract in 2011/12 it is appropriate that the categorisation of Building Services as an STO be reviewed. Following this review it is proposed that Building Services be no longer counted as a Significant Trading Operation.
- 8.2 In terms of best value it is important that the Council demonstrates its competitiveness in the delivery of Council Services especially where external markets potentially exist for the delivery of the same services. As such proposals to enhance the demonstration of competitiveness are being developed and will form part of the new Corporate and Directorate Planning guidance. Members have a significant role to play in challenging the demonstration of Best Value in the delivery of Council Services.
- 8.3 An anomaly exists in the awarding of internal work to former trading operations and it is proposed that this matter be addressed.

## **9.0 CONSULTATIONS**

- 9.1 This report has been considered and approved by the Corporate Management Team.
- 9.2 The Council's external auditors are currently finalising their audit of the 2011/12 accounts and will comment on the statutory deficit made by Building Services over the 3 years period ending 31<sup>st</sup> March 2012. The auditors will also assess the approach adopted by the Council in respect of its Significant Trading Operations and the demonstration of Best Value as part of its annual audit.

## **10.0 IMPLICATIONS**

- 10.1 Financial – There are no financial implications arising from this report aside from the fact that an element of efficiency will be achieved by no longer having to adhere to the reporting requirements of a significant trading operation.
- 10.2 The Head of Legal and Democratic Services has been consulted.
- 10.3 There are no HR implications arising from this report.

## Awarding Work to Internal Council Services

### Purpose

1. Purpose is to provide clarity around the thresholds, checks and balances to be operated prior to offering work to an internal trading operation.
2. At present all works over £50,000 should be subject to tender per the Standing Orders for contracts. The Financial Regulations however (6.11) state that work may be offered to Council Services subject to....."the appropriate transparency conditions as laid down in the Local Government Scotland Act 2003 and the Council's own Best Value Protocol"

### Discussion

3. The origin of the current position goes back to CCT and thereafter the creation of Significant Trading Operations per the Local Government Scotland Act 2003. The need to show competitiveness arose from the fact that STOs were viewed as pseudo commercial operations and therefore the rates charged needed to be in line with the market place.
4. Over the last number of years the Council has gradually reduced the number of STOs from 6 to 1 with the intention being that following the approval of a new three year Business Plan, the Building Services Unit will also forego its STO status.
5. There are a number of other Council Services where a mature external market exists and the Council does not oblige these Services to compete prior to being awarded sufficient work to keep the core workforce fully occupied eg: Design Services, Home Care, Early Years, Commercial Waste etc.
6. Whilst clearly it is important for the Council to continually improve the efficiency and effectiveness of all the Services it provides, it is illogical that simply due to the fact that a service was caught under CCT in the 1980s it is still appropriate to treat these Services differently in 2012.

### Proposals

7. All Council Services are to be treated the same when it comes to ensuring that there is sufficient work to keep the core workforce fully occupied. We must not get into a situation where-by core employees are idle whilst work which they could clearly carry out is awarded externally.
8. Where work is carried out internally then all goods and services procured to support the carrying out of that work are done so in compliance with the Council's Standing Orders for Contracts and the Procurement Manual.
9. Where a Service wishes to expand the number of employees (temporarily or permanently) then it needs to clearly demonstrate Best Value through either direct competition or rigorous market benchmarking. All cases to be the subject of a report to CMT.
10. In line with the Council's competitiveness requirements set out in the Directorate Planning Guidance it is the responsibility of each Corporate Director to demonstrate the delivery of Best Value for any Services delivered within their Directorate by Council employees.