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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date: 5 February 2013</b>
<b>Report By:</b>	<b>Head of Legal &amp; Democratic Services</b>	<b>Report No: LA/953/13</b>
<b>Contact Officer:</b>	<b>Elaine Paterson</b>	<b>Contact No: 01475 712139</b>
<b>Subject:</b>	<b>Review of (i) Standing Orders Relating to Contracts and (ii) Financial Regulations</b>	

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to request the Committee to (a) approve (i) revised Standing Orders relating to Contracts and (ii) revised Financial Regulations and (b) recommend their formal adoption by the Council, consideration of which was continued from the meeting of the Committee held on 13 November 2012 to allow consideration of the report by the Strategic Leadership Forum.
- 1.2 A copy of the report submitted to the Committee in November is appended hereto. APPENDIX

## 2.0 STRATEGIC LEADERSHIP FORUM

- 2.1 Following consideration of the matter at its meeting on 19 December, the Strategic Leadership Forum's view was that approval to accept tenders should be limited to those tenders where the value or amount does not exceed £500,000, rather than £1m, with Elected Members continuing to be involved in tender opening at present thresholds. It was suggested that this be reviewed after a period of 12 months and reported to the Committee.
- 2.2 In addition, it was suggested that quarterly reports on tender acceptances be submitted to the Policy & Resources Committee.

## 3.0 RECOMMENDATIONS

- 3.1 That the Committee consider the views of the Strategic Leadership Forum and, subject to any adjustments arising therefrom, approve the revised Standing Orders relating to Contracts and the revised Financial Regulations as detailed in appendices 1 and 2 of the report to the 13 November 2012 meeting of the Committee;
- 3.2 That the Committee recommend to the Council that it formally resolve to adopt the aforesaid revised Standing Orders relating to Contracts and Financial Regulations; and
- 3.3 That quarterly reports on tender acceptances be submitted to the Committee by the Head of Legal & Democratic Services.

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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b>	<b>13 November 2012</b>
<b>Report By:</b>	<b>Head of Legal &amp; Democratic Services</b>	<b>Report No:</b>	<b>LA/917/12</b>
<b>Contact Officer:</b>	<b>Elaine Paterson</b>	<b>Contact No:</b>	<b>01475 712139</b>
<b>Subject:</b>	<b>Review of (i) Standing Orders Relating to Contracts and (ii) Financial Regulations</b>		

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to propose to members that they (a) approve (i) the revised Standing Orders Relating to Contracts forming Appendix 1 of this report and (ii) the revised Financial Regulations forming Appendix 2 of this report and (b) recommend to the Council that it formally adopts the revised Standing Orders Relating to Contracts and Financial Regulations.

## 2.0 SUMMARY

- 2.1 Standing Orders Relating to Contracts (hereinafter referred to as "Orders") are the means whereby the Council control and regularise the manner in which the Council contracts with third parties. It is one of the core Corporate Governance documents and reflects both legal and best value requirements.
- 2.2 The Orders were heavily revised in February 2011 and the current proposed revisions are minor revisions to take account of certain operational requirements.
- 2.3 The draft attached has been revised in collaboration with the Chief Financial Officer, the Corporate Procurement Manager and the Corporate Management Team.
- 2.4 The draft contains revisions to the current Orders which are too numerous to outline individually. However the changes which are most notable are highlighted in the body of the report. The current version of the Orders is attached as Appendix 3.
- 2.5 The Council's approach to e-tendering is still being developed by the Corporate Procurement Manager and further revisions to the Orders will be required in due course in this regard.
- 2.6 The main changes to the Financial Regulations, last reviewed August 2011, are to ensure agreement with the revised Orders. In addition the Regulations pertaining to Disposal of Assets have been made clearer.
- 2.7 There are no financial implications related to this report.

## 3.0 RECOMMENDATIONS

- 3.1 It is proposed that the Committee:-
- (i) approves the revised Standing Orders relating to Contracts all as detailed in Appendix 1 to this report;

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- (ii) approves the proposed revisals to the Financial Regulations as outlined in Appendix 2 of this report; and
  - (iii) recommends to the Council that it formally resolves to adopt the aforesaid revised Standing Orders Relating to Contracts.

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## **4.0 BACKGROUND**

- 4.1 The Orders referred to in para 1.1 hereof are made under Section 81 of the Local Government (Scotland) Act 1973 and apply, unless otherwise stated within the Orders, to all contracts entered into by the Council. They form an important part of the Council's Corporate Governance Framework.
- 4.2 The Orders were last revised in February 2011 and require updating at this time to take account of the bedding down of the new Procurement procedures and certain operational requirements.
- 4.3 In terms of the existing Orders, any amendments thereto should be considered firstly by the Policy & Resources Committee and thereafter by the Council.
- 4.4 The draft attached to this report contains revisions to the existing Orders, the most relevant of which are detailed in Section 5 hereof.
- 4.5 The Orders will continue to be supported by a Corporate Procurement Manual which is to be prepared by the Corporate Procurement Manager and which addresses a variety of operational issues arising from the Orders.
- 4.6 The main changes to the Financial Regulations, last reviewed August 2011, are to ensure agreement with the revised Orders. In addition, the Regulations pertaining to the Disposal of Assets have been made clearer.

## **5.0 REVISIONS TO EXISTING ORDERS**

- 5.1 The alterations to which Members' attention is drawn are as follows:-

- (i) it is recommended that the existing Standing Order 13 whereby all contracts over £250,000 require to be referred to Committee before a tendering exercise is commenced is deleted. It remains the position that Chief Officers are responsible for ensuring that they have a budget in place to cover the value of the contract. The current provision is leading to delays in commencing projects whilst the appropriate authorisation is obtained;
- (ii) it is recommended that Standing Order 3.2 (vi) be deleted. This provision related mainly to those areas that were Significant Trading Operations and is now no longer relevant;
- (iii) a minor revisal to Standing Order 6.5 is recommended to make provisions for tenders submitted via the Public Contracts Scotland portal;
- (iv) to speed up the process of completing the contractual formalities it is recommended that the current limit of £250,000 relating to certain formalities in regard to the acceptance of tenders, contained within Standing Order 9.2 be increased to £1m;
- (v) it is proposed that an additional provision, Standing Order 11.6, be added to the Orders, to ensure that where it is proposed to terminate a contract, duly and properly entered into, before its expiry date, that the relevant Committee are informed of the circumstances;
- (vi) Standing Order 12.00 which relates to Framework and non-exempt collaborative agreements has been amended to make it clearer; and certain revisions to Standing Order 24 are proposed to allow services to contract to carry out external work under stated limits without prior approval of Council. Currently, all such arrangements require the prior approval of the relevant Committee. This

makes it difficult for services to respond quickly when they are invited to provide services to outside bodies. Full consultation with the Chief Financial Officer and the Head of Legal & Democratic Services will be required to ensure that the proposal is *ultra vires* and financially sound.

## 6.0 REVISIONS TO FINANCIAL REGULATIONS

6.1 Aside from amending the Financial Regulations to match the proposed changes to the Standing Orders for Contracts, the material proposed changes are:

- a) 6.11 – Clarifies how occasions where tenders come back over budget are dealt with by Committee and
- b) 14.2 – Clarifies how the Council should seek Best Value in the Disposal of Assets .

## 7.0 IMPLICATIONS

7.1 This report has no financial implications.

Financial Implications – One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

Financial Implications – Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect From	Annual Net Impact	Virement From (if Applicable)	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

7.2 Personnel: None

7.3 Legal: As outlined in the body of the report.

## 8.0 CONSULTATION

8.1 The Chief Financial Officer and the Corporate Procurement Manager have been fully involved in the revision of the Orders and the Corporate Management Team have been consulted. All relevant comments have been taken on board in producing the attached draft.

Elaine Paterson  
Legal & Democratic Services

# Inverclyde Council

## **STANDING ORDERS RELATING TO CONTRACTS**

# **STANDING ORDERS RELATING TO CONTRACTS**

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## 1.0 DEFINITIONS

1.1 For the avoidance of doubt, it is understood that in these Standing Orders the following definitions and provisions shall apply:

- (i) “Corporate Directors” shall be deemed to include the Chief Executive;
- (ii) ‘appropriate committee’ shall mean the committee to which the procuring Service generally reports in terms of the Council’s Scheme of Administration, except where the relevant contract is being procured through Scotland Excel or Procurement Scotland in which case the ‘appropriate committee’ shall mean the Policy & Resources Committee (or its equivalent from time to time);
- (iii) the values specified herein are exclusive of any Value Added Tax that may be levied;
- (iv) “emergency” shall be deemed to mean an actual or potential event involving or likely to involve any of the following:
  - (a) danger to life or health;
  - (b) serious damage or destruction of property;
  - (c) major financial penalties.
- (v) “the European Procurement Regime” means the various directives, regulations, formal guidance notes, interpretative communications and precedents which together form the legal and procedural framework relating to public sector procurement for public works, the supply of goods and materials and the supply of services.
- (vi) ‘social care services means-  
  
the provision of services for the performance of the Council’s functions under:-
  - (a) The Social Work (Scotland) Act 1968;
  - (b) Part 2 of the Children Act 1995;
  - (c) Sections 25 to 27 of the Mental Health (Care & Treatment) (Scotland) Act 2003; and
  - (d) Any other function of the Council covered by the definition of care service in Section 2(1) of the Regulation of Care (Scotland) Act 2001, not specifically mentioned elsewhere;

1.2 The title of every officer referred to in the Standing Orders 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 stand assigned to that other officer(s).



## **2.0 EXTENT**

### **2.1 General**

2.1.1 These Standing Orders (which are referred to in the Council's Standing Orders as 'Contract Regulations' and are hereinafter referred to as 'Orders') are made under Section 81 of the Local Government (Scotland) Act 1973 and shall apply, unless otherwise stated, to the making by the Council or on their behalf or on behalf of other persons/parties as part of a collaborative purchasing arrangement to all contracts for the supply of goods or materials or for the execution of works or for the provision of services. Any power exercisable by elected members and officials in terms of these Orders shall be subject to the provision of the Council's Scheme of Delegation whether or not referred to therein.

2.1.2 Officers must also have regard to the following:-

- (i) the Council's Financial Regulations. Where there is a conflict between the terms of these Orders and the Council's Financial Regulations, whether in relation to financial limits or otherwise, the terms of these Orders shall take precedence;
- (ii) the Corporate Procurement Manual and the procedure rules contained therein issued from time to time by the Corporate Procurement Manager;
- (iii) Rules of Procedure for National Contracts set up by Scotland Excel and Procurement Scotland; and
- (iv) the Guidance on compliance with the European Procurement Regime, issued from time to time by the Head of Legal & Democratic Services and/or the Corporate Procurement Manager.

2.1.3 These Orders shall also apply to all contracts which are subject to UK legislation or the European Procurement Regime provided that, where there is any conflict between these Orders and such legislation or rules, the legislation and rules shall take precedence over these Orders.

2.1.4 Where any tender is likely to:-

- (i) equal or exceed the thresholds for the application of the European Procurement; or
- (ii) exceed the thresholds applicable to lower value contracts.<sup>1</sup>

the Corporate Director or the officers concerned shall refer the matter to the Corporate Procurement Manager, in consultation where appropriate with the Head of Legal & Democratic Services who will be responsible for ensuring that the various requirements of the European Procurement Regime are complied with fully.

### **2.2 Variation and Revocation**

2.2.1 These Orders may from time to time be varied or revoked by the Council pursuant to a recommendation from the Policy and Resources Committee, meeting in its normal

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<sup>1</sup> For advice on lower value contracts, please refer to Procurement Manual

cycle. Such alteration shall not be effected except on a resolution adopted by a majority of the Members of the Council.

- 2.2.2 The Corporate Procurement Manual and Guidance may from time to time be varied or revoked by the Head of Legal & Democratic Services and/or the Corporate Procurement Manager.

## 2.3 Suspension

- 2.3.1 The appropriate Committee, on receiving a joint recommendation from the relevant Corporate 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 Orders 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. Suspension in this regard shall be by a simple majority of members present and voting.
- 2.3.2 The Chief Executive, in terms of the specific delegation to him by the Council to deal with matters of urgency and following appropriate consultation, may authorise action which otherwise would require suspension of one or more provisions of these Orders.

## 2.4 Review

- 2.4.1 These Orders shall be reviewed at least every two years.

## 3.0 EXEMPTIONS

### 3.1 Thresholds

- 3.1.1 There shall be exempted from the provisions of these Orders but not from the requirement to seek competitive quotes or the requirement to comply with the Council's Financial Regulations, all contracts for the supply of goods and materials, including second hand goods or materials, or for the execution of works or for the provision of services where the estimated price of the contract does not exceed:

Supply of Goods or Materials:	£25,000
Provision of Services	£25,000
Execution of Works	£50,000

- 3.1.2 It is not permitted to divide any procurement exercise into two or more contracts to avoid the application of the financial thresholds referred to above, or those specified in the European Procurement Rules.

### 3.2 Excluded contracts

- 3.2.1 There shall be exempted from the provisions of these Orders **(but not exempted from the need to comply fully with the European Procurement Regime, where applicable):-**
- (i) any contract for the supply of goods or materials or for the provision of services or for the execution of works which, in the opinion of the Chief Executive, in consultation with the relevant Corporate Director & Statutory Officers, are urgently required for the prevention of damage to life or property

- (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, except where such appointment relates to a specific project and adequate time is available to carry out a proper procurement exercise;
- (v) the appointment of legal counsel; and
- (vi) with the exception of Standing Order 22, any contract relating to heritable property which shall be subject to separate procedures contained within the Corporate Procurement Manual.

### **3.3 Contracts for Social Care Services**

- 3.3.1 The Rules of Procedure contained within the Corporate Procurement Manual shall apply to contracts for the procurement of Social Care Services and in the event of any ambiguity between the Rules and any specific Order, the provisions of the Rules shall apply.

### **3.4 Collaborative Purchasing**

- 3.4.1 In addition to clause 3.2 above and subject to the Financial Regulations, these Orders shall not apply to any contract for the supply of goods or materials or the provision of services made on behalf of the Council by Scotland Excel, Procurement Scotland or the Government Procurement Service 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, Order 12 shall apply in all other cases.
- 3.4.2 All contracts secured through collaborative purchasing in terms of Clause 3.4.1, irrespective of value, shall be signed on behalf of the Council by the Head of Legal & Democratic Services, and in her absence by a Legal Services Manager.
- 3.4.3 The appropriate Corporate Director or Head of a procuring service shall not separately seek tenders for the supply of goods and materials or the provision of services where arrangements for such collaborative purchasing have been established unless he believes that such collaborative purchasing is not achieving Best Value and he/she has confirmed the position with the Chief Financial Officer and the Head of Legal and Democratic Services.

#### **4.0 ESTIMATES OF COST**

- 4.1 No tender shall be invited or offer made or accepted for any contract for the supply of goods or materials or for the provision of services or for the execution of works unless there is sufficient financial provision within approved budgets for the net estimated expenditure.
- 4.2 The values stated in these Orders are the total estimated values of the contract concerned, over the duration of the contract, and not the estimated annual value of the contract. Where it is likely that a supply of goods or services will be required on a continuing basis for a number of years, for example, a maintenance contract, the anticipated duration of the continuing supply shall be taken into account when estimating the value of the contract for the purposes of these Orders.

#### **5.0 TENDERING PROCEDURES – EU PROCUREMENT**

- 5.1 Where the European Procurement Regime applies to a particular contract, the appropriate Corporate Director or Head of Service shall in consultation with the Head of Legal and Democratic Services and the Corporate Procurement Manager have authority to decide, subject to complying with the terms of the European Procurement Regime, whether to adopt the open or restricted procedures.
- 5.2 Where it is considered that the use of competitive dialogue or the negotiated procedure is the most appropriate method of procuring a particular contract, the matter shall be referred to the appropriate committee for consideration.

#### **6.0 TENDERING PROCEDURES - GENERAL**

- 6.1 Subject to Order 6.6 hereof, all contracts over the values specified in Order 3 require to be advertised in a sufficiently open manner to ensure that the principles of openness, transparency and equality are fully met.
- 6.2 Public Notice shall be given of all contracts over the values specified in Order 3 on the Public Contract 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.
- 6.3 A sufficient number of tenderers must be invited to tender to ensure genuine competition which must not except as hereinafter provided, be less than four. Where fewer than four contractors express an interest, all those contractors meeting the minimum evaluation criteria must be invited to tender.
- 6.4 The Corporate Procurement Manual shall contain guidance in relation to the selection of tenderers where inviting all those who have expressed an interest in submitting a tender would result in the Council incurring disproportionate costs.
- 6.5 Where tenders are invited by advertising the contract opportunity on the Public Contracts Scotland portal, no tender shall be considered unless it is submitted electronically through the portal, unless prior to such advertising the approval of the Corporate Procurement Manager is given to use the procedure set out at Order 6.6 below.

6.6 Subject to Order 6.5 above, in all other cases where tenders are invited, no tender shall be considered unless it is contained within a plain envelope securely sealed and bearing the word 'Tender.....' followed by the subject matter to which the tender relates. The envelope shall not bear any mark that identifies the tenderer.

6.7 All tenderers shall be advised which of Orders 6.5 or 6.6 will apply in the invitation to tender.

## 6.8 Evaluation

6.8.1 The evaluation methodology to be adopted in relation to a contract shall be transparent, fair, comply with Council guidance on Evaluation Criteria and shall be fully disclosed to prospective tenderers in the tender documentation.

6.8.2 In all contracts, whether above or below the European Procurement Thresholds, where the contract is to be awarded to the 'most economically advantageous tender', the balance between cost/quality shall not fall below 60/40, where 60 represents cost. Where the relevant Corporate Director is of the opinion that this ratio requires to be varied to the extent that cost represents a smaller percentage of the overall total, then prior to commencing the procurement process, he/she shall prepare a report for the consideration and approval of the appropriate committee. Any such report shall set out clear and robust reasons for the proposed variation and shall be prepared in consultation with the Chief Finance Officer and Head of Legal & Democratic Services.

6.9 **Where the estimated value of the contract exceeds the European Procurement Thresholds, the requirements for advertisement, evaluation and selection specified within the relevant regulations shall apply.**

## 7.0 LATE TENDERS

7.1 No tenders received after the closing date and time for submission shall be considered and arrangements shall be made for their rejection and return to the tenderer without further consideration. Tenderers shall be advised of this provision in the invitation to tender.

## 8.0 OPENING OF TENDERS

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

8.2 Tenders shall be opened in the presence of:

- (i) in the case of contracts where the estimated value is not more than £250,000, an officer within or acting on behalf of the procuring service and an officer within Legal and Democratic Services, both of whom must be at not lower than Grade I; and
- (ii) in the case of contracts where the estimated value or amount exceeds the levels specified in sub-para (i) above, an officer within the procuring Service and an Officer within Legal and Democratic Services, both of whom must be at not lower than Grade I and two Elected Members.

## **9.0 ACCEPTANCE OF TENDERS**

9.1 Except as hereinafter provided, the lowest or the most economically advantageous tender shall be accepted.

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

- (i) in the case of tenders where the value or the amount does not exceed £1,000,000 by the appropriate Corporate Director or the Head of Legal & Democratic Services;
- (ii) in the case of contracts where the value or amount exceeds £1,000,000 by the Head of Legal & Democratic Services with authority from the appropriate Committee<sup>2</sup>;
- (iii) in any case, regardless of value, where the tender recommended for acceptance is **not** the lowest/most economically advantageous only by the Head of Legal & Democratic Services with authority from the appropriate Committee;
- (iv) in March and September of each year, each service shall prepare a note for members detailing all contracts which have been accepted in terms of SO 9.2 (i) and (ii) above.

9.3 **For the avoidance of doubt, it is specifically provided that no tender may be accepted unless it is the winning tender in terms of the relevant evaluation process.**

9.4 If the appropriate Corporate Director or Head of Service recommends that none of the tenders submitted should be accepted, the Head of Legal & Democratic Services or his/her authorised representative shall notify all tenderers accordingly.

9.5 No tender shall be accepted unless the appropriate Corporate 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.

## **10.0 REGISTER OF TENDERS**

10.1 The Head of Legal & Democratic Services shall keep and maintain a register of all tenders received with the exception of those tenders relating to the procurement of Social Care Services under the value of £250,000 which 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;
- (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; and

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<sup>2</sup> Following the consultation process referred to at Regulation 6.10 of the Council's Financial Regulations

- (iii) a statement of the names and addresses of persons to whom tender documents were issued but who declined or failed to submit a tender.
- 10.2 The relevant Head of Service shall keep and maintain a register of tenders relating to Social Care Services containing the information (where relevant) outlined in (i) – (v) above.
- 11.0 NEGOTIATED TENDERS AND EXTENSION OR TERMINATION OF EXISTING CONTRACTS**
- 11.1 In **exceptional** cases, where the appropriate Corporate Director or Head of Service considers on the application of Best Value principles that a tender should be negotiated with one person, he/she shall, before entering into negotiations, obtain the approval of the appropriate committee both in respect of the negotiation and of the person with whom the tender is to be negotiated. In such cases, advice must be obtained from the Head of Legal & Democratic Services and the Corporate Procurement Manager before referring the matter to the appropriate committee.
- 11.2 An existing contract may only be extended provided its terms and conditions authorise such an extension.<sup>3</sup>
- 11.3 Where an existing contract was not let under EU Procurement Rules and a proposed extension to that contract will bring the total amount of the contract above the relevant EU Threshold, an extension to that contract is specifically prohibited.
- 11.4 In all cases where it is proposed to extend an existing contract, the relevant Head of Service must consult with the Head of Legal & Democratic Services and the Corporate Procurement Manager.
- 11.5 **Where the European Procurement Regime applies to a contract, the Negotiated Procedure and the Competitive Dialogue Procedure may only be used where permitted by and on a ground specified in the Regulations.**
- 11.6 Where an officer decides that a contract shall be terminated early/prior to the expiry date, a report on the circumstances prevailing shall be prepared in consultation with the Head of Legal & Democratic Services and submitted to the relevant Committee.
- 12.0 FRAMEWORK AND NON-EXEMPT COLLABORATIVE AGREEMENTS<sup>4</sup>**
- 12.1 Where a Corporate Director or Head of Service deems it best value, they may enter into or participate in a Framework or non-exempt collaborative agreement provided, in the case of procurements where the Council's contribution exceeds the thresholds set out at Order 3.1.1, he/she has obtained the prior approval of the appropriate committee. Before doing so the Corporate Director or Head of Service shall consult fully with the Head of Legal and Democratic Services and the Corporate Procurement Manager.
- 12.2 A Framework or non-exempt collaborative agreement may be established/utilised by:

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<sup>3</sup> This alteration has been made to reflect the EU Rules and also to aid transparency.

<sup>4</sup> Exempt Collaborative Agreements are set out at Order 3.4.

- (i) agreeing<sup>5</sup> with another local authority or authorities or other public body or bodies to establish a Framework or otherwise work together for the purpose of co-ordinating a shared contract; or
  - (ii) call off or by conducting a mini competition under an Framework that has been properly established by another local authority or authorities or any other agency of the UK or Scottish Government. Any such contracts must be entered into in accordance with the conditions applicable to the relevant Framework.
- 12.3 Where, in order to participate in an existing Framework of the type described in Standing Order 12.2(ii), the Council is required to enter into a participation agreement or other similar agreement regulating the use of the Framework by the Council, the Chief Executive shall have the authority to enter into the agreement on behalf of the Council, following discussion with the Chief Finance Officer and Head of Legal & Democratic Services.

### 13.0 POST TENDER CLARIFICATION

- 13.1 Where examination of tenders received reveals obvious errors or discrepancies 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.
  - (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 providing such course of action does not put other tenderers at a disadvantage or otherwise distorts competition, 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 not be given the opportunity to submit an amended tender.**
- 13.2 A full written record shall be kept by the appropriate Corporate Director 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.

### 14.0 CONSULTANTS

- 14.1 Where appropriate, it shall be a condition of engagement of consultants that:-

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<sup>5</sup> Such agreement, which should be in writing, should set out the rights and responsibilities of each party involved in the collaboration.



- (i) they shall comply with these Orders as though they were officers of the Council;
  - (ii) at any time during the performance of the contract the consultant 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 contractor in the course of providing the services shall vest and remain vested in the Council.
- 14.2 In the event that a Head of Service wishes to deviate from these requirements, he shall only do so with the agreement of the Head of Legal & Democratic Services and the Corporate Procurement Manager.

## **15.0 FORM OF CONTRACT**

- 15.1 Except where otherwise agreed between the appropriate Corporate 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 officer designated by him/her for the purpose and shall be subject to the Laws of Scotland.

## **16.0 FREEDOM OF INFORMATION**

- 16.1 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.

## **17.0 EUROPEAN STANDARDS**

- 17.1 All tenders for the supply of goods and materials or for the execution of works shall be based on a defined specification except where the Council otherwise decides.
- 17.2 Where there is an appropriate European Standard current at the date of tender, every contract shall require, as the case may be, that all goods, materials used or supplied, and all workmanship shall at least meet the requirements of that European Standard.
- 17.3 Where there is no such European Standard, if there is an equivalent International Standard, that shall be used.
- 17.4 In the absence of either European or International Standard an appropriate British Standard "or equivalent" shall be used, where available.

## **18.0 EQUALITIES & PREVENTION OF DISCRIMINATION**

- 18.1 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 Race Relations (Amendment) Act 2000 in relation to discrimination in employment.

18.2 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 Race Relations Act 1976 (as amended).

## **19.0 ASSIGNATION/NOVATION**

19.1 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.

## **20.0 APPLICATION TO THIRD PARTIES**

20.1 Any third party or person (not being an official of the Council) who is responsible to the Council for a contract on its behalf shall in relation to that contract:

- (i) comply with these Orders as though he/she were an official of the Council;
- (ii) at any time during the currency of the contract, produce on request to the appropriate Corporate Director all records maintained by him/her in relation to that contract, including evidence of insurances; and
- (iii) on completion of the contract, transmit to the appropriate Corporate Director all such records relating to that contract.

## **21.0 APPLICATION TO SUB-CONTRACTORS**

21.1 All conditions to be observed by contractors in terms of these Orders shall mutatis mutandis also apply to sub-contractors, and all contractors shall be responsible for the observance of such conditions by such sub-contractors.

## **22.0 DISPOSAL OF LAND**

22.1 Where the Council wishes to dispose of land, officers shall have regard to Section 74 of the Local Government (Scotland) Act 1973, the Disposal of Land by Local Authorities (Scotland) Regulations 2010 and the relevant Statutory Guidance, and any and all amendments which may from time to time be in force (the Framework).

22.2 In circumstances where the value of the land to be disposed is more than £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 Head of Service 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 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.

22.3 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:-

- (i) be a chartered member of or authorised to practice by the Royal Institute of Chartered Surveyors;
- (ii) be suitably experienced in the valuation of the type of property concerned with a reasonable knowledge of the locality concerned; and
- (iii) 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.

22.4 The Corporate 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.

22.5 For the avoidance of doubt, 'disposal of land' includes sale, lease, license to occupy or other arrangement whereby the Council cedes ownership or occupation of land and/or buildings.

## **23.0 DISPOSAL OF OTHER ASSETS**

23.1 Subject to Order 22, prior to selling any other asset of the Council, advice must be sought from the Head of Legal & Democratic Services and the Corporate Procurement Manager in consultation with the Chief Financial Officer.

## **24.0 THE COUNCIL AS CONTRACTOR**

24.1 The prior approval of the appropriate committee is required where a Corporate Director considers it appropriate to tender for external work and

- (i) the contract will be with a private sector purchaser and the total estimated value of the contract will exceed £100,000; or
- (ii) the contract will be with a public sector purchaser and the total estimated value of the contract will exceed £250,000.

In both cases, the report must specify any sub-contracting arrangements, if those arrangements will exceed the thresholds set out in Order 3.1.1

- 24.2 In all cases where a Corporate Director considers it appropriate to tender for external work, the Corporate Director shall consult fully with the Chief Financial Officer and the Head of Legal & Democratic Services to ensure that the proposal is financially prudent and legally competent and the Head of Organisational Development, Human Resources & Performance in relation to TUPE or other personnel issues.



## FINANCIAL REGULATIONS

Revised September 2012

## **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 Financial 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, Corporate Directors and Heads of Service. This also refers to and includes other Officers when the stated duties have been delegated;

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. The following 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 the Financial Regulations, with the exception of Virement which is defined within the 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 financial regulations are complied with in respect of matters falling within their jurisdiction 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 the Financial 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 have been approved at the Full Council and will be formally reviewed and approved every 4 years.
- 1.10 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.
- 1.11 All terms in these Regulations should be considered generic.
- 1.12 All monetary values within these Regulations are stated exclusive of VAT.
- 1.13 In all circumstances where a signature is required an electronic substitute will be considered appropriate within the authorisation procedures of the relevant system.

## **2. EME      RGENCY 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:-

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.      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 works. 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. REVE      NUE 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 and shall constitute the Revenue Budget for the relevant 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 Financial 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 approved 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, where 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 Financial Regulations 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 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.

Performance Reports for all Significant Trading Operations shall also be prepared and submitted to Committees on a regular basis.

- 3.10 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 either 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 relates to, for example, within the Environment, Regeneration & Resources Directorate:

- ♦ Finance Services
- ♦ Environmental & Commercial Services
- ♦ Legal & Democratic Services
- ♦ Property Assets & Facilities Management
- ♦ Planning & Regeneration
- ♦ ICT Services

- 4.4 Chief Officers may vire between subjective headings within a Service to a maximum of £10,000 with the approval of the Chief Financial Officer. Any virement above £10,000 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 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).
- 4.7 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.
- 4.8 Where the virement proposed involves a change in Council policy the prior approval of the Policy & Resources Committee is required.
- 4.9 All virement requested is deemed to be permanent, ie to be carried forward into future Financial Years, unless specifically highlighted as being “one-off” at the time of submitting the virement request.

#### 4.10 Limitations

- (a) 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 relevant Committee and thereafter Policy & Resources Committee. For the avoidance of doubt the Chief Financial Officer will determine whether or not a saving is a windfall saving.
- (b) 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 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 Head of Property Assets & Facilities Management. Professional fees will be charged where appropriate.
- 5.4 Each Chief Officer shall comply with the Standing Orders for 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 in writing of any additions to or deletions from the list. An annual review 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 Chief Financial Officer before appointment. The Head of Legal & Democratic Services 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 Inland Revenue Construction Industry Scheme.

## **6. PROCUREMENT AND PURCHASING**

- 6.1 All relevant purchases of goods 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 Corporate 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 or services 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 signed 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 normal method of payment of monies due by the Council shall be by electronic funds. A secondary and more expensive approach is to use cheques or other instrument drawn on the Council's bank account however this 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 value added tax 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 in consultation with the Chief Financial Officer and Head of Legal & Democratic Services and be submitted to the relevant Committee prior to tender acceptance. The report shall include:-
- (a) Comparison of the tendered costs with the approved available budget.
  - (c) 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, then a report should be submitted to Committee prior to acceptance except where the excess amount can be contained within any general contingency allowance within the Committee's approved Capital Programme. In this case 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 offered to Council's Services. This is 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 the relevant Statutory Officers prior to determining any action in respect of claims for liquidate or other damages.
- 6.17 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

£25,000 or 20%, which ever is lower, the Chief Officer concerned shall report to the relevant Committee.

- 6.18 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 he considers necessary.
- 6.19 Final accounts must be agreed as early as practicable after expiry of the defects liability period.
- 6.20 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.
- 6.21 All amendments to payment request vouchers (CRI's) shall be in ink and initialled by the certifying officer. Tax Invoices must be returned to the creditor for alteration.
- 6.22 The Chief Financial Officer shall have authority to pay duly certified accounts/vouchers.
- 6.23 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. CONT ROL 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 the subject of accounts being rendered, which record the service delivery date. Chief Officers must ensure preparation and issue of such accounts in order to record and collect the amounts correctly. Accounts must be raised no later than 30 days after the last day of service delivery specified on the account. In rendering charges, Chief Officers shall ensure value added tax is applied at the appropriate rate. 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 inclusion in the Revenue Budget of the following year. Any such review to comply with the Council's Budget Strategy.

- 7.9 The Chief Financial Officer shall maintain a debt management procedure to secure effective recovery of all sums due to the Council. This procedure 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 Chief Financial Officer. All claim forms shall be signed by an authorised signatory (see paragraph 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 within one month after 31 March that year.
- 8.6 Requests by employees and 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 Council to determine reasonable limits for travel and subsistence expenses and the Chief Financial Officer shall advise employees on an individual journey basis. Subsistence limits for Councillors will be calculated by reference to the Members Salaries and Expenses Scheme.
- 8.7 Except in cases where a spouse or partner forms part of an approved group or delegation, their travel costs and additional accommodation costs shall not be met by the Council, unless approved by Committee.
- 8.8 In exceptional cases, where employees have incurred expenditure and require an advance on expenses before the next available payroll processing date approval shall first be obtained from the Chief Financial Officer. Advances made will be recovered when the claim for expenses is processed which shall be no later than one month following the advance.
- 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, HR & Communications within one month of the completion of the event.

- 8.10 Advance claims shall be made no later than 3 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, HR & Communications.
- 9.2 Without the authority of the Council on the recommendation of the Policy & Resources Committee:-
- ♦ No permanent employee at Grade N or above shall be employed in excess of the approved establishment.
  - ♦ Amendments to the permanent establishment below Grade N require approval from the Chief Executive, Head of Organisational Development, HR & 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, existing salary require the placing can be reviewed by the Chief Officer in conjunction with the Head of Organisational Development, HR & 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, HR & 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 Corporate Director.

- 9.7 All time records or other "pay" documents shall be in a form prescribed or approved by the Head of Organisational Development, HR & 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, HR & 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 and a minimum of the next 3 financial years. The resources available over this period are estimated by the Chief Financial Officer.
- 10.2 The Chief Financial Officer shall include within the draft Capital Programme all projects which have been approved by the Policy & Resources Committee following a report which includes a project appraisal.
- 10.3 A report seeking the consideration of a project to be included within the draft Capital Programme shall include the following:-
  - (a) Details of the facilities it is proposed to provide.
  - (b) The need for the project and the 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.
- 10.4 The relevant Chief Officer shall submit the report outlined in 10.3 to the Asset Management Corporate Improvement Group for discussion and consideration and thereafter to the Corporate Management Team prior to submission to the relevant Committee.
- 10.5 For significant Capital Projects an option appraisal should be incorporated within the report highlighting funding options, risks and sustainability implications.
- 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 Where it appears that the actual cost of projects or group of projects (where a general budget allocation has been agreed) included in the approved Capital Programme is likely to vary from the approved cost, it shall be the duty of the Chief Officer concerned after consultation with the Chief Financial Officer to seek the instructions of the Policy & Resources Committee as soon as possible.

- 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 Corporate 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 his 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, order books, tickets, vouchers 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 Inverclyde Council. Employees can also be responsible for other monies as a consequence of their employment by the Council either directly (eg.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 suitable 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 items on the Asset Register for recording and taking action in relation to surpluses or deficiencies and informing the amendment of the Asset Register accordingly. Deficiencies shall be reported to the Chief Financial Officer. A copy of the Asset Register at the end of the financial year will be compiled by the Chief Financial Officer.
- 13.3 The Corporate Director Environment, Regeneration and Resources 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 Corporate Director Environment, Regeneration & Resources to ensure a five year rolling revaluation programme of property assets is adhered to.
- 13.6 The Head of Legal & Democratic Services 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 equipment held by each employee.

## **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 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 contract 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 Corporate 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 Head of Property Assets and Facilities Management. 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 Property Assets and Facilities Management in consultation with the Head of Legal & Democratic Services in accordance with the requirements of the Standing Orders for Contracts. In arranging any sale the relevant Chief Officer shall consult with the Chief Financial Officer to ensure all financial implications including accounting for value added tax 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.
- 14.4 Details of any IT equipment which a Chief Officer deems surplus to requirements shall be advised to the Head of ICT who will consider the equipments suitability. for use within the Council and or sale to a secondary ICT market in line with 14.1. If neither of these options are appropriate then these items may be offered by the Head of ICT to associated companies, Community Councils in terms of Section 55 of the Local Government in Scotland Act 1973 or to any recycling scheme. All such donations shall be recorded by the Head of ICT.

## **15. STOCKS AND STORES**

- 15.1 Chief Officers shall be responsible for the custody of the stocks and stores in their Services which shall not exceed levels agreed between the Chief Officer and the Chief Financial Officer.
- 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 Surplus material, stores or equipment (including scrap) shall be disposed of in terms of Financial Regulation 14 unless otherwise agreed with the Chief Financial Officer. Payment must be received before such items are removed by the purchaser.
- 15.5 Stocks and stores records must be kept in a form approved by the Chief Financial Officer.

## **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 No income received on behalf of the Council may 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, but shall be reclaimed 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 in the Service concerned for inspection.



## **17. ANN UAL ACCOUNTS**

- 17.1 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.
- 17.2 An unaudited copy of the Abstract of Accounts shall be submitted to the Audit Committee for review prior to formal submission to Audit Scotland.
- 17.3 The Accounts together with the Auditor's report, shall be submitted to the Council for final approval following completion of the external audit.

## **18. BAN KING ARRANGEMENTS**

- 18.1 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.
- 18.2 All bank accounts shall be in the name of, or incorporate the name of, the Council.
- 18.3 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.
- 18.4 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.
- 18.5 All cheques issued shall bear the signature or facsimile of one of the authorised signatories agreed by the Council. The control of cheques shall be the responsibility of the Chief Financial Officer. Payments over £50,000 must be countersigned by an authorised bank signatory before the payment is released.
- 18.6 Arrangements for electronic funds transfer shall be authorised by the Chief Financial Officer or his nominee.

## **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 inform the Police 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 thereon to the Policy & Resources Committee.
- 19.6 Chief Officers shall consult with the Chief Executive, 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. It has adopted the CIPFA "Treasury Management in Public Services – Code of Practice".
- 20.2 A Treasury Management Policy Statement (TMPS) will be produced at 3 yearly intervals 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 this Code. 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 strategy for Treasury Management it is proposed to adopt for the coming financial year. 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, in whose absence the Depute Section 95 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.
- 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 these funds in accordance with the limits and conditions imposed by statute, by the 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 his 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 & Democratic 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. HOS PITALITY**

- 22.1 Each Corporate Director shall be entitled to extend hospitality within their area up to £500 (excluding VAT) per occasion, subject to budget availability.
- 22.2 When hospitality is estimated to cost in excess of £500 but not more than £1,000 per occasion, written approval shall first be obtained from the Chief Executive.
- 22.3 Hospitality estimated to cost in excess of £1,000 per occasion shall require the prior approval of the appropriate Service Committee.
- 22.4 For hospitality of a Council wide nature related to visits by external organisations, approval of the Policy and Resources Committee is required.
- 22.5 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 Corporate 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.
- 22.6 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 her 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 his 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 Authority, 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 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. If appropriate the Chief Internal Auditor or other nominated officer will refer the matter to the Police after consultation with the Head of Legal & Democratic Services.



## **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 Corporate Risk Management Group, 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 operational guidance 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 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 In May 2011 the Council adopted a process to ensure that it fulfill's 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 and Democratic Services.
- 25.3 Annual reports in respect of all organisations covered under these arrangements require to be presented to the relevant Committee.
- 25.4 Lead Officers require to support any Council members involved with relevant organisations.
- 25.5 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 Corporate Procurement Manager.
- 25.6 The 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.

# Inverclyde Council

## **STANDING ORDERS RELATING TO CONTRACTS**

**Approved 24 February 2011**

# STANDING ORDERS RELATING TO CONTRACTS

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## 1.0 DEFINITIONS

- 1.1 For the avoidance of doubt, it is understood that in these Standing Orders the following definitions and provisions shall apply:
- (i) "Corporate Directors" shall be deemed to include the Chief Executive;
  - (ii) 'appropriate committee' shall mean the committee to which the procuring Service generally reports in terms of the Council's Scheme of Administration, except where the relevant contract is being procured through Scotland Excel or Procurement Scotland in which case the 'appropriate committee' shall mean the Policy & Resources Committee (or its equivalent from time to time);
  - (iii) the values specified herein are exclusive of any Value Added Tax that may be levied;
  - (iv) "emergency" shall be deemed to mean an actual or potential event involving or likely to involve any of the following:
    - (a) danger to life or health;
    - (b) serious damage or destruction of property;
    - (c) major financial penalties.
  - (v) "the European Procurement Regime" means the various directives, regulations, formal guidance notes, interpretative communications and precedents which together form the legal and procedural framework relating to public sector procurement for public works, the supply of goods and materials and the supply of services.
  - (vi) 'social care services means-  
  
the provision of services for the performance of the Council's functions under:-
    - (a) The Social Work (Scotland) Act 1968;
    - (b) Part 2 of the Children Act 1995;
    - (c) Sections 25 to 27 of the Mental Health (Care & Treatment)(Scotland) Act 2003; and
    - (d) Any other function of the Council covered by the definition of care service in Section 2(1) of the Regulation of Care (Scotland) Act 2001, not specifically mentioned elsewhere;
- 1.2 The title of every officer referred to in the Standing Orders 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 stand assigned to that other officer(s).
- 1.3 **For the avoidance of doubt, if the procuring service wishes to procure works, goods or services with a value greater than £250,000, in terms of the Financial Regulations, the approval of the committee to which the procuring service reports is required before tender documents are issued.**

## **2.0 EXTENT**

### **2.1 General**

2.1.1 These Standing Orders (which are referred to in the Council's Standing Orders as 'Contract Regulations' and are hereinafter referred to as 'Orders') are made under Section 81 of the Local Government (Scotland) Act 1973 and shall apply, unless otherwise stated, to the making by the Council or on their behalf or on behalf of other persons/parties as part of a collaborative purchasing arrangement to all contracts for the supply of goods or materials or for the execution of works or for the provision of services. Any power exercisable by elected members and officials in terms of these Orders shall be subject to the provision of the Council's Scheme of Delegation whether or not referred to therein.

2.1.2 Officers must also have regard to the following:-

- (i) the Council's Financial Regulations. Where there is a conflict between the terms of these Orders and the Council's Financial Regulations, whether in relation to financial limits or otherwise, the terms of these Orders shall take precedence;
- (ii) the Corporate Procurement Manual and the procedure rules contained therein issued from time to time by the Corporate Procurement Manager;
- (iii) Rules of Procedure for National Contracts set up by Scotland Excel and Procurement Scotland; and
- (iv) the Guidance on compliance with the European Procurement Regime, issued from time to time by the Head of Legal & Democratic Services and/or the Corporate Procurement Manager.

2.1.3 These Orders shall also apply to all contracts which are subject to UK legislation or the European Procurement Regime provided that, where there is any conflict between these Orders and such legislation or rules, the legislation and rules shall take precedence over these Orders.

2.1.4 Where any tender is likely to:-

- (i) equal or exceed the thresholds for the application of the European Procurement; or
- (ii) exceed the thresholds applicable to lower value contracts.<sup>1</sup>

the Corporate Director or the officers concerned shall refer the matter to the Corporate Procurement Manager, in consultation where appropriate with the Head of Legal & Democratic Services who will be responsible for ensuring that the various requirements of the European Procurement Regime are complied with fully.

### **2.2 Variation and Revocation**

2.2.1 These Orders may from time to time be varied or revoked by the Council pursuant to a recommendation from the Policy and Resources Committee, meeting in its normal

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<sup>1</sup> For advice on lower value contracts, please refer to Procurement Manual

cycle. Such alteration shall not be effected except on a resolution adopted by a majority of the Members of the Council.

- 2.2.2 The Corporate Procurement Manual and Guidance may from time to time be varied or revoked by the Head of Legal & Democratic Services and/or the Corporate Procurement Manager.

## 2.3 Suspension

- 2.3.1 The appropriate Committee, on receiving a joint recommendation from the relevant Corporate Director, the Head of Legal & Democratic and the Chief Financial Officer that there are special circumstances justifying suspension of one or more provisions of these Orders 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. Suspension in this regard shall be by a simple majority of members present and voting.

- 2.3.2 The Chief Executive, in terms of the specific delegation to him by the Council to deal with matters of urgency and following appropriate consultation, may authorise action which otherwise would require suspension of one or more provisions of these orders.

## 2.4 Review

- 2.4.1 These Orders shall be reviewed at least every two years.

## 3.0 EXEMPTIONS

### 3.1 Thresholds

- 3.1.1 There shall be exempted from the provisions of these Orders but not from the requirement to seek competitive quotes or the requirement to comply with the Council's Financial Regulations, all contracts for the supply of goods and materials, including second hand goods or materials, or for the execution of works or for the provision of services where the estimated price of the contract does not exceed:

Supply of Goods or Materials:	£25,000
Provision of Services	£25,000
Execution of Works	£50,000

- 3.1.2 It is not permitted to divide any procurement exercise into two or more contracts to avoid the application of the financial thresholds referred to above, or those specified in the European Procurement Rules.

### 3.2 Excluded contracts

- 3.2.1 There shall be exempted from the provisions of these Orders ( **but not exempted from the need to comply fully with the European Procurement Regime, where applicable**):-

- (i) any contract for the supply of goods or materials or for the provision of services or for the execution of works which, in the opinion of the Chief Executive, in consultation with the relevant Corporate Director & Statutory Officers, are urgently required for the prevention of damage to life or property or 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 to the appropriate Committee as soon as possible after the event;

- (ii) contracts of employment;
- (iii) the appointment of legal agents, except where such appointment relates to a specific project and adequate time is available to carry out a proper procurement exercise;
- (iv) the appointment of legal counsel;
- (iv) with the exception of Standing Order 22, any contract relating to heritable property which shall be subject to separate procedures contained within the Corporate Procurement Manual; and
- (vi) contracts for the supply of goods or materials up to the value of £100,000 which are required by a Service where the goods and materials are required for the purposes of a contract already in place, always provided that the steps taken to ensure that Best Value in the price or prices obtained and contracted for are fully documented by the relevant Head of Service and the advice of the Corporate Procurement Manager has been sought before the supply has been secured.

### **3.3 Contracts for Social Care Services**

- 3.3.1 The Rules of Procedure contained within the Corporate Procurement Manual shall apply to contracts for the procurement of Social Care Services and in the event of any ambiguity between the Rules and any specific Order, the provisions of the Rules shall apply.

### **3.4 Collaborative Purchasing**

- 3.4.1 In addition to clause 3.2 above and subject to the Financial Regulations, these Orders shall not apply to any contract for the supply of goods or materials or the provision of services made on behalf of the Council by Scotland Excel, or Procurement Scotland or any equivalent or 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 .
- 3.4.2 All contracts secured through collaborative purchasing in terms of Clause 3.4.1, irrespective of value, shall be signed on behalf of the Council by the Head of Legal & Democratic Services, and in her absence by a Legal Services Manager.
- 3.4.3 The appropriate Corporate Director or Head of a procuring service shall not separately seek tenders for the supply of goods and materials or the provision of services where arrangements for such collaborative purchasing have been established unless he believes that such collaborative purchasing is not achieving Best Value and he/she has confirmed the position with the Chief Financial Officer and the Head of Legal and Democratic Services.



#### **4.0 ESTIMATES OF COST**

- 4.1 No tender shall be invited or offer made or accepted for any contract for the supply of goods or materials or for the provision of services or for the execution of works unless there is sufficient financial provision within approved budgets for the net estimated expenditure.
- 4.2 The values stated in these Orders are the total estimated values of the contract concerned, over the duration of the contract, and not the estimated annual value of the contract. Where it is likely that a supply of goods or services will be required on a continuing basis for a number of years, for example, a maintenance contract, the anticipated duration of the continuing supply shall be taken into account when estimating the value of the contract for the purposes of these Orders.

#### **5.0 TENDERING PROCEDURES – EU PROCUREMENT**

- 5.1 Where the European Procurement Regime applies to a particular contract, the appropriate Corporate Director or Head of Service shall in consultation with the Head of Legal and Democratic Services and the Corporate Procurement Manager have authority to decide, subject to complying with the terms of the European Procurement Regime, whether to adopt the open or restricted procedures.
- 5.2 Where it is considered that the use of competitive dialogue or the negotiated procedure is the most appropriate method of procuring a particular contract, the matter shall be referred to the appropriate committee for consideration.

#### **6.0 TENDERING PROCEDURES - GENERAL**

- 6.1 Subject to Order 6.6 hereof, all contracts over the values specified in Order 3 require to be advertised in a sufficiently open manner to ensure that the principles of openness, transparency and equality are fully met.
- 6.2 Public Notice shall be given of all contracts over the values specified in Order 3 on the Public Contract 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.
- 6.3 A sufficient number of tenderers must be invited to tender to ensure genuine competition which must not except as hereinafter provided, be less than four. Where fewer than four contractors express an interest, all those contractors meeting the minimum evaluation criteria must be invited to tender.
- 6.4 The Corporate Procurement Manual shall contain guidance in relation to the selection of tenderers where inviting all those who have expressed an interest in submitting a tender would result in the Council incurring disproportionate costs.
- 6.5 Where tenders are invited, no tender shall be considered unless it is contained within a plain envelope securely sealed and bearing the word 'Tender.....' followed by the subject matter to which the tender relates. The envelope shall not bear any mark that identifies the tenderer. All tenderers shall be advised of these requirements in the invitation to tender.

## **6.6 Evaluation**

- 6.6.1 The evaluation methodology to be adopted in relation to a contract shall be transparent, fair, comply with Council guidance on Evaluation Criteria and shall be fully disclosed to prospective tenderers in the tender documentation.
- 6.6.2 In all contracts, whether above or below the European Procurement Thresholds, where the contract is to be awarded to the 'most economically advantageous tender', the balance between cost/quality shall not fall below 60/40, where 60 represents cost. Where the relevant Corporate Director is of the opinion that this ratio requires to be varied to the extent that cost represents a smaller percentage of the overall total, then prior to commencing the procurement process, he/she shall prepare a report for the consideration and approval of the appropriate committee. Any such report shall set out clear and robust reasons for the proposed variation and shall be prepared in consultation with the Chief Finance Officer and Head of Legal & Democratic Services.
- 6.6 **Where the estimated value of the contract exceeds the European Procurement Thresholds, the requirements for advertisement, evaluation and selection specified within the relevant regulations shall apply.**

## **7.0 LATE TENDERS**

- 7.1 No tenders received after the closing date and time for submission shall be considered and arrangements shall be made for their rejection and return to the tenderer without further consideration. Tenderers shall be advised of this provision in the invitation to tender.

## **8.0 OPENING OF TENDERS**

- 8.1 All tenders relating to a specific project shall be opened at the one time.
- 8.2 Tenders shall be opened in the presence of:
- (i) in the case of contracts where the estimated value is not more than £250,000, an officer within or acting on behalf of the procuring service and an officer within Legal and Democratic Services, both of whom must be at not lower than Grade I; and
  - (ii) in the case of contracts where the estimated value or amount exceeds the levels specified in sub-para (i) above, an officer within the procuring Service and an Officer within Legal and Democratic Services, both of whom must be at not lower than Grade I and two Elected Members.

## **9.0 ACCEPTANCE OF TENDERS**

- 9.1 Except as hereinafter provided, the lowest or the most economically advantageous tender shall be accepted.
- 9.2 Tenders may only be accepted on behalf of the Council:-

- (i) in the case of tenders where the value or the amount does not exceed £250,000 by the appropriate Corporate Director or the Head of Legal & Democratic Services;
- (ii) in the case of contracts where the value or amount exceeds £250,000 by the Head of Legal & Democratic Services with authority from the appropriate Committee;
- (iii) in any case, regardless of value, where the tender recommended for acceptance is **not** the lowest/most economically advantageous only by the Head of Legal & Democratic Services with authority from the appropriate Committee.

9.3 **For the avoidance of doubt, it is specifically provided that no tender may be accepted unless it is the winning tender in terms of the relevant evaluation process.**

9.4 If the appropriate Corporate Director or Head of Service recommends that none of the tenders submitted should be accepted, the Head of Legal & Democratic Services or his/her authorised representative shall notify all tenderers accordingly.

9.5 No tender shall be accepted unless the appropriate Corporate 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.

## **10.0 REGISTER OF TENDERS**

10.1 The Head of Legal & Democratic Services shall keep and maintain a register of all tenders received with the exception of those tenders relating to the procurement of Social Care Services under the value of £250,000 which 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;
- (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; and
- (v) a statement of the names and addresses of persons to whom tender documents were issued but who declined or failed to submit a tender.

10.2 The relevant Head of Service shall keep and maintain a register of tenders relating to Social Care Services containing the information (where relevant) outlined in (i) – (v) above.

## **11.0 NEGOTIATED TENDERS AND EXTENTION OF EXISTING CONTRACTS**

11.1 In **exceptional** cases, where the appropriate Corporate Director or Head of Service considers on the application of Best Value principles that a tender should be negotiated with one person, he/she shall, before entering into negotiations, obtain the approval of the appropriate committee both in respect of the negotiation and of the

person with whom the tender is to be negotiated. In such cases, advice must be obtained from the Head of Legal & Democratic Services and the Corporate Procurement Manager before referring the matter to the appropriate committee.

- 11.2 An existing contract may be extended in the circumstances outlined in para 26.3 of the Council's Financial Regulations. Notwithstanding the provisions of para 26.3 of the Council's Financial Regulations it is specifically provided that an existing contract may only be extended provided its terms and conditions authorise such an extension.<sup>2</sup>
- 11.3 Where an existing contract was not let under EU Procurement Rules and a proposed extension to that contract will bring the total amount of the contract above the relevant EU Threshold, an extension to that contract is specifically prohibited.
- 11.4 In all cases where it is proposed to extend an existing contract, the relevant Head of Service must consult with the Corporate Procurement Manager.
- 11.5 **Where the European Procurement Regime applies to a contract, the Negotiated Procedure and the Competitive Dialogue Procedure may only be used where permitted by and on a ground specified in the Regulations.**

## **12.0 FRAMEWORK AGREEMENTS**

- 12.1 Subject to Standing Order 1.3 hereof, where a Corporate Director or Head of Service deems it best value, they may enter into or participate in a Framework Agreement. Before doing so, or before presenting a report to the appropriate committee, the Corporate Director or Head of Service shall consult fully with the Head of Legal and Democratic Services and the Corporate Procurement Manager.
- 12.2 A Framework Agreement may be established/ utilised by:-
  - (i) adopting the procedure outlined in the Council's Procurement Manual, the terms of which shall be binding; or
  - (ii) by call off or by conducting a mini competition under an existing Framework that has been properly established by another local authority, the Scottish Executive for contracts on a national basis, the Office of Government Commerce or any other agency of the UK or Scottish Government. Any such contracts must be entered into in accordance with the conditions applicable to the relevant Framework.
- 12.3 Where, in order to participate in an existing Framework of the type described in Standing Order 12.2(ii), the Council is required to enter into a participation agreement or other similar agreement regulating the use of the Framework by the Council, , the Chief Executive shall have the authority to enter into the agreement on behalf of the Council, following discussion with the Chief Finance Officer and Head of Legal & Democratic Services.

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<sup>2</sup> This alteration has been made to reflect the EU Rules and also to aid transparency. As previously worded, it also conflicted with the Fin. Regs.

### 13 POST TENDER CLARIFICATION

13.1 Where examination of tenders received reveals obvious errors or discrepancies 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.
- (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 providing such course of action does not put other tenderers at a disadvantage or otherwise distorts competition, 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 not be given the opportunity to submit an amended tender.**

13.2 A full written record shall be kept by the appropriate Corporate Director 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.

### 14.0 CONSULTANTS

14.1 Where appropriate, it shall be a condition of engagement of consultants that:-

- (i) they shall comply with these Orders as though they were officers of the Council;
- (ii) at any time during the performance of the contract the consultant 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 contractor in the course of providing the services shall vest and remain vested in the Council.

14.2 In the event that a Head of Service wishes to deviate from these requirements, he shall only do so with the agreement of the Head of Legal & Democratic Services and the Corporate Procurement Manager.

### 15.0 FORM OF CONTRACT

15.1 Except where otherwise agreed between the appropriate Corporate 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 officer designated by him/her for the purpose and shall be subject to the Laws of Scotland.

## **16.0 FREEDOM OF INFORMATION**

- 16.1 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.

## **17.0 EUROPEAN STANDARDS**

- 17.1 All tenders for the supply of goods and materials or for the execution of works shall be based on a defined specification except where the Council otherwise decides.
- 17.2 Where there is an appropriate European Standard current at the date of tender, every contract shall require, as the case may be, that all goods, materials used or supplied, and all workmanship shall at least meet the requirements of that European Standard.
- 17.3 Where there is no such European Standard, if there is an equivalent International Standard, that shall be used.
- 17.4 In the absence of either European or International Standard an appropriate British Standard "or equivalent" shall be used, where available.

## **18.0 EQUALITIES & PREVENTION OF DISCRIMINATION**

- 18.1 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 Race Relations (Amendment) Act 2000 in relation to discrimination in employment.
- 18.2 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 Race Relations Act 1976 (as amended).

## **19.0 ASSIGNATION/NOVATION**

- 19.1 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.



## **20.0 APPLICATION TO THIRD PARTIES**

20.1 Any third party or person (not being an official of the Council) who is responsible to the Council for a contract on its behalf shall in relation to that contract:

- (i) comply with these Orders as though he/she were an official of the Council;
- (ii) at any time during the currency of the contract, produce on request to the appropriate Corporate Director all records maintained by him/her in relation to that contract, including evidence of insurances; and
- (iii) on completion of the contract, transmit to the appropriate Corporate Director all such records relating to that contract.

## **21.0 APPLICATION TO SUB-CONTRACTORS**

21.1.1 All conditions to be observed by contractors in terms of these Orders shall mutatis mutandis also apply to sub-contractors, and all contractors shall be responsible for the observance of such conditions by such sub-contractors.

## **22.0 DISPOSAL OF LAND**

22.1 Where the Council wishes to dispose of land, officers shall have regard to Section 74 of the Local Government (Scotland) Act 1973, the Disposal of Land by Local Authorities (Scotland) Regulations 2010 and the relevant Statutory Guidance, and any and all amendments which may from time to time be in force (the Framework).

22.2 In circumstances where the value of the land to be disposed is more than £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 Head of Service 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 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.

22.3 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:-

- (i) be a chartered member of or authorised to practice by the Royal Institute of Chartered Surveyors;
- (ii) be suitably experienced in the valuation of the type of property concerned with a reasonable knowledge of the locality concerned; and

- (iii) 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.

22.4 The Corporate 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.

22.5 For the avoidance of doubt, 'disposal of land' includes sale, lease, license to occupy or other arrangement whereby the Council cedes ownership or occupation of land and/or buildings.

### **23.0 THE COUNCIL AS CONTRACTOR**

23.1 The prior approval of the appropriate committee is required where a Corporate Director considers it appropriate to tender for external work.

23.2 Before submitting a report to the committee, the Corporate Director shall consult fully with the Chief Financial Officer and the Head of Legal & Democratic Services to ensure that the proposal is financially prudent and legally competent and the Head of Organisational Development, Human Resources & Performance in relation to TUPE or other personnel issues.