



# **EAST AYRSHIRE COUNCIL**

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**Updated: as at 12 October 2015**

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# **EAST AYRSHIRE COUNCIL**

## **STANDING ORDERS**

### **FOR REGULATING MEETINGS AND PROCEEDINGS OF THE COUNCIL, CABINET, COMMITTEES AND PANELS OF EAST AYRSHIRE COUNCIL.**

#### **PART 1**

#### **STATUTORY MEETINGS /DURATION OF OFFICE**

##### ***Statutory Meeting***

##### **1.1**

- (i) In an Election Year, the Council shall meet at 10.00am on the Thursday of the week following the Election or on such alternative date as the Council may previously have agreed, such date being within 21 days immediately following the day of Election.
- (ii) Following the intimation received from the Returning Officer of the result of the election, the election of a Provost shall be the first item of business.

##### ***Duration of Office***

##### **1.2**

- (i) The Council shall, on an annual basis, appoint a Provost, Depute Provost, Leader of the Council and Depute Leader, Cabinet Portfolio Spokespersons, Chairs and, where appropriate Vice-Chairs.
- (ii) In an Election year, the appointments shall be made at the Statutory Meeting following the Election.
- (iii) In a year without an Ordinary Council Election the annual appointments shall be made at the last Ordinary Meeting of the Council held before the summer recess.
- (iv) At that Ordinary Meeting of the Council the Election of a Provost shall be the first item of business. The retiring Provost (whom failing, the retiring Depute Provost) shall preside until a Provost has been elected.
- (v) A retiring Provost, Depute Provost, Leader of the Council and Depute Leader, Cabinet Portfolio Spokespersons, Chairs and Vice Chairs, shall be eligible for re-election.

## **PART 2**

### ***STANDING ORDERS APPLICABLE ONLY TO MEETINGS OF COUNCIL***

#### ***Special Meetings***

2. The Chief Executive or Chief Governance Officer shall call a special meeting of the Council :
  - (i) at any time on being required to do so by the Provost of the Council or
  - (ii) following receipt by the Chief Executive of a requisition in writing, specifying the business to be transacted at the meeting and signed by at least one-fourth of the whole number of Members of Council. The requisition shall be included in the notice and summons of the meeting. The meeting shall be held within 14 days of receipt by the Chief Executive of the requisition.

#### ***Quorum***

3. No business shall be transacted at any meeting of the Council unless at least one-fourth of the whole number of Members of the Council is present. If however there are vacancies of more than one-third of the membership of the Council, the quorum of the Council shall be determined by reference to the statutory provisions (namely one-fourth of the number of Members of Council remaining, subject to an absolute minimum of one-eighth of the whole number of Members (or three, whichever is the greater).

#### ***Chair of Council Meeting***

4. The Provost, whom failing the Depute Provost, or, in the absence of both, another Member of the Council chosen by the Members of the Council present, shall preside.

#### ***Order of Business***

- 5.1 The business of the Council at an ordinary meeting shall, unless otherwise directed by the Chair (who may alter the order of business at any stage) proceed in the following order:
  - (i) The sederunt shall be taken: the names of the Members present at the meeting of the Council shall be recorded with the Chair at the head followed by the remaining Members present in the order of the Wards they represent.
  - (ii) Minutes of the previous meeting or meetings of the Council shall be submitted for approval and, if previously circulated, held as read. The only question then before the Council shall be

whether the Minutes are an accurate record of the business transacted and, if they are, they shall be approved and signed by the Chair. Any Member may request information on an item within a minute that is before the meeting.

- (iii) Business expressly required by statute or statutory instrument to be done at the meeting.
- (iv) Business remaining from the last meeting (if any).
- (v) Report by the Leader of the Council. Any Member, without prior notice, shall be allowed to put a question to the Leader of the Council about the report.
- (vi) Minutes of the Cabinet, Committees and Panels shall be submitted, held as read and be formally moved and be held to be approved, unless objection is taken to any portion thereof when so submitted. The mover and seconder of a Minute may speak in support of the Minute when the same is formally moved or when the objection, if any, to said Minute or any portion thereof is reached. Where Minutes relate to matters delegated to Committees in accordance with the Council's approved scheme of delegation, the only question then before the Council shall be whether the Minutes are an accurate record of the business transacted, if they are, they shall be approved and signed by the appropriate Chair. Otherwise the Minutes shall be considered and disposed of.

Any Member may put questions to either the Leader of the Council or the relevant Cabinet Portfolio Spokesperson(s) on any items within the Minutes of the Cabinet that are put before the meeting or request information on an item within any other Minute that is before the meeting.

This Standing Order will not be applicable to the Minutes of the Governance and Scrutiny Committee which will be submitted to Council for information only. Formal approval of these Minutes will be within the remit of the Governance and Scrutiny Committee.
- (vii) Any other competent business detailed in the Agenda or urgent business raised at the discretion of the Chair.
- (viii) Questions other than those arising from consideration of subparagraphs (ii) and (vi) above of which due notice has been given in terms of Standing Order 6, to be put and answered.
- (ix) Motions in terms of Standing Order 7 in the order in which notice has been given.

**5.2** Subject to Standing Order 2, the business, and Order of Business at a special meeting of the Council shall be at the discretion of the Chair.

### ***Formal Questions***

- 6.1 All questions referred to in Standing Order 5.1 (viii) shall be in writing and signed. They shall be delivered to the Chief Executive not later than 4pm on the second working day before the day of the meeting. A Member shall be restricted to two written questions at any one meeting.
- 6.2 Questions shall only be answered by the Provost, the Chief Executive, Leader of the Council/or relevant Cabinet Portfolio Spokesperson(s) or other appointed persons.
- 6.3 One supplementary question, if necessary for the clarification of the answer given, may be asked by the original questioner. No discussion shall be allowed on any question or the answer thereto.

### ***Notices of Motion***

#### ***Form of Notice***

- 7.1 Every Notice of Motion shall be in writing, signed and dated by the Member of Council giving the Notice and countersigned by one other Member and may not be amended once intimated to the Council. Unless a Notice of Motion has been received by the Chief Executive at least 14 clear days prior to the date of any meeting of the Council it shall not be specified in, or transmitted with, the summons calling the meeting, nor shall the Motion be considered at the meeting.

#### ***Failure to Move a Motion After Notice Given***

- 7.2 If a motion, notice of which is specified in the summons calling the meeting, be not moved by the Member who has given the notice (or by some other Member) it shall, unless postponed by leave of the Council, be considered as withdrawn and shall not be moved without further notice.

#### ***Motion Contradictory to Previous Decision***

- 7.3 A Notice of Motion which contradicts a previous decision of the Council shall not be competent within six months from the date of such previous decision.

#### ***Suspension of Standing Orders***

- 8. Any of the Standing Orders, upon a motion made at any time during a meeting, may be suspended so far as regards any business at such meeting provided that two-thirds of the Members of the Council present and voting shall so decide.



### ***Motion to Suspend Standing Orders***

9. Any Member competently moving the suspension of Standing Orders shall be entitled to speak (solely as to the reason for the proposed suspension) for a period of not more than 5 minutes. The seconder of any such motion shall not speak beyond formally seconding the motion. Where any amendment against suspension shall be moved, the mover of such amendment shall likewise be entitled to speak (solely as to the reasons against suspension) for a period of not more than 5 minutes. The seconder of such amendment shall not speak beyond formally seconding the amendment. No other Member shall be entitled to speak either to the motion or to the amendment and the Chair shall thereafter put the matter to the vote.

### ***Variation and Revocation of Standing Orders***

10. Any motion to vary or revoke these Standing Orders shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council. No Standing Orders shall be varied or revoked unless two-thirds of the Members of the Council present and voting shall so decide.

## **PART 3**

### ***STANDING ORDERS APPLICABLE TO ALL MEETINGS (including the Cabinet, Committees and Panels)***

#### ***ARRANGEMENTS FOR MEETINGS***

##### ***Dates of Meetings***

11. Ordinary Meetings of the Council, Committees or Panels, shall be held in accordance with the administrative arrangements approved by the Council from time to time.

##### ***Special Meetings***

12. The Chief Executive or Chief Governance Officer shall call additional meetings at any time on being required to do so either by the Cabinet, Committees or Panels, the Chair of same.

##### ***Meetings Recess***

13. During the whole of July and during the period from 23 December until 5 January (both days inclusive) no meetings of the Council, the Cabinet, Committees or Panels, shall be held, except (a) on the instructions of the Council or of the Provost or in accordance with a requisition under Standing Order 2 (for a meeting of Council); (b) on the instructions of the Cabinet, Committees and Panels, or their Chairs; (c) in cases of urgency; or (d) for the purposes of seminars, inspections

or visits at which no decision shall be taken.

### ***Place, Time and Notice of Meetings***

- 14.1** Except in the case of urgency (when the Chair may direct accordingly), three clear days at least before a meeting of the Council, the Cabinet Committees and Panels;
- (i) notice of the time and place of the intended meeting shall be published by the Chief Executive or Chief Governance Officer at the Council's principal office and, where practicable, at the place where the meeting will be held if the meeting is to be held outwith the Council's principal office; and
  - (ii) a summons to attend the meeting, specifying the business to be transacted and signed by the Chief Executive or the Chief Governance Officer or an officer duly authorised by either of them shall be left at or sent by post to the usual place of residence of every Member of Council or to such other address as the Member may notify in writing to the Chief Executive or the Chief Governance Officer.

### ***Lack of Notice***

- 14.2** Want of service of a summons on any Member of the Council shall not affect the validity of any meeting.

### ***Quorum***

- 15.1** Unless otherwise determined by Council, the Cabinet, Committees and Panels in full may determine its own quorum at its first meeting upon being appointed. The Scheme of Delegation records the quorum for the Cabinet, Committees or Panels and the quorum may only be changed upon an amendment to the Scheme of Delegation. The quorum of the Cabinet, Committees or Panels may not however be less than one-fourth of the total membership of the Cabinet, Committees or Panels.
- 15.2** No business shall be transacted at any meeting of the Cabinet, Committees or Panels unless a quorum is present.
- 15.3** If, 10 minutes after the time appointed for a meeting a quorum of Members is not then present, the meeting shall stand adjourned and it shall be minuted that "owing to the want of a quorum, no business was transacted".

## ***Chair***

- 16.1** The Chair, whom failing the Vice-Chair, or, in the absence of both, another Member of the Cabinet, Committee or Panel chosen by the Members of the Cabinet, Committee or Panel present, shall preside.
- 16.2** Except as provided in Standing Order 16.1, "Chair" means the person presiding at a meeting of the Council, Cabinet, Committee or Panel.

## ***Powers and Duties of Chair***

- 17.** Deference shall at all times be paid to the authority of the Chair. When the Chair indicates a wish to speak, any Member who may be addressing the meeting, shall give way. The Chair shall:
- (i) preserve order and ensure that every Member of Council, the Cabinet, Committee or Panel as appropriate shall have a fair hearing;
  - (ii) decide all matters of order, competency and relevancy and the ruling of the Chair shall be final and shall not be open to discussion;
  - (iii) decide between two or more Members of the meeting indicating that they wish to speak by calling on the Member who has first caught the attention of the Chair;
  - (iv) ensure that due and sufficient opportunity is given to Members who wish to speak to express their views on the subject under discussion; and
  - (v) be entitled, in the event of disorder arising, to adjourn the meeting to a time he or she may then, or afterwards, fix and his or her leaving the Chair shall indicate the meeting is adjourned.
  - (vi) The Chair shall, at his or her discretion, determine all questions of procedure for which no express provision is made under these Standing Orders.

## ***Business at Meetings***

- 18.** At a meeting of the Council, Cabinet, Committee or Panel no business other than that specified in the summons shall be considered except in the case of business either required by or under any Act to be transacted at the meeting or as hereinafter provided. Business which has not been specified in the summons may be considered where the Chair determines that the matter is one of urgency in accordance with Section 50B(4)(b) of the Local Government (Scotland) Act 1973 as amended. The Chief Executive shall be handed written notice of urgent business not later than 30 minutes prior to the commencement of the

meeting which the Chief Executive or duly authorised Officer shall read to the meeting after the Chair has taken the Chair.

### ***Order of Business***

19. The business at an ordinary meeting shall (unless as otherwise directed by the Chair who may, at his or her discretion, alter the order of business at any stage) proceed in the following order.

- (i) The sederunt shall be taken; The names of the Members present at the meeting shall be recorded with the Chair at the head followed by the remaining Members present in the order of the Wards they represent.
- (ii) Minutes of Sub-Committees shall be submitted, held as read and be formally moved and be held to be approved, unless objection is taken to any portion thereof when so submitted. The mover and seconder of a Minute may speak in support of the Minute when the same is formally moved or when the objection, if any, to said Minute or any portion thereof is reached. Where Minutes relate to matters delegated to Sub-Committees in accordance with the Council's approved scheme of delegation, the only question then before the Committee shall be whether the Minutes are an accurate record of the business transacted; if they are, they shall be approved and signed by the appropriate Chair.

Any Member may request information on an item within a Minute that is before the meeting.

- (iii) Any other competent business detailed in the Agenda or urgent business raised at the discretion of the Chair.

### **ORDER OF DEBATE**

#### ***Members may Stand when Speaking***

20. A Member of the Council may stand when speaking and shall address the Chair and direct all remarks to the matter before the meeting by proposing, seconding or speaking to the motion or any amendment relative thereto, or to a point of order, or to propose or second a motion to close the debate or adjourn the proceedings.

#### ***Motion or Amendment to be Moved and Seconded***

21. Every motion or amendment shall be moved and seconded. The terms of all motions or amendments shall always precede any remarks to be made by their proposers. No Member shall speak supporting the motion or any amendment until the same shall be seconded.

### ***Motion or Amendment not to be Withdrawn or Altered***

22. A motion or amendment once moved and seconded shall not be altered or withdrawn without the consent of the meeting.

### ***Motion or Amendment not Seconded***

23. The terms of a motion or amendment not seconded or which may be withdrawn or altered after being seconded shall not be recorded in the Minutes of proceedings.

### ***Dissent from Finding***

24. Any Member who has moved a motion or amendment and has failed to find a seconder may request that his or her dissent in regard to the decision in question be recorded and that dissent will be recorded in the Minutes.

### ***Member Allowed to Speak Only Once***

25. Subject to the right of the mover of the motion to reply, no Member shall speak more than once on any subject under discussion, except either on a point of order or, with the consent of the Chair, to make an explanation in which case the Member shall introduce no new matter. An indication that a Member is seconding a motion or amendment, without further remark, does not of itself amount, for the purposes of this Standing Order, to a speech and the Member retains the right to speak on the matter during the debate.

### ***Right of Reply***

26. The mover of a motion shall be entitled to reply; the reply shall be strictly confined to answering previous speakers and no new matters shall be introduced.

### ***Time Limit of Speeches***

27. The mover of a motion or amendment shall not speak for more than 10 minutes. Any succeeding speaker shall not speak for more than 5 minutes. The mover of the original motion shall have the right to speak for 5 minutes in reply. The foregoing limits of time may be exceeded with the consent of the meeting, provided that a majority of the Members for the time being present and voting agree.

### ***Procedure on Point of Order***

28. A Member may speak upon a matter of order and in so doing shall make a short statement detailing precisely the terms of the point of order. If the Chair decides that the question raised by the speaker is not a "point of order", the Member who raised the point of order shall thereupon accept the decision as final. No other Member shall be

entitled to speak to that point of order. A Member who is addressing the meeting when a question of order is raised shall give way until the question of order has been decided by the Chair.

### ***Closure of Discussion***

29. After the right of reply is concluded, the discussion shall be held to have closed, after which no Member shall be permitted to offer an opinion or to ask a question or otherwise interrupt the proceedings or to speak, except with regard to the manner of taking a vote, and the question under discussion shall thereupon be put by the Chair.

### ***Proposals Involving Negation***

30. When a motion and two or more amendments to it are before the meeting and any one of the proposals, in the opinion of the Chair, implies negation, the vote shall be taken on the proposal involving negation, so soon as the discussion is completed and before the vote, if any, on the remaining proposals is taken. The proposal involving negation shall be put to the meeting in the form of "proceed" or "not proceed". If "not proceed" is carried by a majority of votes, the remaining proposals shall drop, but if "proceed" is carried a vote shall be taken between the remaining proposals as hereinafter provided.

### ***FORMAL MOTIONS***

A formal Motion requires a seconder and is put to the vote without the necessity for an amendment. The vote is taken for and against the Motion.

#### ***Motion for Adjournment of Meeting***

31. A motion for the adjournment of the meeting for a specified period of time may be put at the conclusion of any speech and shall have precedence over all other motions. It must be moved and seconded without a speech and shall at once be put by the Chair in the form of "For Adjournment" or "Against Adjournment"

#### ***Second Motion for Adjournment***

32. A second motion for the adjournment of the meeting shall not be made within a period of 30 minutes unless it is moved by the Chair, when it shall be dealt with as in the immediately preceding Standing Order.

#### ***"Question be now put"***

33. At the close of any speech, any Member who has not spoken on the question before the meeting may move "that the question be now put". If this be seconded, the Chair, if of the opinion that the subject has been sufficiently discussed, shall without further debate take a vote in the form of "For the Motion" and "Against the Motion". No speeches shall be made on the motion. If it be carried, the mover of the original

motion shall have the right to reply. Thereafter the original Motion and amendment(s) shall be put to the vote in the normal way.

### ***Obstructive or Offensive Conduct***

34. In the event of any Member disregarding the authority of the Chair or being guilty of obstructive or offensive conduct, a motion may be thereupon moved and seconded to suspend such Member for the remainder of the meeting. The motion shall be put to the meeting without discussion in the form "For Suspension" or "Against Suspension" and, if supported by a majority of the Members present, the motion shall be declared carried. Should the motion be carried, such Member shall thereupon retire from the meeting. The Council Officer shall act upon any orders received from the Chair in pursuance of such decision.

## **VOTING**

### ***Method of Voting on Motion and Amendment***

- 35.
- (i) When a motion and one amendment only are before the meeting, a vote shall be taken between the motion and the amendment.
  - (ii) When a motion and two or more amendments, none of which implies negation, are before the meeting, the vote shall be taken upon all the proposals, each Member having one vote. If a proposal receives the support of a majority of the Members taking part in the vote, it shall be declared to be the decision of the meeting but, in the event of none of the proposals receiving the support of such a majority, the proposal which has received the least support shall be dropped and the vote shall be taken anew upon the remaining proposals and so on until one proposal has received the support of such a majority whereupon it shall be declared to be the decision of the meeting.
  - (iii) In the event of the votes for two or more proposals being equal the Chair shall decide which of them shall be dropped.

### ***Voting - Roll Call/Show of Hands***

- 36.1 There may be occasion in respect of particular terms of business, involving the potential for personal responsibility of Members, where it would be appropriate to accede to a request by an individual Member to take the vote by calling the roll and where the Chair, after taking such advice as he or she deems appropriate, may direct accordingly.
- 36.2 In addition to the above, any vote may be taken by calling the roll but will normally be taken by a show of hands. When it is proposed to take the vote by a show of hands, any Member may object to the vote being

so taken. The Chair shall put the matter to the meeting in the form “for a Roll Call Vote”. If one-third of the Members present, by a show of hands, support a Roll Call Vote, the vote shall be taken by roll call. In that case the names of the Members voting and the way in which they voted shall be recorded. The roll will be called with the Chair at the head followed by the remaining Members present in order of the Wards they represent. All votes on procedure, however, shall be taken by a show of hands.

### ***Decision by Majority***

37. Subject to Standing Orders 8, 10, 36 and 40 or unless otherwise provided by statute, all questions coming or arising before the Council shall be decided by a majority of the Members of the Council present and voting thereon.

### ***Casting Vote***

38. In the case of an equality of votes, the Chair shall have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a Member of Council to any particular office, Cabinet, Committee or Panel etc, in which case the decision shall be by lot.

### ***Appointments - Filling of One Vacancy***

39. In the case of an appointment where only one vacancy requires to be filled, and there are only two candidates, a vote shall be taken as between these candidates and the one receiving the majority of votes shall be declared duly appointed. If more than two candidates, a vote shall be taken among all the candidates, each Member being entitled to vote for only one candidate. If, after this vote has been taken, any candidate has an absolute majority of the Members present and voting, such candidate shall be declared duly appointed. If no candidate has such a majority, the name of the candidate having the fewest number of votes shall be struck off the list of candidates. In second and subsequent votes, the same course as that prescribed with reference to the first vote shall be followed until one of the candidates obtains the votes of the majority of the Members present and voting when that candidate shall be declared duly appointed, or until the candidates are reduced to two, when a final vote shall be taken, and the candidate who receives the majority of the votes shall be declared appointed. If, on any vote, two or more candidates at the bottom of the list have an equal number of votes, the meeting shall decide which one of those candidates shall be struck off the list.

### ***Reconsideration of a Decision***

This Standing Order does not apply to matters which have been subject to the “call-in” procedure/scrutiny arrangements established by the Council at its



meetings on 17 May and 21 June 2007. These items will be resubmitted to the Cabinet for reconsideration.

- 40.** No decision of the Council, the Cabinet, Committee or Panel may be reconsidered and, except where required by statute, no item of business the same or substantially the same as one previously determined by the Council, the Cabinet, Committee or Panel may be discussed by the Council, the Cabinet, Committee or Panel within six months of the making of the previous decision or determination of the item, except when two-thirds of the Members for the time being present and voting agree otherwise. A motion by a Member in terms of this Standing Order proposing that a matter be reconsidered or discussed shall, if seconded, be put by the Chair to the meeting in the form “For the Motion” and “Against the Motion”.

## **PART 4**

### **ATTENDANCE AT MEETINGS**

#### ***Retirement from Meeting of Members with Financial/Non-Financial Interest***

- 41.1** Any Member who, in terms of the Councillors’ Code of Conduct established under the Ethical Standards in Public Life Etc (Scotland) Act 2000, has any financial interest in any matter under discussion at any meeting of the Council, the Cabinet, Committee or Panel, and having made such a declaration of interest, shall retire from such meeting while the matter in which the Member has an interest is under consideration. Such disclosure and retiral shall be minuted.
- 41.2** With regard to any non-financial interests it shall be a matter for the discretion of the individual Member in terms of Section 5 of the Councillors’ Code of Conduct whether (a) such interest requires to be declared and (b) whether having declared such an interest requires to withdraw.

#### ***Attendance by Members not a Member of Cabinet/Committee***

**42.**

##### ***General Interest***

- (i) Members of the Council who are not members of the Cabinet, Committee or Panel may be invited by the Chair of the Cabinet, Committee or Panel to attend a meeting of the said Cabinet, Committee, or Panel while there is under discussion any item in which those Members have a local or other special interest. Such Members shall be entitled to participate in the discussion on that item but shall not be entitled to vote.

### ***Items of Business***

- (ii) Where any Member submits an item of business for consideration by the Cabinet, Committee or Panel of which he or she is not a member and that item is accepted by the Chair for inclusion in the Agenda, the Member may attend the meeting of that Cabinet, Committee or Panel at which that item is being discussed and shall then be entitled to participate in the discussion on that item but shall not be entitled to vote.

### ***Scrutiny Issues***

- (iii) Where an individual Member has submitted an issue for consideration of the Governance and Scrutiny Committee under the scrutiny arrangements within the Council's Scheme of Delegation, that Member may attend the meeting at which the item is being discussed and shall then be entitled to participate in the discussion on that item but shall not be entitled to vote.
- (iv) Where a decision of the Cabinet has been subject to the "call-in" procedure the Elected Members who have activated the call-in process will be required to attend the Governance and Scrutiny Committee to explain their call-in request. If none of the Members attend the "call-in" request falls.

### ***Attendance by Members of the Public***

#### **43.**

- (i) Members of the public may, subject to any limitation on numbers that may be required due to health and safety considerations or availability of space or seating in the meeting room, attend any part of a meeting of the Council, the Cabinet, Committee or Panel except during an item of business where the meeting has resolved, in terms of the Local Government (Scotland) Act 1973, as amended, that the matter should be discussed in private session.
- (ii) The Governance and Scrutiny Committee retain the right to invite any persons they think necessary during the scrutiny of any matter.

### ***Deputations***

#### **44.**

- (i) No deputations shall be received by the Council, the Cabinet, Committee or Panel unless an application for admission to the meeting setting forth the matters on which the deputation desire to be heard shall have been lodged with the Chief Executive at least 12 clear days prior to the date of the meeting. Notice of any such application shall be entered in the summons calling the meeting and such meeting may agree or decline to receive the deputation.

### **Size**

- (ii) Except with the leave of the meeting, the members of any deputation shall not exceed five persons.

### **Questions Etc**

- (iii) The Council, the Cabinet, Committee or Panel, as appropriate, may decide the number of members of a deputation who will speak and the time to be allowed for each speech and after the speech or speeches have been made, the members of the deputation shall withdraw from the meeting to the public seating area, provided that when a deputation is received it shall be competent for Members to put to the deputation questions pertinent to subjects on which they wish to be heard. No Member shall express any opinion upon or discuss the subject until the deputation has withdrawn.

## **PART 5**

### **FINANCE**

#### ***Financial Regulations and Standing Orders relating to Contracts***

- 45.1** The financial affairs of the Council shall, so far as applicable, be conducted in accordance with the financial regulations made by the Council from time to time, which regulations shall form part of these Standing Orders.
- 45.2** The arrangements for contracts by the Council, for the supply of goods or materials or for the provision of services or for the execution of works, shall so far as applicable, be conducted in accordance with the Standing Orders relating to contracts made by the Council from time to time, which Standing Orders shall form part of these Standing Orders.

## **PART 6**

### **MISCELLANEOUS**

#### ***Authorised Officer***

- 46.1.** No meeting of the Council, the Cabinet, Committee or Panel, shall be held unless the Chief Executive or the Chief Governance Officer or an Officer duly authorised by them is in attendance for the purposes of taking Minutes.
- 46.2** The Chief Executive or the Chief Governance Officer or an Officer duly authorised by them shall be authorised to cancel a meeting of Council, the Cabinet, Committee or Panel where no business remains to be transacted.
- 46.3** The Chief Executive or the Chief Governance Officer or an Officer duly authorised by them shall be authorised to reschedule any existing calendar meeting, previously approved by Council.

#### ***Circulation of Reports, Papers Etc***

- 47.** The Chief Executive or the Chief Governance Officer or an officer authorised by either of them shall be entitled to mark as "Not for Publication" any report or any item of business specified in a summons to attend a meeting or any paper circulated with any such summons if he or she considers that it relates to an item during discussion of which the meeting is likely not to be open to the public in accordance with the Local Government (Scotland) Act 1973 as amended and no other Member shall thereafter disclose the item or paper without the consent of the Council.

#### ***Common Seal***

##### ***Affixing of Common Seal***

- 48.1** All deeds and other documents to which the Common Seal of the Council shall require to be affixed shall not be sealed other than provided by statute or in pursuance a decision of the Council.

##### ***48.2 Common Seal to be Kept by Solicitor to the Council***

The Common Seal of the Council shall be kept by the Solicitor to the Council who shall be responsible for its safe custody.

#### ***The Councillors' Code of Conduct***

- 49.** All Members will at all times comply with the provisions of The Councillors' Code of Conduct.

### ***East Ayrshire Council's Code of Conduct***

- 50.** Member attendance at Council meetings shall be conducted in accordance with the Code of Conduct made by the Council from time to time, which Code shall form part of these Standing Orders insofar as applicable.

### ***No Smoking***

- 51.** Smoking is not permitted during any meeting.

2 April 1996

Amended 29 June 1999

Amended 27 June 2000

Amended 28 June 2001

Amended 4 March 2004

Amended 31 July 2007

Amended 12 October 2015

## **EAST AYRSHIRE COUNCIL - CODE OF CONDUCT**

No Member shall bring into any Council meeting drinks or food.

Members wishing to leave a meeting during consideration of the business of the meeting shall rise and give recognition of the fact to the Chair prior to doing so.

During all meetings of the Council, Members shall address their fellow Members by their title of Councillor and surname.

Members shall attend meetings of the Council, the Cabinet, Committees and Panels suitably attired.

Members shall at no time use offensive or inappropriate language.

In the interests of courtesy, Members are requested to intimate apologies not later than half an hour prior to the commencement of meetings.

Members should treat their fellow Members and Officers in a courteous manner.

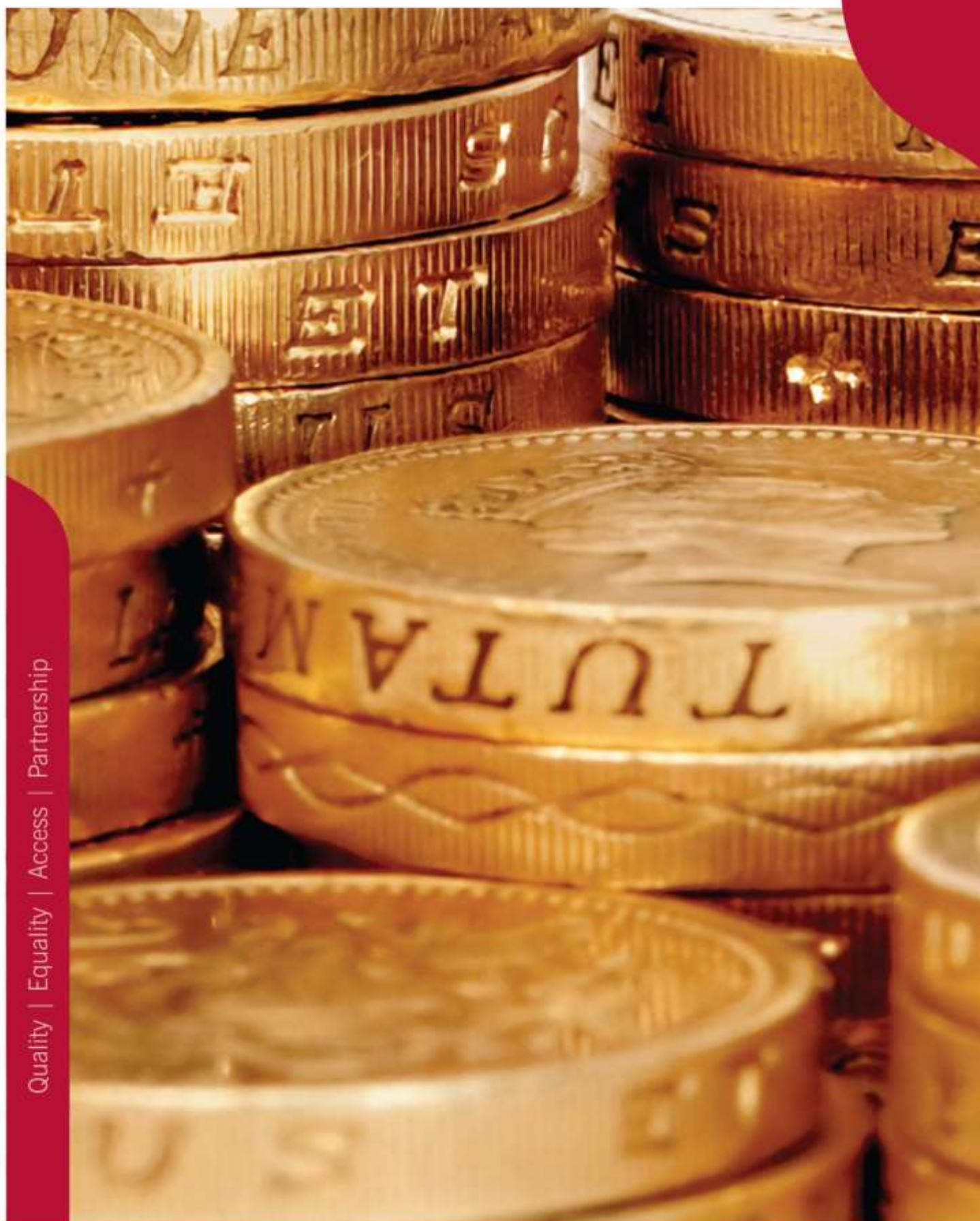
On receipt of an enquiry from any Member concerning the accuracy of the recording of a Minute, made to the Chief Governance Officer not later than two working days prior to the meeting of the Council or Committee to which the relevant Minutes are to be submitted for approval, the Chief Governance Officer shall cause a check to be made of the contemporaneous notes of the meeting concerned and respond to the Member concerned within one working day, confirming, or otherwise, the accuracy of the record.

# **SECTION 2**



# Financial Regulations

*(Revised: Council – 25 June 2015)*





# FINANCIAL REGULATIONS

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## 1 FINANCIAL ADMINISTRATION

### 1.1 Financial Control

A Local Authority is accountable for the way it discharges its stewardship of public funds. Stewardship is a function of management and therefore is a responsibility placed upon Elected Members and officials of the Authority. This responsibility is discharged by the establishment of sound arrangements and systems for the planning, appraisal, authorisation and control of the use of resources and by the preparation, compilation and reporting of accurate and informative accounts.

The Local Government etc (Scotland) Act 1994 requires Members to secure economy, efficiency and effectiveness in service provision.

Section 95 of the Local Government (Scotland) Act 1973 requires all local authorities in Scotland to have adequate systems and controls in place to make sure that their finances are handled properly. They must also appoint an appropriate officer with the full responsibility for monitoring how they do so. These Financial Regulations set out the responsibilities of the *Depute Chief Executive & Chief Financial Officer*, who has been appointed as the 'proper officer', along with the responsibilities of *Chief Officers* as appropriate.

The Financial Regulations should be read in conjunction with other Regulations of the Council such as:

- (i) Standing Orders
- (ii) Schemes of Delegation and Administration
- (iii) Defalcation/Corrupt Practices Procedures
- (iv) Disciplinary Procedures

and with other legislation/regulations observed by the Council such as:

- (a) The Data Protection Act
- (b) CIPFA Code of Practice on Local Authority Accounting in Great Britain
- (c) CIPFA Code for Treasury Management in Local Authorities
- (d) The Prudential Code for Capital Finance in Local Authorities
- (e) The Public Sector Internal Audit Standards (PSIAS).

Accounting Policy Bulletins (APB's) provide detailed guidance on the applications of these Financial Regulations. APB's are available on the Intranet and form an integral part of the governance framework of the Council. They carry the same status and authority as if they were part of these financial regulations and will be approved and issued by the *Head of Finance and ICT*.

## **1.2 Responsibilities**

### **1.2.1 Awareness**

Elected Members and Officers have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### **1.2.2 Key Controls**

The key controls and control objectives for financial management standards are:

- (i) the promotion of the highest standards of financial management throughout the authority;
- (ii) a monitoring system to review compliance with financial regulations; and
- (iii) regular comparisons of actual financial performance with planned performance, which are reported to Cabinet, Governance and Scrutiny Committee and Council as appropriate.

### **1.2.3 Council, Cabinet and Governance & Scrutiny Committee**

Subject to the Scheme of Delegation and Administration, Cabinet shall be responsible for regulating and controlling the finances of the Council within the guidelines determined by the Council.

### **1.2.4 *Depute Chief Executive and Chief Financial Officer***

The *Depute Chief Executive and Chief Financial Officer* shall be the proper officer of the Authority for the purposes of Section 95 of the Local Government (Scotland) Act 1973. The *Depute Chief Executive and Chief Financial Officer* shall be responsible for the administration of the financial affairs of the Authority and shall act as a financial adviser to the Council, Cabinet and all Committees. Specific responsibilities include:-

- (i) to ensure the proper administration of the financial affairs of the authority;
- (ii) to set the financial management standards and to ensure that compliance with them is monitored;
- (iii) to ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority;
- (iv) to advise on the key strategic controls necessary to secure sound financial management; and
- (v) to ensure that financial information is available to enable accurate and timely monitoring and reporting of financial performance.

### **1.2.5 Chief Officers**

- (i) *Chief Officers* should ensure at all times that they endeavour to secure the best value for money incurred by them with the objective of achieving the policies of the Council.
- (ii) All actions that affect the Council's finances should only be carried out by properly authorised employees. *Chief Officers* will make sure that there is a proper control system in place for authorising transactions.
- (iii) *Chief Officers* shall consult with the *Depute Chief Executive and Chief Financial Officer* in respect of any matter affecting his / her service which is liable to affect materially the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to Council or Cabinet; except in an emergency and / or as authorised by any Scheme of Delegation. In such cases of emergency, a report must be submitted to the *Depute Chief Executive and Chief Financial Officer* as soon as possible thereafter.
- (iv) It is the responsibility of all *Chief Officers* to promote awareness of and adherence to the Financial Regulations of the Council.

### **1.2.6 Internal Audit**

- (i) *Internal Audit* will comply with the *Public Sector Internal Audit Standards (PSIAS)* issued by the *Relevant Internal Audit Standard Setters (RIASS)*.
- (ii) *The PSIAS define internal auditing as follows:*  
*"Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes."*
- (iii) The Chief Auditor shall have authority to independently prepare and operate strategic and annual audit plans. These will be completed following consultation with the Chief Executive, *Depute Chief Executives, Directors, the Chief Governance Officer, Chief Social Work Officer and the Head of Finance and ICT. The Governance and Scrutiny Committee will approve the audit plan in line with PSIAS recommendations.*
- (iv) The Chief Auditor shall report directly to the Chief Executive who carries the responsibility for the proper management of the Council and for ensuring that the principles of good governance are reflected in sound management arrangements.
- (v) There shall be unrestricted communication between the *Depute Chief Executive and Chief Financial Officer* and the Chief Auditor who shall assist the *Depute Chief Executive and Chief Financial Officer*, as the Proper Finance

Officer, to discharge responsibility for ensuring an effective system of internal control.

- (vi) *The PSIAS recognises that Internal Audit's remit extends to the entire control environment of the organisation and is not restricted solely to financial controls.*
- (vii) The Chief Auditor shall have direct access to the *Chief Governance Officer where necessary including* where matters arise relating to the conduct of the Chief Executive in areas of Chief Executive responsibility.



### 2 CAPITAL PROGRAMME

#### 2.1 Financial Plan for Capital Expenditure

- (i) It shall be the responsibility of the *Depute Chief Executive and Chief Financial Officer* to draw up a timetable for the preparation of a medium term capital plan. *Chief Officers* shall provide such information as may be required for the purpose of the preparation of the capital plan.
- (ii) Cabinet will review the medium term capital plan on a regular basis, taking full account of the guidance contained in the Prudential Code for Capital Finance in Local Authorities.

### 3 CONTROL OF CAPITAL EXPENDITURE

#### 3.1 Reports

- (i) The *Depute Chief Executive and Chief Financial Officer* shall report details of capital expenditure to Members on a regular and timeous basis in accordance with the appropriate machinery established for the monitoring of income and expenditure.
- (ii) Additions to *service* programmes arising from additional specific capital grant will not require the prior approval of either Council or Cabinet.
- (iii) Any such additions to *service* programmes will be reported to the Cabinet as part of the monitoring arrangements in place. Where the nature of any capital project changes substantially from that envisaged when the capital programme was approved, this should be reported to Cabinet.
- (iv) Projects outwith the approved capital programme, other than those financed wholly by additional specific capital grant, may only be introduced into the capital programme with approval of Cabinet.

#### 3.2 Variance During the Life of a Capital Project

If it becomes apparent after the commencement of a capital project that it will be considerably under or over spent, or if the phased expenditure for the current year is likely to vary significantly, it shall be the duty of the *Chief Officer* concerned to report immediately to the Chief Executive and *Depute Chief Executive and Chief Financial Officer* and to prepare a report for submission as appropriate to Cabinet or Council so that action may be taken with regard to that project or to other projects within the Capital Programme.

#### 3.3 Funding Approvals

It shall be the duty of the appropriate *Chief Officer* to ensure that any required funding approvals have been obtained **before** the commencement of a capital project.

#### 3.4 Capital Appraisal

All capital schemes should comply with Council priorities and objectives and represent best value in terms of the options available to utilise the capital spending level determined by the Council. *Chief Officers* should include confirmation of this in any report which seeks approval of capital schemes.

### 4. REVENUE ESTIMATES

#### 4.1 Timetable

The *Depute Chief Executive and Chief Financial Officer*, in consultation with the Chief Executive, shall prepare annually through the *Head of Finance and ICT*, a timetable detailing procedures to be followed for the preparation of the Revenue Estimates.

#### 4.2 Information

Each *Chief Officer* shall provide the *Head of Finance and ICT* with such details as may be required for the purpose of preparing the estimates for the forthcoming financial year and gaining the relevant Cabinet and Council approval.

#### 4.3. Guidelines

The *Depute Chief Executive and Chief Financial Officer* shall, following consultation with the Chief Executive, report to the Cabinet on the financial guidelines and funding to be considered for the purpose of preparation of the Revenue Estimates.

The overall level of annual expenditure and income including that from Council Tax and House Rents and *service* resource allocations will be determined by the Council.

#### 4.4. Preparation

Each *Chief Officer* shall, in conjunction with the *Head of Finance and ICT*, prepare detailed Revenue Estimates in respect of his / her *services* in accordance with resource allocations approved by the Council and to a timetable set by the *Depute Chief Executive and Chief Financial Officer* with the approval of the Chief Executive. The detailed Revenue Estimates shall be approved by Cabinet prior to being recommended to Council for approval.

## 5 CONTROL OF REVENUE EXPENDITURE

### 5.1 Limitation on Expenditure

No expenditure chargeable to any Revenue Account shall be incurred unless it has been included in the Revenue Estimates except:-

- (i) where additional *specific* grant has been allocated;
- (ii) where a supplementary Estimate has been approved by Cabinet, or
- (iii) in emergency situations in terms of any Schemes of Delegation; and
- (iv) as provided for in Paragraph 5.3.

### 5.2 Budgetary Control

- (i) It shall be the duty of the *Depute Chief Executive and Chief Financial Officer* to report regularly and timeously on all budgetary control matters, comparing actual performance with the respective Estimates to Cabinet and other bodies as designated by the Council, Chief Executive, *Depute Chief Executives Directors, Chief Governance Officer, Heads of Service* and other nominated officers.
- (ii) It shall be the responsibility of each *Chief Officer* to ensure that items in the annual estimates are not overspent and that the net expenditure conforms to the authorised budget. *Chief Officers* shall also provide the *Depute Chief Executive and Chief Financial Officer* whatever assistance and information is considered necessary in order to ensure the effectiveness of the budgetary control system. This will include the allocation of budgets over divisions of each Service, the phasing of budgets over accounting periods, explanation of budget variances and the determination of probable outturns.

### 5.3 Virement

Virement is defined by CIPFA as “the transfer of an underspend on one budget head to finance additional spending on another budget head, in accordance with an Authority’s Financial Regulations”. In effect virement is the transfer of budget from one main budget heading (employee costs, supplies and services etc), to another, or a transfer of budget from one service or service grouping to another.

Virements require approval and they shall be permitted subject to any Scheme of Delegation of the Council as follows:

- (i) Virement must not create additional overall budget liability. One off savings or additional income should not be used to support recurring expenditure or to create future commitments including full year affects of decisions made part way through a year. Where the virement involves the transfer of up to £100,000 between budget headings, and will not affect the execution of

existing Council policy, the transfer shall be approved by the *Depute Chief Executive or Director* concerned. Any such virements must be notified to the *Depute Chief Executive and Chief Financial Officer* before the end of the accounting period in which they are approved.

- (ii) Where the amount is over £100,000 or where the transfer of any amount would affect the execution of existing Council policy, the approval of Cabinet shall be required.

Given the scale and complexity of the Council's budget there are occasions when a small element of a *service grouping* budget is held centrally by the *Depute Chief Executive or Director* until further information is received later in the financial year, for example confirmed pupil numbers following the annual school census or the level of school absence cover to be provided by the centrally held school absence cover budget. Therefore there will be times during the year when these centrally held budgets are transferred and utilised, however these do not derive from "an underspend of budget" as defined by CIPFA nor are the funds used to incur additional expenditure, and consequently these transfers are regarded as being a realignment and not virement.

#### 5.4 Variances

Where it appears that any heading of income or expenditure may vary significantly from that appearing in the Revenue Estimates, it shall be the duty of the *Chief Officer* concerned, in conjunction with the *Depute Chief Executive and Chief Financial Officer*, to report in accordance with the appropriate machinery established for the purpose by the Council, the details of the variance and any remedial action required.

For the purposes of these regulations a budget or income and expenditure heading is considered to be a standard service division as defined by CIPFA's "Service Expenditure Analysis" (SEA).

#### 5.5 Reports to Committees

All reports presented to Council, Cabinet or Committees must specifically identify the extent of any financial implications. Any such implications must be clearly stated in the reports, identifying cost and income in the current and future years, the impact on capital and revenue spending and whether or not, and exactly where, such resources are included in the Budget or, if not, how and from where it is proposed that such financial resources be obtained. Details of financial implications included in reports must be referred to the *Head of Finance and ICT* for approval before the report is issued.

### 6 LEGALITY OF EXPENDITURE

It shall be the duty of each *Chief Officer* to ensure that no expenditure is incurred unless it is within the Legal Powers of the Council. In cases of doubt *Chief Officers* must consult the Council's *Chief Governance Officer* before incurring expenditure. Expenditure on new service developments, initial contributions to other organisations and responses to new emergency situations which require expenditure, must be clarified as to legality prior to being incurred.

## 7 CONTROL OF INCOME

### 7.1 Determination of Charges

Each *Head of Service* shall review, annually or where appropriate more frequently, the charges for goods or services provided by *their service* and, except where the charge is fixed externally, shall submit proposals thereof for the consideration of the Cabinet. In order to preserve the real value of such income, increases recommended to Council, Cabinet or Committee should have regard to factors such as the current rate of inflation and any other relevant financial considerations.

### 7.2 Accounting Arrangements

It shall be the duty of the *Depute Chief Executive and Chief Financial Officer* to make adequate financial and accounting arrangements to ensure the proper recording of all money due to the Council and the proper collection, custody, control and remittance of all cash in *services* of the Council. All income must be promptly recorded in order to ensure that accounts are brought up to date without unnecessary delay.

### 7.3 Notification of Income to the Head of Finance and ICT

All accounts for income due to the Council shall be rendered by or under arrangements approved by the *Head of Finance and ICT*. All accounts must be raised and issued timeously.

### 7.4 Bad Debts and Provisions

Sums due to the Council shall not be written off except with the approval of Council or Cabinet or under any Scheme of Delegation approved by the Council. Appropriate provisions for bad debts should be made within the accounts of the Council.

### 7.5 Treatment of Money Collected

All money received on behalf of the Council in any *service* shall be recorded and deposited immediately with the *Head of Finance and ICT* or the Council's Bankers in accordance with arrangements made with the *Head of Finance and ICT*. No deduction may be made from such money. Cash discount will not be offered to any debtor.

### 7.6 Controlled Stationery

All accounts, receipts and records for the disbursement and collection of money shall be in a form approved by the *Depute Chief Executive and Chief Financial Officer* and shall be ordered, controlled and issued to *services* by him or under arrangements agreed with him.

### 7.7 Personal Cheques

Personal cheques shall not be cashed out of money held on behalf of the Council.

### 7.8 Transfers of Cash, Cheques, etc

All transfers of cash, cheques (pre-signed and National Giro), and Investment Certificates etc. from one member of staff to another shall be evidenced in the records of the *service* concerned by the signature of the receiving officer.

### 7.9 Government Grants

The *Head of Finance and ICT* shall be advised timeously of all relevant information necessary for him to submit or certify applications for *Government* grants due to the Council. All grants are to be paid direct to the *Head of Finance and ICT*.



## 8 TREASURY MANAGEMENT

### 8.1 Treasury Management

The Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 5 of the Code (2011 Edition).

Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:-

- A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
- Suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

Council will receive reports on its treasury management policies, practices and activities including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to Cabinet and for the execution and administration of treasury management decisions to the *Depute Chief Executive and Chief Financial Officer*, who will act in accordance with the Council's policy statement and TMP's and CIPFA's Standard of Professional Practice on Treasury Management.

The Council nominates the Governance and Scrutiny Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

All executive decisions on borrowing, investment or financing shall be delegated to the *Depute Chief Executive and Chief Financial Officer* who shall act in accordance with the Code, the Treasury Policy Statement and the agreed Treasury Management Practices.

### 8.2 Registrar of Stocks, Bonds and Mortgages

*The Head of Finance and ICT* shall maintain records of all borrowing of money by the Council.

### 8.3 Leasing

- (i) With the exception of Heritable Property and any provisions in the Scheme of Delegation, no operating or finance leases for vehicles, plant or major capital assets should be undertaken on behalf of the Council without the prior approval of the *Head of Finance and ICT*.
- (ii) All leases are to be effected in the name of the Council.

### 9 BANKING, CONTROL OF CHEQUES, BORROWING

#### 9.1 Arrangements with Bankers

All arrangements with the Council's Bankers concerning the Council's bank accounts and the issue of cheques shall be made by the *Head of Finance and ICT*.

#### 9.2 Opening and Closing of Bank Accounts

The *Head of Finance and ICT* is authorised to open such bank accounts considered necessary. No bank accounts will be opened without the approval of the *Head of Finance and ICT*.

#### 9.3 Payments into Bank

Income received shall be paid into the Council's bank account daily or at such other intervals as may be approved by the *Head of Finance and ICT* and limits on cash handling should be within the overall cash limits defined for security purposes (see section 18.2).

#### 9.4 Cheque Control

All arrangements for ordering, controlling and signing of cheques on behalf of the Council shall be made by the *Head of Finance and ICT*.

#### 9.5 Borrowing

(i) All arrangements for borrowing money required by the Authority for the purposes of its functions shall be made by the *Head of Finance and ICT*. The *Chief Governance Officer* shall be the Registrar of Mortgages for the purposes of the Local Authority Mortgages (Scotland) Regulations 1975 and the Local Authority Stocks and Bonds (Scotland) Regulations 1975.

(ii) All borrowings are to be effected in the name of the Council.

#### 9.6 Tender for Bank Services

All services provided by the bank in relation to the management of the Council's bank accounts and the issue of cheques shall be subject to open tendering procedures at least once every five years.

### 10 INVESTMENT AND TRUST FUNDS

#### 10.1 Investments

- (i) Council funds shall be invested in accordance with the policy of the Council and shall be held in the name of the Council.
- (ii) All trust funds shall, whenever possible, be held in the name of the Council.
- (iii) The sale of investments, unless otherwise provided for in a trust deed or other document, shall be within the policy determined by the Council.
- (iv) The *Head of Finance and ICT* shall arrange, taking such specialist advice as may be necessary, for the investment in authorised securities of money held in respect of Charity, Trust, Reserve and other Special Funds, and not immediately required to be expended for the purpose of those Funds.

#### 10.2 Deposit of Trust Securities

All officers acting as trustees by virtue of their official position shall deposit all securities, bank books and documents (other than title deeds to heritable property) and articles of value relating to any trust with the *Depute Chief Executive and Chief Financial Officer* unless the relevant trust deed otherwise provides.

#### 10.3 Control of Charitable Funds

The *Head of Finance and ICT* shall ensure the proper and safe custody of all charitable funds held by the Council and that all expenditure is in accordance with the conditions of the fund.

## 11 STORES AND INVENTORIES

### 11.1 Stores

#### 11.1.1 Valuation and Stores Control

The *Head of Finance and ICT* shall issue instructions on stores control, and arrangements made by Heads of Service for valuing stock shall be subject to the approval of the *Head of Finance and ICT*.

#### 11.1.2 Custody of Stores and Stocktaking

The care, custody and level of stores and equipment in any *service* shall be the responsibility of the appropriate Head of Service who will ensure that:-

- (i) stocktaking is carried out at regular intervals as agreed by the *Head of Finance and ICT*;
- (ii) all obsolete or excess stock or scrap material is identified and disposed of in accordance with instructions issued by the *Head of Finance and ICT*.

#### 11.1.3 Write-off / Surpluses of Stores

Each Head of Service shall report annually to Cabinet the total values of write-offs and surpluses of stock, the net effect of these adjustments on the book value of consumable stores under their control, and a brief explanation of the reasons for this action. This report shall be submitted in accordance with instructions issued by the *Head of Finance and ICT*.

#### 11.1.4 Disposal of Assets

- (i) All surplus plant, equipment, furnishings, materials, etc. shall be disposed of in a manner to be approved by the *Depute Chief Executive and Chief Financial Officer* and to obtain the best consideration. A disposal to a Member, Officer or Employee of the Council or their immediate friends or family shall be notified to the Chief Executive for approval in advance of such disposal.
- (ii) All disposals should follow Council agreed procedures on the disposal of assets.

### 11.2 Inventories

#### 11.2.1 Furniture and Equipment

Every *service* of the Council must maintain full and accurate inventory records. It is essential for the proper control of such assets and for security purposes in the event of fire, theft and other risks covered by insurance, that *service* management ensure the completion of adequate inventory records for all establishments on a continuous basis. Standing inventory instructions and procedures are issued by the *Head of Finance and ICT* and contain instructions on inventory procedure and record keeping.

### 11.2.2 Use of Equipment

The Council's property shall not be removed other than in the course of the Council's normal business or used other than for the Council's purposes without the specific approval of the *Chief Officer* or nominated officer concerned. Where property is removed for Council purposes, a register must be maintained on the movement of such items together with authorisation for the removal of such property.

**12 OFFICIAL ORDERS AND PAYMENT OF ACCOUNTS****12.1 Official Orders**

- (i) All goods, materials or services supplied to or work executed for the Council shall be ordered or confirmed in writing by means of:
  - i. an authorised official order;
  - ii. the appropriate electronic procurement system;
  - iii. by written acceptance of a tender or offer and such acceptances shall be signed only by officers authorised by the Scheme of Delegation.
- (ii) Exceptions to this shall be petty cash purchases, supplies of Public Utility Services and periodic payments such as rent and rates.
- (iii) A current list of officers so authorised, together with specimen signatures, shall be maintained by each service.
- (iv) Reference should be made where appropriate to the Council's Standing Orders on Contracts.
- (v) *Chief Officers* should ensure that orders are routed through the appropriate electronic procurement system.
- (vi) In placing orders, *Chief Officers* shall ensure that the expenditure is properly incurred and is within budget provision.
- (vii) *Chief Officers* should seek to eliminate the occurrence of off-contract spend.

**12.2 Central Purchasing and Standardisation**

Each order where appropriate shall conform to the directions of the Council with respect to the Council's membership of Scotland Excel, the use of National Centres of Expertise and the standardisation of goods, materials and services.

**12.3 Check on Goods, Materials and Services Received**

It shall be the duty of the *Chief Officer* or other authorised officer to ensure that all goods, materials and services received meet the agreed price, quantity and quality.

**12.4 Method of Payment**

The normal method of payment of money due from the Council shall be by BACS, cheque or other instrument drawn on the Council's bank account(s) by the *Depute Chief Executive and Chief Financial Officer* or any person or persons authorised by him. The exception to this shall be petty cash and other payments from imprest accounts. Instructions on the procedures for recording of payments, method of payment and document retention will be issued by the *Head of Finance and ICT*. All documents

must be held in an agreed format in order to ensure easy accessibility and recovery of documents as required.

#### **12.5 Certification by Chief Officers**

Where goods or services are ordered using an electronic procurement system, invoices will be paid following the specific guidance periodically issued by the *Head of Finance and ICT*. For payment of goods not ordered by an electronic procurement system, or in the absence of any such guidance the following will apply.

The *Chief Officer* which incurs expenditure shall arrange for the certification in manuscript by an officer of the relevant *service* that all payments vouchers comply with the following:-

- (i) the expenditure is on items or services which it is within the Council's legal power to incur and is within budget provision.
- (ii) the goods, materials, services or work to which the account relates have been received or carried out as the case may be and have been examined and approved and are in accordance with the order.
- (iii) the prices, extensions, calculations, trade discounts, other allowances, credits and VAT are correct.
- (iv) the relevant expenditure code numbers are entered on the document for payment.
- (v) appropriate entries have been made in inventories, stores records or stock records as required.
- (vi) only in exceptional circumstances shall payments be made in advance of receipt. Such payments shall require the express approval of the appropriate *Chief Officer*, and must be agreed with the *Head of Finance and ICT*.

#### **12.6 Payment Timetable**

The Council is required to pay all invoices within 30 calendar days of receiving them. To allow this payment target to be met, invoices must be processed timeously by all services. *Chief Officers* should ensure that all invoices are passed to Finance within 21 calendar days of receiving them, unless they are held back due to a dispute.

#### **12.7 Authorised Signatories**

A list of authorised signatories for the certification of accounts shall be supplied by each *Chief Officer*, to the *Head of Finance and ICT* together with specimen signatures. Additions or deletions shall be notified to the *Head of Finance and ICT* as they occur and the accuracy of the list shall be reviewed at least annually by the appropriate *Chief Officer*. No payment shall be made unless certified by an authorised signatory.

### **12.8 Duplicate Invoices etc**

Payment shall not be made on duplicate or photocopy invoices unless the *relevant Chief Officer* or other authorised officer certifies in writing that the amounts have not previously been passed for payment.

### **12.9 Finance Service Checks**

The *Head of Finance and ICT* shall supplement the *service* checks on payment of accounts as he considers necessary.

### **12.10 Amendments to Payment Vouchers**

Any amendments to payment vouchers shall be made in ink and initialled by the officer making them, stating briefly the reasons where this is not self-evident. Alterations must not be made using correction fluids. Tax invoices must be returned to the creditor for alteration.



**13. ACCOUNTING****13.1 Accounting Procedures and Records**

All accounting procedures and records of the Council shall be determined by the *Head of Finance and ICT* and all accounts and accounting records of the Council shall be compiled by the *Head of Finance and ICT* or under his direction.

**13.2 Internal Check**

The following principles shall be observed in the allocation of duties:-

- (i) procedures to be followed regarding the calculation, checking and recording of sums due by or to the Council should be arranged in such a way whereby the work of one person is proven independent or is complementary to the work of another and these operations shall be separated from the duty of collecting or disbursing such sums.
- (ii) officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

**13.3 Year-end Accounting Returns**

Each *Chief Officer* shall at dates to be specified by the *Head of Finance and ICT* submit to him:-

- (i) a copy of the certified stock list for his/her *service* as at the end of the financial year (or date in lieu thereof as laid down by the *Head of Finance and ICT*) together with any reports referred to in paragraph 11.1.3 above.
- (ii) a certificate confirming that inventories of all moveable furniture, equipment, plant and other items are kept on a continuous basis in all locations under his / her control.
- (iii) any other information necessary to close the Council's accounts.
- (iv) *Chief Officers* shall ensure that adequate records are maintained to provide a management trail leading from the source of *service* income and expenditure through to the accounting statements.

**14 INTERNAL AUDIT****14.1 Authority of Audit**

**14.1.1** The Chief Auditor or his/her authorised representatives shall have authority, on production of identification, to:

- (i) obtain entry at all reasonable times to any Council premises or land;
- (ii) have access to all systems, records, documents and correspondence relating to any financial and other transactions of the Council;
- (iii) have access to all IT hardware running systems on behalf of East Ayrshire Council including hardware owned by third party service providers;
- (iv) require and receive such explanations as are necessary concerning any matter under examination;
- (v) require any employee of the Council to produce cash, stores or any other Council property under his/her control.

**14.1.2** *The authority of Internal Audit shall extend to partnership arrangements as required, and will be reflected in relevant partnership agreements.*

**14.2 Internal Audit Reporting Procedures****14.2.1 Audit Assignments**

Internal Audit reports will be distributed as follows:

- (i) Client *services* will receive a copy of the Internal Audit report at the conclusion of the audit assignment.
- (ii) The Chief Executive, the *Depute Chief Executive and Chief Financial Officer, Chief Governance Officer* and the Council's External Auditor will receive copies of all Internal Audit reports.
- (iii) *Additional readership of reports will be at the discretion of the Chief Auditor.*
- (iv) The Elected Member portal on the intranet will be populated with Internal Audit reports. There may be circumstances, relating to other processes, where access to reports will be delayed until outstanding issues have been resolved.

**14.2.2 Annual Audit Plan**

The Annual Audit Plan will be submitted to the Governance & Scrutiny Committee at the beginning of the financial year for approval of the programme of audit work for the forthcoming financial year. The plan will be compiled following consultation with the Chief Executive, *Depute Chief Executives, Directors, the Chief Governance Officer,*

*Chief Social Work Officer and the Head of Finance and ICT. In-year amendments to the plan will be agreed with the Governance and Scrutiny Committee.*

### **14.2.3 Audit Plan Progress Reporting**

Audit Reports showing the activity of the Internal Audit section, progress achieved against plan and a summary of significant audit findings will be presented to the Governance & Scrutiny Committee at regular intervals.

### **14.3 Irregularities**

*14.3.1 Managing the risk of fraud and corruption is the responsibility of management; Internal Audit will assist management in the effective discharge of this responsibility.*

*14.3.2 Any evidence or reasonable suspicion of an irregularity relating to funds, stores, property or records of the Council shall be reported immediately by the Chief Officer to the Chief Auditor or his/her authorised representatives. Such irregularity shall be dealt with in accordance with the Council's Defalcation / Corrupt Practices Procedures. It is the responsibility of each Chief Officer to promote awareness of and adherence to the Council's Defalcation / Corrupt Practices Procedures.*

### **14.4 Co-operation with Internal Audit**

*Managers and employees should co-operate with Internal Audit with responses made to requests and reports within an agreed timescale. Escalation of failure to respond would be as appropriate and proportionate to the assignment.*

**15 IMPRESTS****15.1 Provision of Imprests**

On the recommendation of the *Chief Officer* concerned, the *Head of Finance and ICT* shall provide such imprest accounts as he considers may be required for purposes of defraying petty and other minor expenses.

**15.2 Bank Accounts for Imprest Holders**

The *Head of Finance and ICT* shall open bank accounts where it is considered appropriate. In no circumstances shall the imprest holder overdraw the account and while it shall be a standing instruction to the Council's bankers that an imprest holder's account shall not be overdrawn, it remains the imprest holder's responsibility to adhere to this condition. Bank accounts will not be opened by any officer other than the *Head of Finance and ICT* or their Depute.

**15.3 Exclusion of Payments to the Council**

No payments to the Council shall be paid into an imprest account but shall be lodged in a bank as provided for in paragraph 9.3. Any bank interest earned on imprest accounts will be remitted separately and immediately to the *Head of Finance and ICT* and will not be left in the imprest bank balance.

**15.4 Limit on Expenditure**

Payments from imprest accounts shall be limited to minor items as the *Head of Finance and ICT* may approve. Imprest must not be used to pay major expenses claims or any suppliers' invoices. The *Head of Finance and ICT* may prescribe an upper limit to individual items of expenditure to be met out of imprest accounts. Payments must in all cases be supported by a voucher and where VAT has been incurred, this should be a VAT receipt.

**15.5 Statement of Account**

An officer responsible for an imprest account shall, when requested, give the *Head of Finance and ICT* a certificate as to the balance of the imprest account.

**15.6 Termination of Imprest Holder**

An officer leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, shall account to the *Head of Finance and ICT* for the amount advanced to him / her. A formal record of this accounting shall be prepared and retained in the *service* concerned for inspection.

**15.7 Prepaid Purchase Cards**

Purchase Cards are a relevant method of payment for individual purchases below £500 where appropriate, rather than the use of cash imprests, reimbursement of expenses

incurred by employees, or the payment of invoices from suppliers for specialist, or one off purchases agreed in advance with Corporate Procurement.

The *Head of Finance and ICT* is responsible for:

- a) the provision of prepaid purchases cards to be used for agreed purposes and to be allocated to nominated members of staff.
- b) prescribing procedures and guidelines for the use of purchase cards, management review, and accounting arrangements for recording and monitoring expenditure incurred with cards issued.

*Chief Officers* are responsible for ensuring the correct use of Purchase Cards in accordance with the procedures and guidelines issued by the *Head of Finance and ICT*.

**16 CLAIMS FOR EXPENSES AND ALLOWANCES****16.1 Arrangements for Claims**

The Head of Human Resources shall be responsible for making arrangements for the administration, regulation and payment of claims for expenses and allowances to Members and employees of the Council and its Committees and other approved bodies.

**16.2 Regulations**

The Head of Democratic Services shall make available the current Regulations on expenses and allowances to members and approved bodies.

**16.3 Employees' Claims**

All claims for payment of travelling allowances, subsistence allowances, car allowances and incidental expenses shall be submitted at regular intervals as required, duly certified in manuscript on the appropriate official form provided by the Head of Human Resources. Such payments will not be made out of imprest accounts without the express authority of the *Head of Finance and ICT*.

**16.4 Authorisation of Claims**

A current list of authorised signatories, together with specimen signatures, shall be maintained by each *service* and provided to the Head of Human Resources. The Head of Human Resources shall be notified immediately of any amendments to the list of authorised signatories. No payment shall be made unless certified by an authorised signatory. No officer authorised to certify such claims shall certify his personal claim. Personal claims must be certified by a separate authorised signatory.

**16.5 Certification on Employees' Claims**

The certification by or on behalf of the *Chief Officer* shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenditure properly and necessarily incurred, and that any allowances are properly payable.

**16.6 Members' Claims**

Payments to Members in respect of expenses and other allowances shall be made in accordance with the conditions laid down in the Scheme of Members' Salaries, Allowances and Expenses on receipt of the prescribed form duly completed and certified in manuscript.

**17 SALARIES, WAGES AND PENSIONS****17.1 Information Regarding Appointments, etc.**

The *Depute Chief Executive and Chief Financial Officer* or, where appropriate, the *Chief Officer* concerned having obtained appropriate authorisation in terms of the Council's Scheme of Delegation, shall notify the Head of Human Resources timeously of all matters affecting the payment of emoluments in accordance with conditions laid down by the Head of Human Resources, in particular:-

- (i) appointments, resignations, dismissals, suspensions, secondments and transfers.
- (ii) implementation of changes in remuneration, other than normal increments and pay awards and agreements of general applications.
- (iii) absences from duty for sickness or other reason apart from approved leave.
- (iv) information necessary to maintain records of service for superannuation, income tax and social security purposes.

**17.2 Arrangements for Payments**

The payment of all salaries, wages, pensions, compensation and other emoluments to all employees, former employees or beneficiaries shall be made by the Head of Human Resources or under arrangements made by him.

**17.3 Form and Certification of Records**

All pay documents shall be in a form prescribed or approved by the Head of Human Resources and shall be certified in manuscript by or on behalf of the appropriate *Chief Officer*. The names of officers authorised to certify such documents shall be sent immediately to the Head of Human Resources by the *Chief Officer*, together with specimen signatures and the names shall be amended on the occasion of any change. No pay document shall be processed unless certified by an authorised signatory.

**18 SECURITY****18.1 Responsibility for Security**

Each *Chief Officer* shall be responsible for maintaining proper security, custody and control at all times of all plant, buildings, materials, stores, furniture, equipment, cash and other Council assets under his control. *Chief Officers* shall also consult the *Head of Facilities and Property Management* immediately in any case where security is thought to be defective or where it is considered that special security arrangements may be required.

**18.2 Key Holding**

A register of all key-holders will be kept in each service. The loss of any keys to premises must be reported immediately to the appropriate *Chief Officer* and also to the police. In addition the Risk Management Centre must be advised immediately of any perceived additional security risks, following loss or theft of keys.

Where keypad and card entry systems are in use, access codes should only be made know to staff who require access to the relevant secure areas. Combinations should be changed regularly (annually as a minimum), and especially where there is a change of staff authorised to have access to the code.

**18.3 Limits to Cash Holdings**

The *Head of Finance and ICT* shall agree with the appropriate *Chief Officer* the maximum amount of cash to be held in the premises under his control and the agreed amount shall not be exceeded except with the written agreement of the *Head of Finance and ICT* or his nominated representative.

**18.4 Safe Keys**

Keys to safes and similar receptacles containing cash or valuable documents or articles shall be carried on the person of those responsible. The loss of any such keys shall be reported immediately to the *Head of Finance and ICT* and to the police. A register of all such keyholders will be kept in each *service*.

**18.5 Cash Carrying**

Levels and types of security required to comply with the Council's insurance requirements should be obtained from the Principal Risk and Insurance Advisor. In general terms and for reasons of personal safety, any cash carryings by employees should be kept to an absolute minimum.



### **18.6 Pre-printed / Pre-signed Cheques, etc.**

The *Head of Finance and ICT* shall be responsible for ensuring that secure arrangements are made for the preparation and holding of pre-printed / pre-signed cheques, stock certificates, bonds and other financial documents.

### **18.7 Credit Cards / Prepaid Purchase Cards**

Any cards issued to members of staff must be kept securely and shall be carried on the person of those responsible. The loss of any such card shall be reported immediately to the *Head of Finance and ICT*. The PIN number for each card must be retained securely by the member of staff with responsibility for the card and should never be revealed to any third party.

### 19 SECURITY / RETENTION OF DOCUMENTS

Each *Chief Officer* shall be responsible for maintaining proper security, custody and control of all documents within his / her *service*. The retention period for all books, forms and records relating to financial matters shall be determined by the *Head of Finance and ICT* in consultation with the *Chief Governance Officer*.

### 20 DATA PROTECTION ACT

Each *Chief Officer* shall be responsible for the use and security within his / her *service* of all personal data output from computer systems. Personal data output from systems must not be used by any other person, *service* or organisation without the prior approval of the *Chief Governance Officer*.

### 21 ASSET REGISTERS

#### 21.1 Housing Property Asset Register

The *Head of Housing and Communities* shall be responsible for the maintenance of the Housing Property Asset Register of the Council.

#### 21.2 Information Technology Asset Register

The *Head of Finance and ICT* shall be responsible for the maintenance of the Information Technology Asset Register of the Council.

#### 21.3 Transport Asset Register

The *Transport Services Manager* shall be responsible for the maintenance of the Transport Asset Register of the Council.

#### 21.4 Land and Non-Housing Property

The *Head of Facilities and Property Management* shall be responsible for Non-Housing Property Asset Register.

#### 21.5 Vehicle and Operational Equipment

Each *Head of Service* shall be responsible for the maintenance of their *service* Vehicle Asset Register.

#### 21.6 Compliance with CIPFA Guidance

Each register will contain at least the minimum level of data to ensure compliance with the CIPFA Accounting Code of Practice.

**22 TITLE DEEDS**

All title deeds will be held securely by the *Chief Governance Officer* who shall be responsible for the maintenance of all of the Council's titles.

### 23 GIFTS AND HOSPITALITY

Each *Chief Officer* must ensure that Council guidelines with regard to gifts and hospitality are adhered to.

### 24 INSURANCE AND RISK

#### 24.1 Responsibility for Insurance and Risk

The *Head of Finance and ICT* shall make appropriate insurance arrangements for all aspects of the Council's activities, subject to any Scheme of Delegation and the general supervision of the Cabinet.

The *Head of Finance and ICT* shall arrange, taking such specialist advice as may be necessary, that adequate insurance cover is obtained for all normal insurable risks arising from the activities of the Council and for which it is the general custom to insure.

With regard to Member / Officer appointments on external companies and trusts, adherence should be made to protocols established by the *Depute Chief Executive and Chief Financial Officer* in relation to the requirements for and details of, all members and officers indemnities.

The *Head of Finance and ICT* will be supported by the Principal Risk and Insurance Adviser, as necessary, in all matters relative to both Strategic and Operational Risk Management.

#### 24.2 Notification of Risks

*Chief Officer* shall give prompt notification to the *Head of Finance and ICT* of all new or increased risks, properties or vehicles which should be covered by insurance or any deletions affecting their *service*. Key Risks recorded on Risk Registers must be routinely monitored and reviewed in accordance with the Risk Management Strategy.

#### 24.3 Notification of Insurance Claims

Notification of insurance claims shall be as stated in the arrangements as issued by the *Head of Finance and ICT*.

#### 24.4 Review of Insurance Cover

The *Head of Finance and ICT* shall review periodically all insurance in consultation where appropriate with *Chief Officers*.

#### 24.5 Tender for Insurance

All services provided by the Council's insurers shall be subject to open tendering procedures at least once every five years, or such extended period, reasonably determined by prevailing market forces, where market conditions can be shown to be advantageous to the Council.

**25     CONTRACTS**

With regard to all issues relating to contracts, reference should be made to the Council's Standing Orders on Contracts. All disposals of heritable property shall be in accordance with the Council's approved Property Disposals Procedures.



**26 BEST VALUE**

The Council has a duty under the Local Government Scotland Act 2003 to invoke proper arrangements for securing Best Value in the use of resources and delivery of services. There shall be a process of strategic planning which shall have full Member involvement, in order to establish the systematic identification of priorities and realisation of Best Value in the delivery of services. It shall be the responsibility of the Chief Executive to deliver the arrangements put in place to secure Best Value and to co-ordinate Council policy in regard to ensuring that the Council provides Best Value.

Each *Chief Officer* shall be responsible for ensuring implementation of both the corporate and *service* applications of the strategic planning process. All *Chief Officers* must ensure that they can demonstrate that proper arrangements are in place to secure Best Value and that there are effective service planning arrangements in place.

Best Value should cover the areas of human resource and physical resource management, capital programme and contract management, financial management and policy, performance and service delivery process reviews.

### 27 EXTERNAL FUNDING

The principles of openness, integrity and accountability in decisions on spending public money should apply to funds or other resources which are transferred by the Council to bodies such as companies, trusts and voluntary organisations where such bodies are subject to local authority control or influence and where they operate at arms' length.

Each *Chief Officer* shall be responsible for ensuring the implementation of and adherence to, all Codes and Guidance issued on external funding arrangements.

Any agreements shall include right of access of the Council's Internal and External Auditors to the systems, records, and documents and correspondence of that organisation.

## 28 PARTNERSHIPS

Partnerships can play a key role in delivering community strategies. In some circumstances the Council has a leadership role to bring together the contributions of a variety of stakeholders to deliver a shared vision of services based on user needs. Examples of partners include;

- (i) a public or private organisation undertaking part funding or participating as a beneficiary in a project including PPP / PFI; or
- (ii) a body whose nature or status gives it a right or obligation to support a particular project.

In all instances the *Chief Officer* of the lead *service* for the Council should be able to demonstrate that: -

- (i) appropriate financial regulations have been adopted for the partnership. There should be a presumption that the Council's Financial Regulations will prevail in all circumstances unless alternative or additional guidance is considered appropriate. The approval of the *Depute Chief Executive and Chief Financial Officer* will be required for any such departure.
- (ii) the roles and responsibilities of each of the partners involved have been agreed and formally accepted before any project commences and that individuals representing the partner organisations are aware of their personal responsibilities.
- (iii) documented project management arrangements are in place.
- (iv) responsibility for Budgetary Control for any project is vested in one officer.
- (v) the limits of responsibility for all groups involved in decision making for any partnership project are clear and agreed. This could include Project Teams, Project Boards, Committees, Cabinet and the Council itself.
- (vi) a project exit strategy is in place for limited life projects.
- (vii) arrangements are in place for risk appraisal, monitoring, management and control with particular attention being paid to the possible existence of "liabilities which are potentially assumed under contract".
- (viii) Any commitment to participate is not considered to be "ultra vires".

**29 DEVOLVED MANAGEMENT OF RESOURCES (DMR)**

The Council is required under the Local Government Etc. (Scotland) Act 1994 to draw up decentralisation schemes in accordance with prescribed consultative procedures. The Council shall have in place satisfactory arrangements for delivery of decentralisation.

It is the responsibility of the management of each Service to ensure that the systems of internal control are adapted to the changing environment following decentralisation. A scheme of delegated authority which codifies duties and responsibilities of elected Members and officers and which ensures the provision of a sound internal control environment for a decentralised structure shall be established and maintained.

### 30 OBSERVANCE OF FINANCIAL REGULATIONS

#### 30.1 Responsibility of Chief Officers

It shall be the duty of each *Chief Officer* to ensure that these Regulations are made known to the appropriate persons within the *service* and to ensure that they are adhered to.

#### 30.2 Breach of Regulations

If you believe that anyone has broken, or may break, these regulations, you must report this immediately to the *Depute Chief Executive and Chief Financial Officer*, who may then discuss the matter with the Chief Executive, the *Chief Governance Officer* (as monitoring officer) and any other *Chief Officer* or authorised person as appropriate to decide what action to take.

### 31 REVIEW OF FINANCIAL REGULATIONS

These Regulations shall be the subject of review by the *Head of Finance and ICT* in consultation with the *Depute Chief Executive and Chief Financial Officer* and the Chief Executive, and where necessary, subsequent adjustments will be submitted to the Council or Cabinet as appropriate.

# **SECTION 3**



## **EAST AYRSHIRE COUNCIL**

### **STANDING ORDERS RELATING TO CONTRACTS**

**Applicable from 1<sup>st</sup> June 2015**



## EAST AYRSHIRE COUNCIL

### STANDING ORDERS RELATING TO CONTRACTS

**The Chief Governance Officer is responsible for all contracting activity within the Council.** The Chief Governance Officer or his authorised representatives shall have the authority to:

- have access to all records, documents and correspondence relating to any contract, acceptance of quotations or any other purchasing activity of the Council.
- have the authority to investigate any matter in connection with contracts, quotations or any other purchasing activity and refer back to the appropriate Depute Chief Executive, Head of Service and/or Internal Audit.

### EXTENT, VARIATION AND REVOCATION

1. These Standing 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 its behalf of all contracts for goods, works and services, including consultancy contracts. These Standing Orders shall be read in conjunction with the provisions of the Council's Scheme of Delegation, however where there is a conflict these Standing Orders shall take precedence.
2. Where collaborative contracts are being awarded on the Council's behalf by other Authorities, Scotland Excel, Scottish Procurement, Crown Commercial Service, APUC or any other Government Department, such contracts will be procured and awarded in accordance with the awarding Authority's Standing Orders Relating to Contracts. For Scottish Procurement contracts, an 'Intention to Participate' will be signed, and for certain other collaborative contracts a 'Minute of Agreement' may be required
3. Where collaborative contracts are being awarded by the Council on behalf of other Authorities, such contracts will be procured and awarded in accordance with these Standing Orders Relating to Contracts.
4. (1) These Standing orders shall apply to all contracts which are subject to Scottish legislation or European Directives on public procurement provided that, where there is any conflict between (a) these Standing Orders and (b) such legislation or rules, the latter shall take precedence.  
  
(2) These Standing Orders may be varied or revoked by the Council and any motion to vary or revoke these Standing Orders (which motion shall conform to the requirements of Standing Order no 10 of the Standing Orders for regulating meetings and proceedings of the Council) shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## REMITTS

5. (1) **National Public Sector Contracts:** Category A commodities and services to be procured on the Council's behalf by Scottish Procurement and where the Council signs an 'Intention to Participate' or 'Agency Agreement' then the use of the contract will be mandatory once in place, unless the supplier/contractor/service provider fails to meet specific requirements. The Corporate Procurement Team will also investigate the use of other national public sector contracts available eg: Crown Commercial Services, APUC, ESPO, PFH, LHC to determine the most cost effective procurement options available.
- (2) **National Sectoral Contracts:** Category B commodities and services to be procured on the Council's behalf by Scotland Excel and where it is deemed to provide best value after consultation between Corporate Procurement and Service Departments, then the use of the contract will be mandatory once in place, unless the supplier/contractor/service provider fails to meet specific requirements.
- (3) **Local Collaborative Contracts:** East Ayrshire Council Contracts involving NHS, Police, Fire, North Ayrshire Council, South Ayrshire Council and occasionally other Councils, where one of the partners will adopt the lead role and be the Contracting Authority will award the contract on behalf of all the participating bodies on a project-by-project basis. The interests of East Ayrshire Council are to be secured by representation on the working groups by the Corporate Procurement Team and key users from the Service Departments and their use is mandatory.
- (4) **Facilities and Property Management Contracts:** The major property capital works programmes and other building-related ad hoc works are procured directly by Facilities and Property Management. Assistance must be sought from the Corporate Procurement Team for any contracts above the EU thresholds to ensure compliance with the Regulations at all stages of the process, in particular placing of the OJEU Notice, PQQ, tender selection, award criteria and tender evaluation.
- (5) **ARA Contracts:** The Roads Structural Maintenance Programme and other roads-related works are procured directly by the Ayrshire Roads Alliance (ARA). ARA must seek assistance from the Corporate Procurement Team for any contracts above the standing order and EU thresholds to ensure compliance with the Regulations at all stages of the process, in particular placing of the OJEU Notice, PQQ, tender selection, award criteria and tender evaluation.
- (6) **Corporate/Departmental Contracts:** Collaborative (supply and services) contracts, regardless of value, with other public sector bodies are the responsibility of Corporate Procurement. Cross-departmental contracts are also procured by the Corporate Procurement Team who are responsible for the procurement of all other departmental contracts (Cat C commodities, kitting out of new or renovated buildings where not included in the original works contract, services, supplies and consultancy contracts, ICT contracts), procured on behalf of the Council.

- (7) **Supported Businesses/Reserved Contracts:** The Council have the freedom within the EU Procurement Regulations to decide to reserve contracts to supported businesses only – the Corporate Procurement Team will consider the use of any/all such contracts when drafting the Commodity Strategy.
- (8) **Electronic Tenders:** Electronic tendering is a means of facilitating the complete tendering process via electronic means, including the exchange of all relevant documents in electronic format, electronic submission of competitive bids for the provision of the goods/works/services. The electronic tendering system currently in use is a fully auditable system and is facilitated through the Public Contracts Scotland and Public Contracts Scotland-Tender system, this system and access to the system will be managed by the Corporate Procurement Team.
- (9) **Use of Collaborative Contracts:** If there is a Council contract in place, this must be used as a first option even if there is a national collaborative contract in place. The use of any other collaborative contract eg: Scotland Excel (SXL), Scottish Procurement, the Crown Commercial Service (CCS), APUC, Procurement for Housing (PFH) etc. shall be limited and authority to use these contracts must be sought from the Corporate Procurement Team in the first instance.
- (10) **Quick Quote:** Quick Quote is a facility available on the Public Contracts Scotland website to electronically request and receive quotations. Quotations should only be sought for low value, one off items where no contract exists for the requirement. The Corporate Procurement Team and certain service department users, previously trained and subsequently approved to use the Quick Quote system will be provided access to the system. The use of Quick Quote is a **mandatory** requirement for all service departments.
- (11) **PCS-T:** Public Contracts Scotland Tender module is a facility available via the Public Contracts Scotland website. This website provides a simple, secure and efficient means for managing all tendering activities eg PQQ, ITT, tender evaluation etc, reducing the time and effort required for buyers and providing suppliers with instant access to new opportunities and supporting documentation. The use of this system will be restricted to the Corporate Procurement Team in the first instance until the system is phased in and embedded within the Council. Service department users will be identified by procurement to be trained and approved to use the system.
- (12) **Commodity Strategies:** For all procurement related activity over the value of £50,000, the Corporate Procurement Team will in conjunction with the service department/s complete a commodity strategy which will include (but will not be limited to) the following:
- Project background
  - Project objectives/benefits
  - Detailed market research/analysis/intelligence
  - Forward plan/demand analysis
  - Collaborative opportunities – internal/external
  - Social/Economic/Environmental considerations
  - Reserved/Supported Business
  - Savings targets

- Risk mitigation/management
- Procurement process including evaluation criteria
- Budget
- Stakeholder engagement
- P2P considerations
- Whole life costs
- Performance measurement/service level agreement
- Implementation plans
- Contract exit strategy

The development of a commodity strategy is a **mandatory** requirement. These will require to be signed off by the Corporate Procurement Team and service department/s prior to any tender exercise being conducted.

- (13) **Heads of Service:** As budget holders, Heads of Service are responsible for ensuring contract compliance both with their own service specific contracts and for spend on corporate and collaborative contracts. Where guidance is required, the Head of Service shall consult with the Corporate Procurement Team.
6. All Services must initially investigate internal options as a first choice before any tender exercise is instructed; for example, Corporate Print Room for printing; Ayrshire Roads Alliance (ARA) for footpaths and road repairs etc. Although in some cases internal charges may be slightly higher than outsourcing the requirement, the cost to the Council as a whole is less as the money is rotational within the Council.

## TENDER THRESHOLDS

7. The financial thresholds that determine whether quotations or tenders are required are as detailed below:
- (1) **Consultancy Commissions** (a consultancy is defined as '*a service that would not normally be carried out by Council Officers and where there is a specialist aspect to the service*'): Consultancy Commissions with a total anticipated value of over £10,000 are to be formally advertised and tendered by the Corporate Procurement Team (if no current contract exists). The Head of Service will be responsible for ensuring value for money and best value for Consultancy Commissions below £10,000, by obtaining a minimum of three quotations from reputable organisations who hold the required minimum insurance indemnity, relevant experience, competencies and who are financially stable (Experian rating of 50 or better, unless approval is given by Head of Service due to the low risk nature of the contract). All quotations must be issued via the Quick Quote system

In the interests of best value, officers are required to provide a robust justification prior to considering outsourcing services to external consultants, including an assessment of alternative options. All services must follow the instructions contained within the Accounting Policy Bulletin (APB) 31 prior to commissioning consultancy services.

- (2) **Goods, Works and Services:** With the exception of National/Sectoral procured contracts, all Goods, Works and Services with a total anticipated value in excess of £50,000 (calculated over the full term of the contract, including any extension options) are to be formally tendered by the Corporate Procurement Team. Capital Works projects will be tendered by Facilities and Property Management in consultation with the Corporate Procurement Team. The Head of Service is responsible for ensuring value for money and best value for Goods and Services with an aggregated value below £50,000, by consulting with the Corporate Procurement Team who will advise on whether formal tenders or a minimum of three quotations via Quick Quote are required. This Standing Order also applies to the nomination of sub-contractors or suppliers for fully tendered works contracts. Where the value of the Goods, Works or Service is below £500 the Head of Service will in the first instance check the contracts register to see if the requirement can be sought from one of the contracted suppliers/contractors/service providers. If the requirement cannot be sourced from one of the contracted suppliers/contractors/service providers, the Head of Service shall be responsible for ensuring best value, although the Council's interest shall be protected by ensuring that the contractor is competent and holds the minimum insurance requirement and holds the required minimum Health & Safety competencies (membership of SSIP scheme for works contracts).
- (3) **All Commissions and Contracts:** In addition to 7.1 and 7.2, all contracts that have an anticipated contract value in excess of the European Procurement Threshold ruling at the time of advertising (calculated over the full term of the contract, including any extension options) will have the procurement process managed by the Corporate Procurement Team who have sole responsibility for the placing of Contract Notices, including Contract Award Notices. The aggregated value is the total value of the consideration calculated over the entire term of the contract and use across the whole Council, including optional extensions (or four years in the case of arrangements with an indefinite period) where the considerations have similar characteristics or are for the same type of goods or services. The current thresholds as of 1<sup>st</sup> January 2014 are as follows:

(i)	Supplies	£172,514
(ii)	Services	£172,514
(iii)	Works	£4,322,012

It should be noted that the EU thresholds are revised every 2 years, it is the responsibility of service users to ensure that they check periodically with the Corporate Procurement Team of any revised changes. If you are initiating a new procurement process, please check the thresholds values.

Where there is uncertainty as to the anticipated value of the contract when calculating the aggregated value, the EU Procedures will be applied in full. Details are available from the Corporate Procurement Team.

## REPORTING OF TENDERS/AWARD OF CONTRACTS

8. (1) All tendering exercises will culminate with a Tender Outcome Report being produced by the Procuring Body (ie Corporate Procurement Team, Facilities and Property Management or Ayrshire Roads Alliance etc) leading the procurement exercise and this will be made available

to the Chief Governance Officer who will award the contract. This must also be made available to the appropriate Depute Chief Executive/Head of Service who are likely to have an interest in the contract.

- (2) All formal award of Contracts issued by the Chief Governance Officer are to be reported to Democratic Services stating the names and geographical location of all parties invited to tender, the tender outcome details and the value of the contract where lump sum, or the notional annual value if a Schedule of Rates Contract.
- (3) All awards of contracts, irrespective of value, must be advised to the Corporate Procurement Team immediately by the Service Department awarding the contract. All such awards will be recorded on the Contracts Database for audit and compliance purposes.

## **AUTHORITY TO CONTRACT**

9. The authority of officers to award contracts on behalf of the Council will be strictly restricted to the following:
  - (1) Only the Chief Governance Officer or his/her representative may formally award Contracts on behalf of the Council where the contract value is in excess of £50,000 or £10,000 in the case of Consultancy Contracts (subject to the Accounting Policy Bulletin 31 instructions being followed and agreed).
  - (2) In the case of formal extensions to a Contract term, for contracts where this option exists, only the Chief Governance Officer or his/her representative may issue the Letter of Extension on behalf of the Council.
  - (3) For construction related works contracts only, where the contract value is below £50,000, both the Head of Ayrshire Roads Alliance and the Head of Facilities and Property Management are responsible for awarding contracts on behalf of the Council.
  - (4) Heads of Service are responsible for accepting quotations/offers for goods and services where the total value is between £500 and £50,000, the Corporate Procurement Team must be advised prior to acceptance for aggregation purposes. Where the Corporate Procurement Team recognise an aggregation issue, the Head of Service will be advised and, where time permits, a tender exercise will commence.
  - (5) Where a Consultancy Contract has an estimated value less than £10,000 the Head of Service is responsible for the acceptance of the quotation/offer/proposal on behalf of the Council, although approval must be obtained by the Depute Chief Executive prior to acceptance.
  - (6) All leases, rental and external maintenance agreements (including ICT support and maintenance) must be approved by the Corporate Procurement Team and authorised by the appropriate Head of Service.
  - (7) All Operational and Finance Leases must be approved by the Head of Finance and ICT.

- (8) Where a collaborative contract is being procured on the Council's behalf by Scottish Procurement, the agreed protocols on authority to award will be complied with on all occasions, with final sign off by the Chief Governance Officer.
- (9) Where a collaborative contract is being procured on the Council's behalf by Scotland Excel, authority to participate in the contract will rest with the Corporate Procurement Team. Participation in these contracts will be reported to the Governance & Scrutiny Committee on an annual basis.
- (10) Where a collaborative contract is being procured by the Council on behalf of another Council/Public Body, authority to award the contract will rest with East Ayrshire Council's Chief Governance Officer. In all such cases a Tender Outcome Report will be produced by the Corporate Procurement Team and issued to the other Councils/Public Bodies, who will be required to confirm agreement by their lead officer, prior to award of contract.

## **ORDER & QUOTATION THRESHOLDS**

- 10. (1) All Authorised Officers may place Orders with compliant suppliers/contractors/service providers up to the value allowed in the specific Contract. Where no contract exists for a specific requirement, authorised officers may place an order for the supply of goods or services, where the requirement does not exceed £500 in so far as best value is deemed to be achieved.
- (2) Where no contract exists and there is a requirement for goods, works or services anticipated to have a value over £500 but not exceeding £50,000 a request must be sent to the Corporate Procurement Team who will advise the relevant Depute Chief Executive/Head of Service or his nominee of the sourcing options to meet the requirement, normally by seeking a minimum of three quotations via the mandatory use of the Quick Quote system, on the Council's terms and conditions, or where aggregation dictates, by means of a formal tendering process. The Corporate Procurement Team will respond with instructions/advice as to how to proceed within 3 working days of receipt of an e-mailed enquiry. Authorised Service Department Users will be given access to the 'Quick Quote' system for the purposes of obtaining 3 quotations (a minimum of 5 firms must be invited to quote to ensure that at least 3 quotations are actually received); if no access is available then the Corporate Procurement Team will obtain the quotations on behalf of the Service Department. Where 3 Quick Quotes are not received the remit will revert to the Corporate Procurement Team. In all cases the use of the Quick Quote system will be mandatory and the operation of the Quick Quote System will be the subject of ongoing monitoring by the Corporate Procurement Team to ensure compliance and best value.
- (3) Quotations should only be sought from reputable and competent organisations who hold the required minimum insurance indemnity (and SSIP in the case of works contracts) and by including the Council's standard Terms and Conditions at the time of quotation request.

- (4) Where no contract exists and there is a requirement for the supply of goods, works or services in excess of £50,000 a Commodity Strategy will be required and the Corporate Procurement Team will work in conjunction with the service department/s to complete and formally sign off on the strategy. The Corporate Procurement Team will be responsible for procuring a formal contract on behalf of the Council, with the exception of Facilities and Property Management and Ayrshire Roads Alliance for construction works. However, construction works where the value of any works are likely to exceed the European thresholds, the tender process will be managed by The Corporate Procurement Team.

## **FRAMEWORKS & TERM CONTRACTS**

11. (1) Where a compliant Framework Agreement is in place and where there is a provision to conduct periodic mini-competition exercises, these will be expedited by the Corporate Procurement Team, Facilities and Property Management have delegated approval to conduct mini-competition exercises within their framework and term contracts. In all instances, records of the revised bids received must be retained for audit purposes. Following the review after a periodic or ad hoc mini-competition, the Corporate Procurement Team are responsible for informing those who continue to be included in the Framework of their revised ranking, again unless the service department is approved by the team to carry out the function.
- (2) In the event of a mini-competition being required through a compliant framework or term contract, the use of the Quick Quote or PCS-T electronic system must be used.
- (3) Where a contract is for the supply of goods, works or services which will require to be delivered from time to time during a specific period, the requirements of these Standing Orders shall be carried out only once prior to the commencement of such Framework/Term Contract. This will apply to term contracts and Framework Agreements where call-offs are ordered throughout the term of the agreement/contract.

## **NOTICES**

12. Adequate publicity must be a consideration when deciding upon the procurement of all Goods, Works and Services, including Consultancy Contracts. All such Notices must be adequately advertised and at all times placed on the Public Contracts Scotland website by the Corporate Procurement Team, unless the team decides that only a local advert is required due to the specific requirement. Adequately advertising will be dependent on the requirement and this may include advertising in the National/Local Press.

## **END OF CONTRACT TERM OR EXTENSION OPTIONS**

13. Approximately 6 months (or approximately 8 months if TUPE is anticipated, or 12 months if complex requirement eg: ICT contracts) prior to the end of a contract term or available extension option, the Corporate Procurement Team will issue a Contract Review Form to the contract administrator which requires to be completed and returned to the Corporate Procurement Team by the relevant Head of Service. The Corporate Procurement Team will action as appropriate.



14. In the event of an unanticipated delay (ie: gap between the contract expiry date and the signing of any new contract or contract extension, the matter should be brought to the immediate attention of the relevant Head of Service who should consider, in conjunction with the contract administrator whether approval of Cabinet should be sought.

## PROCUREMENT GUIDANCE

15. Where a Service Department has any dubiety over the correct procurement routes, EU calculations regarding thresholds, packaging, procedures or strategies to be employed for a procurement process, it is the responsibility of the Head of Service to ensure that advice and guidance is sought from the Corporate Procurement Team at the earliest opportunity. The Corporate Procurement Team will assist the Service Department with its procurement activity.

## FORWARD PLANNING OF REQUIREMENT

16. (1) For all procurement projects that require to be advertised and comply with the Public Contracts (Scotland) Regulations 2012 (by which they are applied, extended, amended, consolidated or replaced and any re-enactment thereof), including Amendments (i.e. those in excess of the EU Thresholds) require the Depute Chief Executive/Head of Service to ensure that a Commodity Strategy is completed and all procurement requirements defined at least 6 calendar months prior to the required physical contract start date. Where TUPE is anticipated the notice period is a minimum of 8 calendar months. In the case of Integrated Health and Social Care contracts or complex contracts eg: ICT, works contracts, this may be a total period of 12 months due to the requirement to consult with Service Department and other external partners.
- (2) **Commodity Strategies:** For all procurement related activity over the value of £50,000, the Corporate Procurement Team will in conjunction with the service department/s complete a commodity strategy which will include (but will not be limited to) the following:
- Project background
  - Project objectives/benefits
  - Detailed market research/analysis/intelligence
  - Forward plan/demand analysis
  - Collaborative opportunities – internal/external
  - Social/Economic/Environmental considerations
  - Reserved/Supported Business
  - Savings targets
  - Risk mitigation/management
  - Procurement process including evaluation criteria
  - Budget
  - Stakeholder engagement
  - P2P considerations
  - Whole life costs
  - Performance measurement/service level agreement
  - Implementation plans
  - Contract exit strategy

Individual commodity strategies will commence on receipt of the Contract Review Form. In the event of a requirement which has never previously been tendered, the service department must provide a minimum 6 month notice period to allow the commodity strategy to be completed. All commodity strategies will require to be signed off by the Corporate Procurement Manager and service department/s prior to any tender exercise being conducted.

## **SPECIFICATION WRITING**

17. (1) In the case of non-construction (works) contracts, the Heads of Service are responsible for ensuring that adequately detailed specifications are prepared by his/her officers and that these are passed timeously to the Corporate Procurement Team who will assist in the fine tuning of the requirements and incorporate the specification into the tender documentation.
- (2) In the case of construction contracts, Facilities and Property Management and Ayrshire Roads Alliance are responsible for specifying the detailed requirements.
- (3) In all instances, the specifications shall define any characteristic required of a material, product or supply so that it fulfils the use for which it is intended. Characteristics may include levels of environmental and climate performance, design for all requirements (including accessibility for disabled persons), safety dimensions, testing and test methods, packaging etc. Unless justified by the subject matter of the contract, specification shall not refer to a specific make or source, or a particular process which characterises the products or services provided by a specific economic operator, or to trade marks, patents, specific origins or production with the effect of favouring or eliminating certain products or services. Only under exceptional circumstances (where a sufficiently precise description is not possible) can the specification be accompanied by the words “or equivalent”.
- (4) The Corporate Procurement Team reserve the right to cancel any procurement exercise for failing to comply with Standing Order 17 (3). The relevant Head of Service will be notified.

## **EXEMPTIONS**

18. (1) There shall be exempted from the provisions of these Standing Orders any contract for goods, works or services which, in the opinion of the appropriate Depute Chief Executive/Head of Service are required to address a genuine emergency situation (eg: a contractor/supplier/service provider going into liquidation or where a Health & Safety issue requires to be urgently addressed, where there is an emergency to ensure wind and watertight requirements in housing or tenants right to repair which would preclude the adoption of normal procedures. Lack of planning does not constitute an emergency requirement.
- (2) The Council may be exempt from the provisions of these Standing Orders or any part of them, any contract when it is satisfied that the exemption is justified by special unforeseen circumstances wholly out with the Council’s control.

- (3) Goods, works and service contracts procured and awarded on the Council's behalf by other Authorities, Scotland Excel, Scottish Procurement, CCS etc are exempted from these Standing Orders.
- (4) Notwithstanding the provisions of paragraph 18 (2) hereof, Housing Asset Services are exempt from compliance in the cases of "Emergency" and "24 Hour" response categories. However, in such circumstances the Head of Housing and Communities and/or the Head of Facilities and Property Management will nevertheless be responsible for ensuring best value for all such requirements for Goods, Works and Services with a value of between £500 and £50,000 under these two time-critical response categories.
- (5) Notwithstanding the provisions of paragraph 18 (2) hereof, the Ayrshire Roads Alliance (ARA) service is exempted from compliance in cases of genuine emergency works where materials are required to be sourced immediately. However, the Head of Ayrshire Roads Alliance will nevertheless be responsible for ensuring best value for all such requirements for Supplies, Works and Services with a value of between £500 and £50,000 under these two time-critical response categories.
- (6) There shall be exempted from the provisions of these Standing Orders any contract of employment.
- (7) Contracts for the purchase, sale or lease of Heritable Property are governed by separate procedures and are exempt from these Standing Orders, unless where a formal procurement process is initiated.

## **OTHER REFERENCE**

19. These Standing Orders shall be supplemented by the current Corporate Procurement Strategy, Procurement Procedures and Guidelines and the Environmental and Sustainable Procurement Guidelines as and when approved by the Council.

## **PROCUREMENT PROCEDURES**

### **20. (1) Generally**

There are specific recognised Procurement Procedures (Routes) that are available to use, depending upon the nature of the requirement. Moreover, where the tendering process is in accordance with the Public Contracts (Scotland) Regulations, including Amendments (i.e. those above the EU Thresholds) the minimum timetables and transparency requirements must be complied with. However, Heads of Service are responsible for ensuring that his/her officers seek and adhere to guidance and instructions from the Corporate Procurement Team at the outset of the process, when considering the appropriate Procurement Process to adopt for each procurement project.

- (i) Open procedure
- (ii) Restricted Procedure

- (iii) Competitive Procedure with Negotiation
  - (iv) Competitive Dialogue Procedure
  - (vi) Innovation Partnership
- (2) The appropriate way forward and the detail of each Procedure shall be discussed with the Corporate Procurement Team at the outset. A minimum of 6 months is required for a straight forward tender exercise using the most common Procedures of Open or Restricted. Other Procedures are generally used for more complex requirements and must not be used due a lack of forward planning by Service Departments.

## **AUTHORITY TO EXTEND OR NEGOTIATE AWARD**

- 21. (1) Where the appropriate Depute Chief Executive/Head of Service considers that a tender should be negotiated with one person, he/she shall, before entering into detailed negotiations seek advice from the Corporate Procurement Team who shall have sight of any proposed report for submission to Cabinet, and contribute to prior to the approval of the Cabinet, both in respect of the negotiation and of the person with whom the tender is to be negotiated, stating the reasons for the proposed negotiated procurement route.
- (2) Where the appropriate Depute Chief Executive/Head of Service considers that an existing contract should be extended (except by the exercise of a pre-existing contractual option to extend the contract) with the existing contractor/supplier/service provider, he/she shall seek advice from the Corporate Procurement Team and Legal Services and then obtain the approval of Cabinet, both in respect of the extension and of the terms agreed with the existing contractor/supplier/service provider, stating the reasons for the proposed extension without competition.

## **ISSUE AND RETURN OF TENDERS**

- 22. (1) Tender documents shall state:-
  - (a) The nature and purpose of the Contract for which tenders are invited.
  - (b) The latest date and time (in all cases being twelve noon) when tenders must be received. All tenders must be issued and received by electronic means using the Public Contracts Scotland tender portal.
  - (c) That the tender shall remain open for acceptance for the period specified in the tender documents.
  - (d) That the Council is not bound to accept the most economically advantageous, lowest or any tender received.
  - (e) The award criteria, weightings and scoring methodology to be used in the evaluation of all bids received.
  - (f) That all tender queries/clarifications must be submitted electronically via the Public Contracts Scotland portal and Council responses to all queries/clarifications must also be

issued via the system. Under no circumstances should tender queries/clarifications be answered via e-mail.

- (2) Where Requests for Quotations or Quick Quotes are issued for goods, works or services which have an estimated total aggregated value not exceeding £50,000, these will be issued, received, opened within the Corporate Procurement Team, or by those authorised users who have received the appropriate training on the Quick Quote system.

## **LATE TENDERS**

23. (1) No tenders received after the latest closing date and time for submission shall be considered.
- (2) For the purposes of electronic tenders, it should be noted that the system will not allow late tenders to be uploaded to the system beyond the deadline set. A register is to be kept by the Corporate Procurement Team of any requests by Tenderers to accept a late electronic tender.
- (3) In the event that the Public Contracts Scotland tender portal encounters technical issues and is not accessible to either buyers or suppliers, the Corporate Procurement Team must be notified immediately. In these exceptional circumstances Millstream (system administrators) will be contacted to request that the deadline for electronic tenders be extended.

## **OPENING OF TENDERS**

24. (1) Electronic tendering is used as the means to receive tenders across the Council, the Chief Governance Officer or his/her representative shall be responsible for ensuring that the lodging of electronic tenders is both secure and auditable.

## **CHECKING & EVALUATION OF TENDERS**

25. (1) All tenders must be evaluated using MEAT (most economically advantageous tender). All tenders will be appraised, checked and fully evaluated, with only non-compliant offers being discounted from the added-value tender evaluation process.
- (2) Tenders being evaluated against MEAT will have the quality elements of the offers appraised and scored by a Tender Evaluation Panel of not less than three scoring officers, with the process being scrutinised by an officer from the Corporate Procurement Team, who is responsible for the production of a Tender Outcome Report detailing the process undertaken and the results of the evaluation, this report will be submitted to the Chief Governance Officer, Depute Chief Executive, Head of Service and other senior officers, as appropriate prior to the issue of any letters of intent, letters of regret and letter of award/inclusion.

## COUNCIL APPROVAL TO CONTRACT

26. (1) No award of contract shall be made unless the estimated expenditure has been approved previously by the Cabinet through the budgeting process.
- (2) The Council will not be bound to accept the lowest or any tender received. Tenders may be accepted without further reference to Cabinet, provided the Best Value tender after checking and, where appropriate, identification of savings, does not when aggregated with other contracts where appropriate, exceed the budget allocation as approved by the Cabinet.
- (3) In the event that it is proposed to accept other than the Most Economically Advantageous Tender (MEAT) received after checking, then this must be referred to the Chief Governance Officer for approval.
- (4) Where it is determined in consultation with the Corporate Procurement Team and the service department that a tender is abnormally low and of the opinion that it is not possible for the tenderer to deliver the contract to the required standard for the price/quality offered, or where a tenderer has submitted material qualifications to the Conditions of Contract or Specification then such an offer may be rejected as non-compliant and the tenderer will be advised.
- (5) In the case of lump sum Works contracts under the Capital Programme, provided the proposed contract sum, following evaluation of tenders, does not exceed by more than 10% the approved expenditure under 26 (1) above, including any subsequent approval to incur additional expenditure, then Cabinet approval for the additional expenditure would not be required.
- Where the value of the contract sum which is proposed to be accepted does exceed, by more than 10%, the level of expenditure previously approved by Cabinet within the Capital Programme then further Cabinet approval for the proposed additional expenditure must be obtained prior to award of the contract.
- (6) Following the issue of a contract acceptance for a contract in excess of £50,000 the outcome of that tender process will be included within the next regular report on Contract Awards to the Governance and Scrutiny Committee.
- (7) (i) In the case of lump sum Works contracts under the Capital Programme, where the final cost of a contract exceeds or is likely to exceed the accepted contract sum (including any subsequent authorised approval to incur additional expenditure) by more than 10% then this shall be reported to the Cabinet at the earliest possible date, together with an explanation of the reasons and circumstances and the financial, and any other relevant, implications for the Council.
- (7) (ii) Where, however, the 10% exceeds the contract sum over approved expenditure is less than £50,000 then standing order 26 (7)(i) above will only apply if the level exceeds more than 50% of the accepted contract sum.

## **CONTRACT REGISTER**

27. (1) The Corporate Procurement Team shall maintain a Contract Register of all formally awarded contracts, having an estimated value in excess of £50,000 and shall include therein the name and address of such successful tenderer, the value or amount of the contract and details of the contract award. The appropriate Depute Chief Executive /Head of Service shall ensure that all letters of acceptance issued by him/her or on his/her behalf shall be copied to the Corporate Procurement Team for recording purposes.
- (2) Where a contract is procured by a service department other than the Corporate Procurement Team, the appropriate Depute Chief Executive/Head of Service shall make arrangements for the secure retention of all successful and unsuccessful tenders and related tender documentation for a period of 6 years following final financial settlement of the contract. Upon expiry of the 6 year retention period, appropriate arrangements must be made by the appropriate Depute Chief Executive/Head of Service for the suitable secure disposal of such confidential documentation.
- (3) Where goods, works or services have been procured by means of obtaining a formal quotation through the mandatory quick quote process, service departments must complete the award notification process via the system (Public Contracts Scotland). This award information will be downloaded and recorded onto the Council's contracts register.

## **CONTRACT MANAGEMENT & MONITORING**

28. (1) The relevant Depute Chief Executive/ Head of Service shall ensure that all Contract Administrators and other officers within their respective services who utilise contracts (National, Sectoral, Collaborative, Corporate and Departmental) maintain copies of all contract documentation, records of the performance of contractors in the delivery of their contracts (it should be noted that the Council do not always receive copies of contract documentation for some national or sectoral contracts, contract management of these contracts can be problematic – the Corporate Procurement Team will, where possible, consult with partners to secure contract information which can be used to effectively manage the contract eg: KPI's). The systems to be used for the gathering and recording of information shall be the Councils Contract Management System or PCS-T (eContract Management module), unless a Service Department has a bespoke system which records additional information not capable of being recorded on the corporate Contract Management System or PCS-T. Where a Service uses their own bespoke system, they are responsible for managing the system and reporting performance to their Head of Service.
- (2) The identified Lead Users within Departments who act as Contract Administrators must be nominated by the Head of Service (for contract management to be efficient and effective, consideration of how many contracts are being managed by an individual contract administrator must be taken into consideration). Contract Administrators are responsible for the day to day management, monitoring and ongoing payment for each specific contract and shall refer to and maintain the contract documentation and any variations issued under the contract.

This will also include Contract Management information such as minutes of each quarterly/annual (as a minimum) review meeting/s, supplier performance, risk and issues log, lessons learned, exit strategy and any non-conformances which must be recorded on the Council's Contract Management System. A summary of Contract Administrator's duties and responsibilities is available on the Procurement pages of the Intranet.

- (3) The Deputy Chief Executives shall ensure that adequate reporting mechanisms are in place to inform Cabinet and Committee in respect of spend against individual Contracts. In addition, contractual financial reporting information will also be available from PECOS and the Corporate Procurement Team and will be provided to the Heads of Service as and when required.
- (4) A report shall be prepared by the appropriate Head of Service on the financial outcome of each completed capital works programme contract and submitted to the Governance and Scrutiny Committee.
- (5) The Depute Chief Executives will ensure that the monitoring procedures by the appropriate departments relating to the administration of Best Value/Value for Money in respect of service delivery to the Council, by the application of the approved Contract Management procedures.
- (6) In relation to the audit of contracts, the Chief Executive/Depute Chief Executives or his/her authorised Officers, whilst carrying out the monitoring of Performance and Best Value, shall have the authority, on production of identification, to:-
  - (i) obtain entry at all reasonable times to any Council premises, land or sites.
  - (ii) have access to all records, documents and correspondence relating to the audit in hand.
  - (iii) require and receive such explanations as are necessary concerning any matter under investigation.

## **PAYMENTS**

29. (1) Authorised payments will only be made by those officers who have been identified by the Heads of Service, who are responsible for supplying a list of authorised signatories for the certification of accounts to the Head of Finance and ICT.
- (2) Payments will only be made in accordance with the specific Conditions of Contract terms laid out in the Contract Documents for each particular contract.
- (3) Payments require to be made within 28 days of receipt of an invoice and the Head of Finance and ICT and the appropriate Head of Service are jointly responsible for ensuring timely payments.
- (4) Where the Council enters into a contract with a principal/main contractor and works are sub-contracted for the purpose of performing the Contract, payment requires to be made to the sub-contractor within the specified period as detailed within the terms



and conditions of contract. The Council encourage fair payment across the supply chain and will police sub-contractor payments in the event of any identified non-compliance and on receipt of complaints from the sub-contractor.

## **CONTRACTUAL MATTERS**

### **30. (1) Equal Opportunity in Employment**

During the procurement process and before entering into a contract, the Council shall obtain from the contractor/supplier/service provider assurance that, to the best of its knowledge and belief, it has complied with all statutory requirements in respect of ensuring equal opportunity in employment.

### **(2) Equality**

During the procurement process and before entering into a contract, the Council shall obtain from the contractor/supplier/service provider assurance that, to the best of its knowledge it is not unlawfully discriminating within the meaning and scope of the provisions of the Equality Act 2010, or any statutory modification or re-enactment thereof relating to discrimination.

### **(3) Form of Contract & Terms and Conditions**

Every contract shall be in writing and shall be subject to the law of Scotland, concluded by the issue of a formal letter of acceptance. Standard Forms of Contract shall be used where appropriate in conjunction with the Council's approved standard Terms & Conditions of contract to suit each specific requirement.

### **(4) Prevention of Collusion and Corrupt or Illegal Practices**

Every contract shall contain a clause entitling the Council to cancel the contract and to recover from the contractor/supplier/service provider the amount of any loss resulting from such cancellation, if the contractor/supplier/service provider or its representative (whether with or without the knowledge of the contractor/supplier/service provider) shall have practised collusion in tendering for the contract or any other contract with the Council or shall have employed any corrupt or illegal practices either in the obtaining or execution of the contract or any other contract with the Council. Tenderers shall sign a declaration of non-collusion as part of its tender submission.

### **(5) Assignment/Sub-letting**

(a) Except where otherwise provided in the contract the contractor/supplier/service provider shall not assign a contract without the previous written consent of the Council.

(b) Except where otherwise provided in the contract, a contractor/supplier/service provider shall not change any sub-contractors from that noted in the tender documents without the written consent of the appropriate Depute Chief Executive /Head of Service.

(6) **European Standards**

Where there is a recognised European or international standard applicable to any commodity or service at the date of invitation to tender, the tender document shall require that the goods or service to be procured and all workmanship shall at least meet the requirements of that standard. In the absence of any such European or international standard, the tender document shall require an appropriate specified standard be used. In presenting evidence of equivalence, tenderers shall be required to provide a certified translation into English of the standard being used. The onus is on the Council to prove that the equal standard proposed by any tenderer does not meet with the stated requirement.

(7) **Copyright**

Depute Chief Executives Directors and Heads of Service shall in so far as reasonably practicable, ensure that in contracts for the commissioning of reports, research, graphics, design, media and other consultancy services to which copyright applies, that while copyright in the work remains vested in the Contractor, the Council has royalty free rights to utilise the information provided in relation to the continued development of the specific project and subsequent related projects.

(8) **Health & Safety**

Every contractor/supplier/service provider appointed by or on behalf of the Council will be required to conduct its undertakings in accordance with current Health and Safety Regulations and approved Codes of Practice. Guidance must be sought from the Health and Safety Team for all contracts deemed to have a high health and safety risk.

(9) **Bonds and Parent Company Guarantees**

Where considered appropriate by the Deputy Chief Executives /Head of Service, the Council shall require the contractor/supplier/service provider to take out a Bond, obtain a form of Parent Company Guarantee or other sufficient security for the due performance of the contract. The tender documentation shall specify the nature and amount and type of security to be provided.

(10) **Liquidated and Ascertained Damages**

- (a) Where considered appropriate by the Depute Chief Executives /Head of Service, contracts shall provide for liquidated and ascertained damages in the event of late completion of the contract.
- (b) The amount to be specified in each such contract shall be determined in terms of the estimated and substantiated losses likely to be incurred by the Council, in the event of late completion.

**(11) Insurance**

All contracts for goods, works and services shall require the contractor/supplier/service provider to maintain adequate insurance for the following as appropriate:-

- (a) Employers Liability Insurance (£10M minimum)
- (b) Public (Third Party) Liability Insurance (£10M minimum)
- (c) Professional Indemnity Insurance, where appropriate, shall remain in force for a period of 6 years beyond the end of the contract (£5M minimum), or the sum as agreed with the Council's Risk and Insurance section
- (d) Other such specialist classes of insurance as advised by the Risk & Insurance Manager

These insurance provisions shall be supplemented by rules of procedure relating to insurance, which shall be complied with as if they were part of these Standing Orders.

**(12) Confidentiality and Requests for Information**

All tender documentation, agreements or contracts shall not prohibit disclosure of information which would otherwise be disclosed in compliance with the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004 or any other legislation amending or replacing it or any guidance and/or codes of practice issued by the Scottish Information Commissioner in relation to such legislation.

**(13) Social/Economic/Environmental Benefits in Procurement**

Where appropriate, social, economic and environmental requirements should be specified or should form part of the award criteria. Also, where appropriate, community benefits clauses should be considered. Although not an exhaustive list, examples of the range of issues which can be incorporated into such provisions relate to promoting payment of the living wage, training proposals, intentions regarding the provision of apprenticeships, recycling, whole life costs, environmentally friendly waste disposal policies, reuse of materials, proposals to generate local economic opportunities and development and general investment proposals for local communities. Proposals to include any form of community benefit clause in any particular exercise should be discussed with the Corporate Procurement Team when drafting the Commodity Strategy. All community benefits received by the Council following the award of a contract must be reported to the Corporate Procurement Team who will record the relevant information on the Contract Management Database.

**(14) Business Continuity**

Service resilience is essential for the Council to ensure it can effectively manage risk and ensure continuity of supply and quality of service in the event of supplier/contractor/service provider failure or unusual incidents on local, regional, national or global scales. Where

appropriate, the Council will elect to use framework agreements to ensure that continuity of supply or service delivery is not affected.

In the event that the Council have entered into a contract with a single supplier/contractor/service provider and in the event of any failure or termination, the Council reserve the right to contact the suppliers/contractors/service providers who originally tendered for the requirement to enter into discussions regarding short term arrangements until such times as a re-tendering exercise can be completed.

## **APPLICABLE TO PROCUREMENT CONSULTANTS**

31. (1) Any consultant who is commissioned to be responsible to the Council for the procurement of a contract on its behalf shall in relation to that contract -
- (a) comply with these Standing Orders;
  - (b) at any time during the procurement of the contract, produce, on request, to the appropriate Depute Chief Executive/Head of Service, all records maintained by him/her in relation to the contract; and
  - (c) on completion of the procurement process, transmit all such records to the appropriate Depute Chief Executive/Head of Service.
- (2) The Consultant and Service Department must liaise with the Corporate Procurement Team who will maintain responsibility for placing any OJEU Notice that may be required. The Corporate Procurement Team must have visibility of all tender documentation prior to its issue. All such tenders shall be issued and administered by the Corporate Procurement Team.

## **e-PROCUREMENT**

32. (1) **Electronic Tendering:** All tendering exercises **must be** conducted using an e-Procurement system; the system approved for use by the Council is Public Contracts Scotland (PCS and PCS-T).
- (2) **Electronic Ordering (PECOS):** Is the electronic web-based system adopted by the Council for the placement of purchase orders and receipting of goods delivered. This system allows orders to be placed with contracted/selected suppliers. The use of PECOS is **mandatory** and all designated requisitioners and approvers who have been trained on the use of the system must use PECOS.
- (3) **Quick Quotes:** All requirements for goods, works or services between the value of £500 to £50,000 (if not covered by one of the Council's contracts) must be issued via Public Contracts Scotland. The use of this system will be **mandatory** across all service departments. Quotations received by any other means will not be accepted.

- (4) **Technology Forge:** Is the system used by Facilities and Property Management. This system **must only** be used for works contracts, all other purchase orders must be raised through PECOS.
- (5) **Servitor:** Is the system used by Housing Asset Services for the purchase of stock items. All non stock items **must be** ordered through the PECOS system.
- (6) **Saffron** – Is the system used by Facilities Management for the purchase of foodstuffs. All other requirements must be purchased through the PECOS system.

## NATIONAL AGENDA

33. (1) A review of procurement in 2008 within the Scottish Public Sector (The McClelland Report), commissioned by the Scottish Government, recommended major strategic changes that will have an ongoing impact on all Local Authorities within Scotland.
- (2) These changes include policy, structure and operating procedures and the formation of new central procuring organisations, namely Scottish Procurement and Scotland Excel. These organisations have responsibility for the co-ordination and tendering of major contracts for goods and services used across the public sector. Scottish Procurement have responsibility for tendering what are known as Category A items (all public sector) while Scotland Excel look after Category B items (local authorities only).
- (3) A report will be presented to Governance & Scrutiny Committee annually, in April, which will advise on the Category A and B contracts put in place which East Ayrshire Council are participating in.
- (4) In line with the recommendations of The McClelland Report and to comply with guidelines from the Scottish Procurement, East Ayrshire Council is continually reviewing its Procurement practices and the new Procurement Strategy for 2014 – 2019 was approved in May 2014.
- (5) The Procurement Reform (Scotland) Act 2014 will place an obligation on the Council to publish annual procurement reports. These will include but will not be limited to:
  - Summary of all regulated procurement activity and compliance statement
  - Community benefits
  - Involvement of supported businesses in procurement activity
  - Sustainability deliverables
  - Summary of all procurement projects to be undertaken over a 2 year period

On request, service departments will be required to provide the Corporate Procurement Team detailed information which will be used to support the annual procurement reports.

- (6) Procurement Capability Improvement Programme (PCIP): In support of the Council's procurement audit, the Corporate Procurement Team will request all Service Departments to provide documentary evidence

which will be presented to the Scottish Government Reform Team. It will be a mandatory requirement to provide evidence when requested.

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