

# Public Document Pack



## ABERDEEN CITY COUNCIL

To: All Members of the Council

Town House,  
ABERDEEN , 10 November 2009

### COUNCIL

The Members of **ABERDEEN CITY COUNCIL** are requested to meet here in the Town House on **WEDNESDAY, 18 NOVEMBER 2009 at 10.30 am.**

RODERICK MACBEATH  
HEAD OF DEMOCRATIC SERVICES

### B U S I N E S S

- 1 **Admission of Burgesses**
- 2 **Requests for Deputations**

### MINUTES OF COUNCIL

- 3(a) Minute of Meeting of Council of 30th September, 2009 - for approval (circulated separately)

### MINUTES OF STANDING COMMITTEES

- 4(a) Minutes of Last Cycle of Standing Committees in Former Committee Structure - for approval (circulated previously)

- 4(b) Pamphlet of Minutes for 29th July to 8th October 2009 - for information (circulated separately)

### **BUSINESS STATEMENT AND OTHER MINUTES**

- 5(a) Business Statement (Pages 1 - 2)

- 5(b) Minute of Meeting of The Aberdeen City Alliance of 14th May, 2009 - for information (Pages 3 - 14)

### **REFERRALS FROM OTHER COMMITTEES**

- 6** None to date

### **GENERAL BUSINESS**

- 7(a) Leadership Board Update - Oral Report by Chief Executive

- 7(b) Standing Order 10 - Deputations - Report by Chief Executive (Pages 15 - 18)

- 7(c) Amendment to Standing Orders relating to Contracts and Procurement - Report by Director of Corporate Governance (Pages 19 - 64)

- 7(d) Amendments to Standing Orders - Finance - Report by City Chamberlain (Pages 65 - 72)

- 7(e) Outside Bodies - Report by Director of Corporate Governance (Pages 73 - 76)

- 7(f) Revenue Budget 2010/11 - Update Position - Report by City Chamberlain (Pages 77 - 86)

## **MOTIONS**

8(a) **Councillors Kiddie and Leslie**

“Council notes efforts to tackle the massive problems of opiate addiction including a heroin prescription programme in England.

To tackle the substantial and increasing problems of substance misuse in Aberdeen, Council agrees to work and support NHS and other appropriate partners in investigating options for a possible pilot scheme in Aberdeen and to refer the matter ultimately to Government for consideration.”

8(b) **Councillor Cormack**

“In the light of the restoration and reuse of Marischal College, the second largest granite building in the world, and in recognition of the central role that the granite industry has played in the city’s economic development and in its cultural identity, that this Council agrees to the production of a report with options on how the Council and its partners can properly acknowledge the key contribution that the use of granite has made to the built environment of Aberdeen and the wider North East region.”

## **GENERAL BUSINESS**

9(a) **Chief Officers Second Tier Restructuring - Report by Chief Executive (Pages 87 - 102)**

## **NOT FOR PUBLICATION**

10(a) **Recruitment Service - Delegated Powers - Outcome - Report by Chief Executive (Pages 103 - 106)**

Should you require any further information about this agenda, please contact Martyn Orchard, tel. (52)3097 or email [morchard@aberdeencity.gov.uk](mailto:morchard@aberdeencity.gov.uk)

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**COUNCIL**  
**BUSINESS STATEMENT**  
**18<sup>th</sup> NOVEMBER 2009**

<u>No.</u>	<u>Minute Reference</u>	<u>Committee Decision</u>	<u>Update</u>	<u>Lead Officer(s)</u>	<u>Report Due</u>	<u>Report Expected (if known)</u>
1.	Council 30.09.09 Article 13	<p><b><u>Review of Standing Orders - Deputations</u></b></p> <p>The Council instructed the Head of Democratic Services to report back on options for amending the process for receiving deputations rather than dispensing with them altogether.</p>	A report is on the agenda.	Head of Democratic Services	16.12.09	18.11.09
2.	Council 30.09.09 Article 11	<p><b><u>Oakbank School Board of Governors</u></b></p> <p>The Council considered appointments to various outside bodies and instructed the City Solicitor to report on the process to be followed to reduce the number of Council representatives on the Oakbank School Board of Governors and the cost thereof and to defer the filling of the vacancies.</p>		City Solicitor	16.12.09	

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**THE ABERDEEN CITY ALLIANCE**

**MINUTE OF MEETING OF 14<sup>th</sup> MAY, 2009**

**In attendance:-**

Councillor John Stewart, Chairperson  
Lavina Massie, Vice-Chairperson  
Councillors Clark (substituting for Malone), Fletcher, Noble and Penny, Aberdeen City Council  
Councillor Kirsty West, Chair of Children and Young People's Strategic Planning Group  
Maggie McGinlay, Scottish Enterprise  
John Michie, Aberdeen City Centre Association  
Derick Murray, NESTRANS  
Godfrey Brown (Substituting for Shaunagh Kirby), University of Aberdeen  
Andy Finlayson, Arthur Forbes and David Henderson, Civic Forum  
Sandy Murray, Chair of Homes Forum  
Alan Fleming, Grampian Fire and Rescue Service  
Rhonda Kelly, Aberdeen Council of Voluntary Organisations  
Heather Kelman, NHS Grampian

**Also present:-**

Ailsa Duncan, Kay Dunn, Belinda Miller, Yasa Ratnayeke and Dave Valentine, Strategic Leadership, Aberdeen City Council  
Abdul Latif, Aberdeen Mosque  
Sarah Dickinson, Civic Forum  
Martin Murchie and Louise Scott, Continuous Improvement, Aberdeen City Council  
Hamish Mackay, Seaton Community Network  
Martyn Orchard and Lynsey Davidson, Resources Management, Aberdeen City Council

Item	Subject and Decision	Action By
1. Apologies	Apologies were intimated on behalf of Gerry Donald, Andy Willox, Mike Berry, Kath Beveridge, Bert Donald, Bill Howatson, Shaunagh Kirby, Reverend Stephen Taylor, Gordon Kyle and Councillor Malone.	
2. Minute of Meeting of 12 <sup>th</sup> March, 2009	Minute approved.  David Henderson indicated that at the last meeting he raised the issue of additional support for community planning. The Chairperson reassured David that this was	

Item	Subject and Decision	Action By
	being looked at by the Executive Group as part of the review of governance which was underway.	
3. Minute of Meeting of Executive Group of 30 <sup>th</sup> April, 2009	Minute noted	
4. Appointment of Vice Chairperson and Succession Planning	<p>The Alliance had before it a paper by Martyn Orchard which advised of the situation in regard to the Chairperson and Vice-Chairperson positions. At the meeting of 31<sup>st</sup> May 2007, Councillor John Stewart was appointed as Chairperson, and Lavina Massie was appointed as Vice-Chairperson at the meeting of 16<sup>th</sup> August 2007. At the meeting of 31<sup>st</sup> May, it was decided that appointments should be rotated on a two-year cycle and that the rotation commence with a public sector appointment to the Chair and a non-public sector appointment to the Vice-Chair. The Vice-Chair would then automatically be appointed to the Chair two years from their posting, at which time a new Vice-Chair would require to be appointed.</p> <p>The paper added that on the basis of the above this would be Councillor John Stewart's last meeting as Chairperson, and Lavina Massie would become Chairperson thereafter. The Alliance therefore needed to appoint a Vice-Chairperson from the public sector. The paper explained that the public sector organisations represented on the Alliance that had a statutory duty in respect of Community Planning were:- Aberdeen City Council, NHS Grampian, Grampian Police, Grampian Fire and Rescue Service, NESTRANS and Scottish Enterprise.</p> <p><b>The Alliance was requested:-</b></p> <ul style="list-style-type: none"> <li>(i) to note that Lavina Massie will become Chairperson following the meeting;</li> <li>(ii) to note that Councillor John Stewart will be co-opted to the Alliance, still as an independent member, for a period of two years following the meeting; and</li> <li>(iii) to nominate a Vice-Chairperson from the public sector <b>or</b> defer consideration of the appointment to the Alliance meeting on 20<sup>th</sup> August 2009 to enable the relevant partners to discuss the matter over the summer recess period.</li> </ul> <p>The Chairperson suggested that he remain in the role until 30<sup>th</sup> June 2009 in order to conclude some outstanding business pertaining to the Fairer Scotland Fund Board</p>	



Item	Subject and Decision	Action By
	<p>amongst other things.</p> <p><b><u>The Alliance resolved:-</u></b></p> <p>(i) to agree that Councillor John Stewart continue as Chairperson until 30<sup>th</sup> June 2009;</p> <p>(ii) to defer appointing a Vice-Chairperson to the meeting on 20<sup>th</sup> August; and</p> <p>(iii) to request that all nominations and seconds for the position of Vice-Chairperson be submitted to Martyn Orchard in Democratic Services by 5<sup>th</sup> August 2009 in order that these could be considered at the next meeting of the Executive Group.</p>	All partners
5. Best Value 2 Proposals for Consultation	<p>The Alliance had before it a paper by Ailsa Duncan which highlighted that the Accounts Commission for Scotland had invited a range of organisations to provide feedback and comment on their draft proposals for Best Value 2 at the end of March 2009. Partner organisations were invited by the Alliance to submit their comments or draft comments so that the Alliance could provide a response. The report indicated that to date only the Civic Forum had submitted a response. As a result the report suggested that the Civic Forum should send their response directly to the Accounts Commission for Scotland.</p> <p><b><u>The Alliance was requested:-</u></b></p> <p>to agree that the Civic Forum send their comments directly to the Accounts Commission.</p> <p><b><u>The Alliance resolved:-</u></b></p> <p>to approve the recommendation.</p>	Civic Forum
6. Town Centre Regeneration Fund	<p>The Alliance had before it a report by Ailsa Duncan which advised that the Scottish Government had recently published information and guidance for their new Town Centre Regeneration Fund. The report advised that the total funding available in 2009/10 for the whole of Scotland was £60m and the intention was to allocate the funding in two tranches with the first closing date being 5<sup>th</sup> June and the second being 21<sup>st</sup> August. If applications were not successful in the first instance then there would be the opportunity to resubmit for the second closing date.</p> <p>The report further advised that the Fund would make a key contribution to the National Outcomes of the Scottish Government.</p>	

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	<p>The report outlined the ways in which the funding could be used and included the following:-</p> <ul style="list-style-type: none"> <li>• to improve pedestrian or vehicle access to a town centre</li> <li>• to improve parking provision within a town centre</li> <li>• to attract increased footfall, both day and night</li> <li>• for diversification of the mix of services and amenities within a town centre, underpinned by an understanding of the requirements of the local community</li> <li>• streetscape improvements</li> <li>• remediation of vacant or derelict sites within the town centre to fit them for retail, residential, business or recreational use</li> <li>• purchase of gap sites to allow for use as residential, retail, business or recreation</li> <li>• remodelling of existing premises to provide a suitable mix and floorplan of retail, business, residential and recreational uses, or to comply within Disability Discrimination Act legislation</li> </ul> <p>The report went on to highlight that the fund was for capital only and could not be used either retrospectively or as a substitute for programmed spend. The areas deemed eligible were all areas recognised in the local authority development plan as town and district centres. The Scottish Government would also want to see evidence that bids had been developed and agreed with local partnerships.</p> <p>The report outlined the three options available to the Alliance:-</p> <ol style="list-style-type: none"> <li>(1) all applications are gathered and considered at a special meeting of the TACA Executive Group which would need to be convened by the end of May</li> <li>(2) the Chair is delegated to comment on applications and provide references as appropriate</li> <li>(3) an officer from any of the participating partner organisations is asked to provide comment on applications for consideration by the Chair</li> </ol> <p><b>The Alliance was requested:-</b></p> <ol style="list-style-type: none"> <li>(i) to note the report; and</li> <li>(ii) to agree one of three options as detailed above.</li> </ol>	

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	<p>Belinda Miller spoke to the report and answered a number of questions during the course of discussion, which largely focused on whether efforts should be concentrated on submitting one bid only or whether multiple bids should be submitted.</p> <p><b>The Alliance resolved:-</b></p> <p>(i) to approve option 1; and</p> <p>(ii) otherwise to note the content of the report.</p>	Ailsa Duncan
7. New Framework for Local Partnerships on Alcohol and Drugs	<p>The Alliance had before it a report by Alexander Kelman on national developments which impacted upon the Community Planning Partnership and the Aberdeen City Joint Alcohol &amp; Drugs Action Team (JADAT). The report highlighted that substance misuse was considered a major priority within NHS Grampian and Aberdeen City Council, however it did not at present have a direct representative within the Community Planning Partnership structure.</p> <p>Following a review of the Scottish Alcohol and Drugs Action Teams by the Scottish Government, a new framework was launched in April 2009 which was based around the Delivery Reform Group which was also established by the Scottish Government. The new framework explained how the Scottish Government expected Alcohol &amp; Drugs Partnerships to operate and it also gave details of expectations placed upon the Scottish Government, NHS Boards, Local Authorities and other relevant local partners. It was noted that the new framework was due to be in operation by October 2009.</p> <p>The report went on to outline that the Scottish Government and COSLA wanted to enhance outcomes for people who were affected by substance misuse through improved local accountability, performance management and clearer partnership responsibilities. The JADAT requested to be recognised as a Community Planning Challenge Forum and wanted to play a full part in the Community Planning framework, including direct contribution to the Single Outcome Agreement.</p> <p>Appended to the report was the new framework along with a summary from Fergus Ewing MSP setting out the vision of the Scottish Government for the future.</p> <p><b>The Alliance was requested:-</b></p>	

Item	Subject and Decision	Action By
	<p>(a) to note the content of the report; and            (b) to agree to the request to recognise the JADAT as a Forum of the Community Planning Partnership.</p> <p><b><u>The Alliance resolved:-</u></b>            to approve the recommendations, and to request JADAT to invite representation from the Civic Forum on its membership.</p>	Alexander Kelman
8. Civic Forum Budget 2009-10	<p>The Alliance had before it, for information, the Civic Forum budget for 2009/10. The budget indicated both income generated and expenditure to date. The expenditure included £16,613 in salary costs, £4,697 in service costs and £3,600 in Civic Forum expenses which included costs for meetings, member expenses, postage and training courses. The anticipated balance at the end of the current financial year was £90.00.</p> <p><b><u>The Alliance resolved:-</u></b>            to note the information provided.</p>	
9. Third Sector Interface	<p>With reference to article 8 of the minute of the previous meeting, the Alliance had before it a report by Rhonda Kelly which provided an update on progress towards the Third Sector Interface.</p> <p>The report advised that the Scottish Government had asked Community Planning Partnerships, Volunteer Centres, Councils for Voluntary Service and Local Social Economy Partnerships to work together to provide a single interface to facilitate the Third Sector's involvement in Community Planning.</p> <p>The report indicated that last year Aberdeen Council of Voluntary Organisations (ACVO) created a group to look at a vision for the future of the Third Sector in Aberdeen and to look at ways to progress these visions. A huge amount of work had been done to formalise the structures for representation of the sector and the proposed structure was appended to the report.</p> <p>The report went on to outline that a meeting of ACVO, Voluntary Service Aberdeen (VSA) and the Scottish Government concluded by agreeing that the Volunteer Centre and ACVO would come together to form the Single Interface, utilising ACVO's charitable and company status, with a name to be decided in due course. ACVO</p>	

Item	Subject and Decision	Action By
	<p>would move into VSA's premises with the ultimate aim to have a voluntary sector hub where all voluntary groups could work together.</p> <p>The report concluded by outlining that a vast amount of work had been undertaken over the past year to formalise how the voluntary sector interacted with the Community Planning Partnership and how this work would be valuable in moving towards a single interface. With the endorsement of the Alliance, a Single Interface for Aberdeen City could be in place by September 2009, and the Scottish Government had stated that should the interface progress as planned, they would move to direct funding of the Interface at that time.</p> <p><b>The Alliance was requested:-</b> to note the report and agree that once work towards a Single Interface was complete it would write to the Scottish Government, stating that it recognised this as the Interface for Aberdeen City.</p> <p><b>The Alliance resolved:-</b> to approve the recommendation.</p>	Rhonda Kelly/ Ailsa Duncan
10. Final Draft of the Single Outcome Agreement (SOA) 2009/10	<p>With reference to article 10 of the minute of the previous meeting, the Alliance had before it a final draft of the Single Outcome Agreement 2009/10.</p> <p>The covering report by Martin Murchie explained that a Single Outcome Agreement had to be developed between every local authority's Community Planning Partnership and the Scottish Government. The Scottish Government had set 15 National Outcomes and it was for the local authority and partners to set out how they intended to contribute to achieving these outcomes. The final version of the SOA was due to be submitted to the Scottish Government by 15<sup>th</sup> May 2009 with arrangements made for formal sign off in June. A draft version had been sent to the Scottish Government in March and after feedback was received, the latest version, which the Alliance had before it, had been produced.</p> <p>The report highlighted that the main feedback from the Scottish Government had been in relation to the following issues:-</p> <ul style="list-style-type: none"> <li>• Early Years</li> <li>• Drugs</li> </ul>	

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	<ul style="list-style-type: none"> <li>• Criminal Justice</li> <li>• Economic Recovery</li> <li>• Indicators</li> <li>• Equalities</li> <li>• Progress</li> <li>• North East Dimension</li> </ul> <p><b>The report recommended:-</b> that the Alliance -</p> <p>(i) note the feedback received from the Scottish Government and the amendments made to the draft Agreement submitted to the Alliance in March 2009; and</p> <p>(ii) approve the latest version of the Single Outcome Agreement 2009/10 for submission to the Scottish Government.</p> <p>During the course of discussion, concerns were raised in regard to National Outcome 7 where it was stated that 18,428 people lived in the 0-15% most deprived data zones in Scotland, which consisted of 27 data zones. David Henderson called for more objective data to be used in relation to specific subject areas. The Chairperson explained that actual figures were contained throughout the document but could be made clearer in the future, particularly in regard to data pertaining to income and crime. The Chairperson added that next year's SOA should include baseline data and be progressed at a more localised level. Derick Murray referred to the bullet points on page 11 of the report under 'Greener' and requested that these be moved to National Outcome 6 or 14 where appropriate. This was agreed.</p> <p><b>The Alliance resolved:-</b></p> <p>(i) to approve the Single Outcome Agreement 2009/10 subject to the minor amendments being made as agreed above; and</p> <p>(ii) to request that a report be submitted to the November meeting with baselines and data in respect of inequalities for measuring from August 2009 onwards for inclusion in the Single Outcome Agreement 2010/11.</p>	<p>Martin Murchie</p>

Item	Subject and Decision	Action By
11. Public Performance Reporting for the Single Outcome Agreement	<p>The Alliance had before it a report by Martin Murchie which outlined proposals for the arrangements to publicly report against the targets set out in the 2008/09 Single Outcome Agreement as required by the Scottish Government.</p> <p>Appendix A to the report set out the data capture form that had been issued to all lead officers and it was advised that these were to be returned by 30<sup>th</sup> June in order to ensure consistent reporting.</p> <p>In order to meet the different requirements of key audiences the following approach was proposed:-</p> <ol style="list-style-type: none"> <li>(1) <b>The Scottish Government</b> - a qualitative assessment was required of the success and future development needs of the process for agreeing and delivering the SOA. An update on each of the measures, as at 31<sup>st</sup> March 2009, was required. A template form, appendix B to the report, had been provided by the Government for this purpose.</li> <li>(2) <b>TACA</b> - As the governing body for the SOA, the Alliance required to consider and comment on the same report as was submitted to the Scottish Government. The report would be publicly available via the Community Planning website.</li> <li>(3) <b>Public Summary Report</b> - This clear and abridged summary would be prepared as a printed performance report covering the 2008/09 SOA. It would be circulated to partners, across the city and placed on the Community Planning website.</li> <li>(4) <b>Online and Ongoing Reporting</b> - It was proposed to mirror the Scottish Government's "Scotland Performs" website by creating an "Aberdeen Performs" site through the Community Planning website. This would show and record the measures from the 2009/10 SOA and would be a live report updated on an ongoing basis.</li> </ol> <p>The report proposed that a core group of officers be established to co-ordinate and oversee the preparation of performance reports and that lead responsibility for reporting against the 15 National Outcomes be apportioned on the same basis as the preparation of the 2009/10 SOA.</p> <p><b>The report recommended:-</b> that the Alliance -</p>	

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	<p>(i) endorse the arrangements for performance reporting on the Single Outcome Agreement as set out in the report;</p> <p>(ii) agree to the establishment of a core officer group to oversee the production of performance reports with representation from each partner;</p> <p>(iii) consider whether a dedicated resource would be required to co-ordinate/undertake aspects of the public performance reporting and whether monies provided to the Alliance from partners could be used for this purpose; and</p> <p>(iv) ensure and agree that all responsible staff in the partner bodies complete and return the data capture form for 2008/09 SOA measures by 30<sup>th</sup> June 2009.</p> <p><b><u>The Alliance resolved:-</u></b> to approve the recommendations, agreeing that the Community Planning website be utilised as outlined in the report, and that the Executive Group explore the funding of a dedicated resource in terms of recommendation (iii).</p>	Martin Murchie/ Ailsa Duncan
12. Minute of Meetings of Challenge Forums	<p>(a) <u>Aberdeen Community Safety Partnership</u> - 3<sup>rd</sup> March and 14<sup>th</sup> April 09 Minutes noted</p> <p>(b) <u>Community Health Partnership</u> - 4<sup>th</sup> February 09 Minute noted</p> <p>(c) <u>Locality Planning Forum</u> - 6<sup>th</sup> February 09 Minute noted</p> <p>(d) <u>Children and Young People's Strategic Planning Group</u> - 9<sup>th</sup> February 09 Minute noted</p> <p>(e) <u>Aberdeen City and Shire Economic Future Forum</u> - 17<sup>th</sup> February 09 Minute noted</p> <p>(f) <u>Aberdeen Homes Forum</u> - 18<sup>th</sup> March 09</p>	



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	<p>Minute noted</p> <p>(g) <u>North East Transport Consultative Forum</u> - 18<sup>th</sup> March 09</p> <p>Minute noted</p>	
13. Progress of Business Statement	<p>The Alliance had before it the latest version of the progress of business statement, which tracked the latest position with a number of pending and outstanding items of business.</p> <p><b><u>The Alliance resolved:-</u></b></p> <p>(i) to request that a report be submitted to the next meeting in respect of item 2 'Public Safety in the City Centre';</p> <p>(ii) to request that a report be submitted to the next meeting in respect of item 4 'City Regeneration Strategy'; and</p> <p>(iii) otherwise to note the statement.</p>	Community Safety Partnership Kath Beveridge
14. Closing Remarks	<p>The Chairperson highlighted that this was Rhonda Kelly's last meeting of the Alliance before she moved to a new position in the private sector, and thanked Rhonda for her contribution to the work of the Alliance during her time at ACVO.</p> <p>The Chairperson also highlighted that this was Ailsa Duncan's last meeting of the Alliance in her current role, for the time being, as she was being seconded to Hammersons until the end of 2009/10 to work on employability initiatives. The Chairperson thanked Ailsa for the huge amount of work that she had done for the Alliance over the years.</p> <p>The Vice-Chairperson then explained that this was Councillor John Stewart's last meeting of the Alliance as Chairperson and thanked him for the sterling work he had done over the past two years in the role. The Vice-Chairperson ran through the many achievements that the Chairperson had overseen during his tenure by displaying strong leadership and determination. The Vice-Chairperson emphasised that Councillor Stewart had strengthened the partnership greatly.</p> <p>The Chairperson responded by wishing the Vice-Chairperson well in the Chairperson</p>	

Item	Subject and Decision	Action By
	<p>role and highlighted that this was a significant landmark in terms of Community Planning as the Alliance would be the first Community Planning Partnership in Scotland with a Chairperson who was not from a public sector organisation. The Chairperson reflected that he had hoped for the Alliance to become an independent organisation, vis-à-vis incorporation, however although this had not proved possible he believed that the partnership was stronger and more independent than it had been previously.</p> <p><b><u>The Alliance resolved:-</u></b> to echo the remarks of the Chairperson and Vice-Chairperson, and to wish Rhonda Kelly, Ailsa Duncan and Councillor John Stewart well in their future endeavours.</p>	

## ABERDEEN CITY COUNCIL

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COMMITTEE:	Council
DATE:	18 November 2009
LEAD OFFICER:	Chief Executive
TITLE:	Standing Order 10 - Deputations
REPORT NO:	OCE/09/014

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### 1. PURPOSE OF REPORT

To revise Standing Order 10 on deputations to comply with the instruction of Council at its previous meeting on 30<sup>th</sup> September for a report on options for managing the process for receiving deputations rather than dispensing with them altogether.

### 2. RECOMMENDATIONS

That the Council agrees to the amendment of Standing Order 10 as appended to this report.

### 3. FINANCIAL IMPLICATIONS

There are no financial implications as a result of this specific report given the decision to revise Standing Orders substantially at the previous meeting which will already have incurred minor expenditure.

### 4. SERVICE & COMMUNITY IMPACT

This is essentially a housekeeping issue although accepting the recommendation will mean that the opportunity for repeat deputations is reduced.

### 5. OTHER IMPLICATIONS

The amendment proposed will make the Council's decision-making process more efficient.

### 6. REPORT

6.1 Appendix A to this report sets out an amended version of Standing Order 10 on the Reception of Deputations which, if accepted, will reduce the number of occasions on which repeat deputations can be heard. It also puts in writing the Council's practice over the years of not accepting deputations on anything

other than a substantive report and confirms that applications to be heard will not be accepted if they relate to the annual budget.

- 6.2 It is suggested that, where a committee, having heard a deputation, either defers a report or refers it to Council, no further application to be heard shall be accepted but that the members of the deputation shall be invited to submit their presentation to the Head of Democratic Services who shall arrange for it to be issued to members.
- 6.3 The report also proposes that, where a substantive report is submitted to Council directly, it shall be competent for an application to be heard to be submitted at that meeting.
- 6.4 Other Scottish local authorities were contacted previously to determine if they received deputations at Committees and of those which replied that they did, the notice required was of between one and twelve days. It is not proposed to amend the current requirement, which is that one clear day's notice be provided, although it is open to members to do this should they so wish.
- 6.5 As alternatives to the recommended amendments, members may wish to consider whether the Standing Order should specify that no deputation should be heard at Council. Members may also wish to consider whether the amount of days' notice required should be increased.

## 7. AUTHORISED SIGNATURE

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Chief Executive  
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01224) 522500

## 8. REPORT AUTHOR DETAILS

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(01224) 523054

## 9. BACKGROUND PAPERS

None.

**Amended version of Standing Order 10**

**\*10. Reception of Deputations**

(1) Every application for the reception of a deputation must be in writing, duly signed and delivered, faxed or e-mailed to the Head of Democratic Services as early as necessary to ensure that at least one clear day (excluding Saturdays and Sundays) is available between receipt of the application and its submission to Council or Committee. The application must state the subject on which the deputation wish to be heard and the action (if any) which it is proposed that the Council should take. **The application must relate to a substantive report on the agenda and no application shall be accepted which relates to the annual budget.**

(2) If the subject matter of the application falls within the remit of a Committee of the Council, the application shall **in the first instance** be submitted to that Committee and the Committee may, if it so resolved, hear the deputation. **If, having heard the deputation, the Committee defers consideration of the report to which the application related, the members of the deputation shall be invited to submit the text of their presentation to the Committee to the Head of Democratic Services, who shall arrange for it to be circulated with the relevant papers as part of the Committee agenda and no further application shall be competent.** Thereafter, the Council, in disposing of the minute relating to any such item;

(i) if the matter is one upon which a final decision requires to be taken by the Council, may resolve to hear the deputation, whether or not the deputation has previously been heard by the Committee;

(ii) if the subject matter is one on which a delegated decision has been taken by the Committee, the Council shall not hear the deputation.

(3) In the event that an application for the reception of a deputation relating to a decision of a Committee (upon which a final decision requires to be taken by the Council) is received after the date of the meeting of the Committee to which it relates but prior to the meeting of the Council at which the minutes of that meeting are to be considered, the Council may:-

(i) defer consideration of the part of the minute relating to the subject matter of the application until such time as the deputation has been heard by the appropriate Committee;  
or

(ii) dispose of that part of the minute with or without hearing the deputation.

- (3) **If, as a result of a referral from a Committee, the matter is one upon which a final decision requires to be taken by the Council, the members of the deputation shall be invited to submit the text of their presentation to the Committee to the Head of Democratic Services, who shall arrange for it to be circulated with the relevant papers as part of the Council agenda. No further application shall be competent.**
- (4) **If the application relates to a substantive report submitted to Council directly, the Council may, if it so resolves, hear the deputation. If Council defers a decision, no further application shall be competent, but the procedure in (3) above shall apply.**
- (5) No deputation shall consist of more than three persons.
- (6) The members of a deputation, or a deputation comprising a single person shall be permitted to address the Council, and they may speak in total for no more than ten minutes.
- (7) Any member of the Council may put any relevant question to the deputation and with the invitation of the Convener, any officer of the Council shall be entitled to respond to any matter raised by the deputation. Neither of these interventions shall be permitted until the deputation has concluded its presentation. The time available for such questions shall not exceed ten minutes (over and above the maximum period of ten minutes allowed to receive the deputation). No debate or discussion on the subject matter shall take place until the relevant minute or other item falls to be considered in terms of the order of business, or, alternatively until the deputation retires and consideration of the matter resumes in line with Standing Orders.

Please note - Text in bold is proposed to be added. Text highlighted in grey is proposed to be deleted.

## ABERDEEN CITY COUNCIL

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COMMITTEE:	Council	DATE: 18 <sup>th</sup> November 2009
DIRECTOR:	Stewart Carruth	
TITLE OF REPORT:	Amendment to Standing Orders relating to Contracts and Procurement	
REPORT NUMBER:	CG/11/132	

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### 1. PURPOSE OF REPORT

The purpose of this Report is to seek the Council's approval of new Standing Orders relating to contracts and procurement and to seek Council's agreement to the introduction of separate, stand-alone document entitled "Standing Orders relating to Contracts and Procurement".

### 2. RECOMMENDATION(S)

It is recommended that the Council:-

- (a) approves the revised Standing Orders relating to contracts and procurement which are attached hereto;
- (b) agrees that these revised Standing Orders will be a separate stand-alone document as opposed to forming Part V of the main Standing Orders of the Council;
- (c) notes that detailed guidance and template documentation is being developed to supplement the new Standing orders;
- (d) agrees that in order to enable the development and roll-out of training to officers involved in procurement that the implementation of the new Standing orders be delayed until 1<sup>st</sup> April 2010; and
- (e) agrees that notwithstanding recommendation (d) above that the new financial thresholds shall apply to all new procurements from 23<sup>rd</sup> November 2009.

### 3. FINANCIAL IMPLICATIONS

It is intended that the amendments to the Standing Orders relating to contracts and procurement will facilitate the Council in achieving best value in all contracts entered into and procurements undertaken.

### 4. SERVICE & COMMUNITY IMPACT

It is intended that the amendments to the Standing Orders will make the procurement process easier to follow and more streamlined for officers of the Council. This will have a positive impact on service-provision. Work is also

underway to examine how best to involve local small and medium enterprises in the procurement process, and also social enterprises.

## 5. OTHER IMPLICATIONS

The amendments to the Standing Orders take account of all current legislation pertaining to contracts and procurement and will ensure that the Council is complying with the law.

## 6. REPORT

Part V of the Council's Standing Orders governs how the Council procures goods, services and works and enters into Contracts. It was last revised in October 2003. Since that time there have been many developments in the field of procurement law and practice, and also changes to the internal structure of the Council, which necessitate changes to this part of the Standing Orders.

In recent years EU procurement rules have been amended and developed significantly. The EC Consolidated Directive on Public Procurement of 2004 was implemented into domestic law by way of the Public Contracts (Scotland) Regulations 2006 ("the Regulations"), which came into force on 31<sup>st</sup> January 2006. The Council's Standing Orders do not currently take account of these Regulations and the significant changes they introduced. Furthermore, the EC Remedies Directive will be implemented into domestic law in December of this year and is intended to provide clear and effective procedures for seeking redress in cases where bidders consider contracts have been unfairly awarded. This new Directive further emphasises the need for the Council to ensure that it complies with the EU Procurement Rules, where applicable, and has robust and transparent tendering procedures.

In addition, changes to the internal structure of the Council require Part V of the Standing Orders to be revised. In particular, the Standing Orders must take account of the role that the Central Procurement Unit ("the CPU") plays in the procurement process. Similarly, the recent changes to Directorates of the Council require to be incorporated.

It is hoped that the proposed changes will ensure that the Standing Orders are up-to-date, comply with all relevant legislation, take account of the Council's internal structures and policies, and are fit for purpose and easy to follow. If approved, clear and straightforward procedure notes to assist Services in streamlining procurement activity will be produced to supplement the Standing Orders. The Policy & Advice Team ("P&A") shall also produce updated template documentation.

The majority of the proposed changes have been made in order to ensure that the Standing Orders are compliant with the Regulations. Where the Regulations must apply to a Contract entered into by the Council, the Standing Orders will be explicit on this. The proposed Standing Orders also give real flexibility where the Contract is under the European threshold and do



not prescribe how Services must procure, so long as that process is fair and transparent. The main significant amendments proposed to the Standing Orders, and other points of particular note, are: -

(a) Thresholds

It is proposed that the thresholds at which the Standing Orders apply (as opposed to obtaining four quotes under the Financial Regulations) are increased. At present, the Standing Orders apply to expenditure over £30,000 for goods, works and services, except where the procurement is being undertaken jointly with Aberdeenshire, where the threshold is increased to £60,000 (in line with Aberdeenshire Council's Standing Orders). After consideration, the following limits are now proposed: -

Goods/Services: £60,000

Works: £75,000 (this higher threshold is proposed in recognition of the frequently higher values for this type of procurement.)

It is also proposed that an upper threshold which sits slightly below the limits set in the Regulations, but at which point goods, services and works should be procured in compliance with full application of the Regulations, should be introduced. This is suggested in order to remove the temptation to artificially underestimate potential costs or other efforts undertaken to avoid procuring under the full application of the Regulations, which can often take up more time than simply complying. It will also provide a cushion for the Council in terms of the general over-arching EU treaty obligations. Finally, it will hopefully remove the potential for delays/re-tendering if bids are more expensive than anticipated. It is proposed that the upper threshold be set at 10% below the EU threshold applicable at the time - this will prevent the need for the Standing Orders to be amended every time that the EU threshold changes.

(b) Reporting Back to Committee

At present, Standing Order 76(1) states that where the value or estimated cost of a procurement does not exceed £150,000 then the lowest tender may be accepted by the Commissioning Officer in consultation with the City Solicitor and City Chamberlain. It is recommended that Standing Orders should be amended so that there is no longer a requirement to report back to Committee so long as the tender process and budget already has Committee approval. The requirement to report back can be misleading insofar as it suggests that Elected Members can alter the outcome of the evaluation process, when in fact their only choice is to accept the highest scoring bid or abandon the tender. To do otherwise would breach the Regulations and almost certainly expose the Council to a risk of legal challenge.

(c) Frameworks

It is proposed that the Council makes greater use of appropriate external frameworks/catalogues, subject to the appropriate safeguards being put in place. In essence, the CPU will maintain a list of approved frameworks (and uses for each). As part of the approval process, P&A will undertake a due diligence of the terms and conditions applicable to each framework/catalogue purchase. This due diligence will be available for Services to consider as part of a risk assessment process. Where any non-standard use is proposed, P&A would be required to amend/update the due diligence to take account of the specific procurement requirements.

(d) Disposal of Surplus Equipment

The existing Standing Orders provide that all surplus goods and materials in excess of £5000 which are to be disposed of by the Council must be advertised for sale either by inviting sealed offers or by public auction unless the relevant Committee considers there are special circumstances. It is proposed that this be increased to £10,000.

(e) Works Procurements

At present, works are procured by officers in Housing & Environment and Enterprise, Planning & Infrastructure, generally on behalf of other parts of the Council, e.g. Education. There is no involvement of the CPU, other than in relation to advertising procurements. In the past there has been little input from P&A, however legal input has increased recently. It is proposed that existing arrangements for works procurements should continue but that P&A will provide template documents etc as part of a rolling-programme.

(f) Social Care Contracts

The current and proposed Standing Orders recognise some of the operational quirks around social care commissioning.

(g) Lead-in Period

The proposed Standing Orders state that no officer should be undertaking procurements unless they have been trained. Refresher training will also be provided. Ultimately, it is hoped to develop a cross-service network of officers trained and experienced in undertaking procurements who can share good practice, practical tips and provide mentoring to those who are less experienced. The work done to revise the Standing Orders is running in tandem with other development work. In particular, P&A are updating current template tender documents. It is also proposed to issue regular

guidance/briefing notes to Services. Further, if the amended Standing Orders are approved, they will be supplemented by a clear step-by-step procedure which will be available on the Zone. P&A are also working with CPU on the development of a pre-procurement pro-forma for use by Services, which once completed will essentially form the business case for a procurement. In order for P&A and CPU to develop and then roll-out training, and complete preparatory work, it is suggested that there be a lead-in period between approval by the Council and implementation. It is proposed that the implementation date for the revised Standing Orders relating to Contracts and Procurement be 1<sup>st</sup> April 2010. However, in order to increase flexibility at the earliest opportunity it is proposed that the new financial thresholds become effective to all new procurements as of 23<sup>rd</sup> November 2009

(h) Stand-alone Document

The Council's Standing Orders relating to contracts and procurement are currently contained in Part V of the Council's main Standing Orders. It is proposed that, rather than being part of the main Standing Orders, the contracts and procurement Standing Orders should be a separate stand-alone document. This will enable flexibility as to the layout and numbering and will enable officer to know exactly where to look for a particular Standing Order as opposed to wading through a much larger document.

7. REPORT AUTHOR DETAILS

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8. BACKGROUND PAPERS

None.

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**ABERDEEN**  
**CITY COUNCIL**

## **STANDING ORDERS RELATING TO CONTRACTS AND PROCUREMENT**

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## **PART A - GENERAL CONTRACTS FOR WORKS, SUPPLIES, AND SERVICES**

### **1. EXTENT AND APPLICATION**

(1) These Standing Orders are made under Section 81 of the Local Government (Scotland) Act 1973.

(2) These Standing Orders must be interpreted in accordance with the principles of openness, fairness and non-discrimination.

(3) No tender shall be invited or contract entered into unless the estimated expenditure has been previously approved by the Council. This requires specific Committee approval or the use of appropriate delegated powers. The allocation of a budget as part of the Council's budget setting process is insufficient.

(4) All tendering for Supplies and Services shall, where appropriate, be carried out in conjunction with the Council's Head of Procurement and the City Solicitor. All tendering for Works shall, where appropriate, be carried out in conjunction with either the Head of Housing and Environment or the Head of Enterprise, Planning and Infrastructure and the City Solicitor.

(5) Part A of these Standing Orders shall apply, unless otherwise stated: -

- (i) to all contracts made by or on behalf of the Council for the supply of goods or materials or for the execution of works or for the provision of services. Where such contracts are regulated by any legislation or any Directive of the European Community, the UK Government or the Scottish Government and there is a conflict between the terms of that legislation or that Directive and the terms of the Standing Order, then the terms of the legislation or Directive shall prevail;
- (ii) to the amendment or variation of an existing contract where that amendment or variation is of such magnitude, and/or involves such a level of additional expenditure that it should be regarded as a new contract.

(6) Subject to compliance with the provisions of the 2006 Regulations or any other rule of law:-

- (i) any contract may be exempted by the Council from any or all of the provisions of Part A of these Standing Orders, provided the Council



is satisfied that the exemption is justified by special circumstances and a record shall be kept of these circumstances.

- (ii) there shall be exempted from the provision of Part A of these Standing Orders any contract for the supply of goods or materials or the provision of services or for the execution of works, which in the opinion of the Director of the Commissioning Service controlling the expenditure involved, is urgently required to meet the exigencies of the service. Prior to commissioning the necessary supplies, works or services, the Director of the Commissioning Service must obtain the written consent of the Chief Executive, the City Solicitor, Head of Procurement and City Chamberlain. Any contract made on behalf of the Council under this paragraph shall be reported to the appropriate Committee of the Council by the Commissioning Officer as soon as practicable.

(7) The Standing Orders in this part shall not apply to:-

- (i) contracts of employment; or
- (ii) any contract relating to the acquisition or disposal of land or any interest therein.

(8) Where the Council enters into a contract as the agent of another party or provides professional services to another party in connection with the making of a contract between that party and a third party, the provisions of Part A of these Standing Orders shall apply unless the party for whom the Council is acting specifies otherwise.

(9) Where the Council is the sole or primary funder of another party then the Council shall ensure that, as a condition of such funding, that party shall comply with Part A of these Standing Orders except where the Council approves the use of that party's existing competitive tendering procedure.

(10) All Council staff shall comply with the terms of these Standing Orders. Failure by any employee to comply with these Standing Orders may result in disciplinary action.

(11) The Standing Orders must be read in conjunction with the Council's Corporate Procurement Policy. All staff must comply with the Corporate Procurement Policy and any procedure, guide or manual made under that Policy. Where there is any discrepancy, the Standing Orders shall take precedence.

(12) There are no legal personalities within the Council other than the Council itself and no Service, Department, Establishment, or other part of the Council has the legal capacity to enter into a contract without the prior written agreement of the City Solicitor. All contracts and purchases are let or made by or on behalf of

the Council as a whole and, unless it is agreed otherwise in writing by the City Solicitor, must be signed in accordance with Standing Order 44 of the Council's "Standing Orders and Orders of Reference".

(13) Unless it is agreed otherwise in writing by the City Solicitor, all tenders and contracts to which Standing Orders 4 and 5 apply shall be advertised on the Public Contracts Scotland Portal, notwithstanding any other form of advertisement or notice required by law or otherwise. Such advertising is not required for tenders or contracts to which Standing Order 6 applies or for tenders or contracts entered into via External Frameworks in accordance with Standing Order 21(1) or via Constructionline in accordance with Standing Order 21(2).

## **2. DEFINITIONS**

### **(1) Definitions General**

In these Standing Orders the following words and phrases will have the following meanings: -

**"2006 Regulations"** means the Public Contracts (Scotland) Regulations 2006 (as amended from time to time);

**"Central Procurement Unit" ("CPU")** means the unit established within the Council to promote and co-ordinate strategic procurement and develop procurement staff, processes and systems;

**"Commissioning Officer"** means any officer designated by the Head of the Commissioning Service to have particular responsibility for undertaking any procurement exercise (or any part of a procurement exercise) on behalf of the Commissioning Service. Each Commissioning Officer must be authorised to carryout procurement activities under the Register of Commissioning Officers maintained by the Head of the CPU. Each Commissioning Officer must also have received training designated by the CPU which is based on an overview of the Corporate Procurement Policy;

**"Commissioning Service"** means the service department of the Council with responsibility for procuring any particular requirement for supplies, services or works on behalf of the Council or the disposal of surplus material;

**"Constructionline"** means, the UK Register of Pre-Qualified Construction Services;

**"the Council's Corporate Procurement Policy"** means the policy approved by the Council setting out the detailed requirements for the conduct of procurement

activity within the Council (as amended from time to time) with which all Council staff are required to comply;

**“an EU Procurement”** means a procurement which complies with all of the rules set out in the 2006 Regulations;

**“the EU Supplies/Services Threshold”** means the threshold set by the EU for Supplies and Services Contracts as amended from time to time;

**“the EU Works Threshold”** means the threshold set by the EU for Works Contracts as amended from time to time;

**“Head of the Commissioning Service”** means the Head of Service in the Commissioning Service;

**“Most Economically Advantageous Tender”** means the best value for money tender based on the optimum combination of price and quality, not simply price alone;

**“the Public Contracts Scotland Portal”** means the website maintained by the Scottish Government on which contract documents may be made available to interested parties via the internet, and which may be found at <http://www.publiccontractsscotland.gov.uk>;

## **(2) Works Procurements**

It is recognised that the procurement of Works requires specialist knowledge. It is also recognised that Works procurements are almost exclusively undertaken by officers within either the Housing and Environment Service or the Enterprise, Planning and Infrastructure Service. Notwithstanding the terms of these Standing Orders nor any provision to the contrary, where Works are being procured then all references to the Head of Procurement and the CPU shall mean the relevant personnel within the Housing and Environment and Enterprise, Planning and Infrastructure Services, as appropriate.

## **3. TENDERING PROCEDURES FOR DIFFERENT CONTRACT VALUES AND RULES ON AGGREGATION**

### **(1) Tendering Procedures for Different Contract Values**

The procedure to be followed for the award of any contract by the Council depends upon the estimated value of that contract. Values or amounts referred to in Part A of these Standing Orders shall be based on the best available estimate at the time of tendering.

The relevant values and the associated tendering procedure that must be applied by the Commissioning Officer are detailed in Table 1 below. These values are exclusive of VAT and relate to the full life of the contract including any extensions.

**Table 1: Relevant Values and Associated Tendering Procedure**

<b>Contract Type</b>	<b>Estimated Contract Value</b>	<b>Applicable Procedure</b>
Works	10% less than the applicable EU Threshold and above	Standing Order 4 – an EU Procurement
Supplies/Services	10% less than the applicable EU Threshold and above	Standing Order 4 – an EU Procurement
Works	From £75,001 to 10% less than the applicable EU Threshold	Standing Order 5 – a competitive tendering exercise (Non-EU)
Supplies/Services	From £60,001 to 10% less than the applicable EU Threshold	Standing Order 5 – a competitive tendering exercise (Non-EU)
Works	Up to £75,000	Standing Order 6 – four competitive quotes
Supplies/Services	Up to £60,000 (Supplies/Services)	Standing Order 6 – four competitive quotes

These values will be reviewed in accordance with any revision of the thresholds values for Supplies, Services or Works contracts intimated from time to time by the EU Commission. All other financial limits specified in the Standing Orders shall be subject to review from time to time.

**(2) Aggregation**

The Commissioning Officer must take into account the aggregate value of any single requirement for works, services or supplies across the whole Council to determine if it exceeds the applicable threshold. If so, even if the procurement of any such requirement is split among a number of contracts which, taken individually, are below the applicable threshold values, each of these contracts is subject to the requirements of the Standing Orders and, where applicable, the

2006 Regulations in the same way as if the requirement were procured through a single large contract.

If there are a number of contracts for a single requirement for the same type of works, supplies or services then the total value of the individual contracts (or “lots”) must be aggregated. If the aggregate value over the contract term equals or exceeds the relevant threshold then, the applicable procedure set down in Standing Order 3(1) above must be applied to the award of each contract.

Standing Order 4 provides further detail regarding rules on aggregation applicable to EU Procurements.

#### **4. EU PROCUREMENT**

An EU Procurement must be undertaken where the Commissioning Service proposes to tender for any contract with an estimated value equal to or exceeding the Council’s thresholds prescribed at Standing Order 4(1) below. This means that the procurement must be undertaken in accordance with the rules set out in the 2006 Regulations.

##### **(1) The Council’s Prescribed Thresholds at which an EU Procurement must be undertaken**

- Contracts for the execution of works: 10% less than the EU Works Threshold.
- Contracts for the supply of goods/materials: 10% less than the EU Supplies/Services Threshold.
- Contracts for the provision of services: 10% less than the EU Supplies/Services Threshold.

Values are exclusive of VAT and relate to the full life of the contract. The thresholds at which the Council must undertake an EU Procurement have been set at 10% less than the prescribed EU thresholds in order to ensure that the Council meets its obligations under the 2006 Regulations and its Treaty Obligations.

##### **(2) Aggregation**

The Commissioning Officer must take into account the aggregate value of any single requirement for works, services or supplies across the whole Council to determine if it exceeds the EU threshold. If so, even if the procurement of any such requirement is split among a number of contracts which, taken individually, are below the threshold values, each of these contracts is subject to the 2006

Regulations in the same way as if the requirement were procured through a single large contract.

The following rules for aggregation must be applied by the Commissioning Officer:

- (i) if there are a number of contracts for a single requirement for the same type of works, supplies or services then the total value of the individual contracts (or "lots") must be aggregated. If the aggregate value over the contract term equals or exceeds the relevant threshold then, subject to Standing Order 4(2)(ii), the 2006 Regulations apply to the award of each contract.
- (ii) there is an exemption for "small lots" of an estimated value over the contract term below £54,738 (for supplies or services) and £684,221 (for works) as long as this value does not exceed 20% of the total value of all "lots". Any exempt "small lot" must be advertised in accordance with Standing Order 5.

### **(3) Mixed Procurement**

The 2006 Regulations include rules for determining how to treat mixed procurement comprising works, supplies and services, as follows:-

#### **(i) Part A / Part B Services**

Where services specified in both Parts A and B of the "Categories of Services" as described in Schedule 3 to the 2006 Regulations are to be provided under a single contract, then the entire contract shall be treated as:

- a Part A Services contract if the value attributable to the services specified in Part A exceeds that attributable to those specified in Part B; and
- a Part B Services contract if the value attributable to the services specified in Part B is equal to or exceeds that attributable to those specified in Part A. If the value of the Part A Services exceeds the relevant EU threshold, however, then the entire contract must be advertised as a Part A Services contract.

#### **(ii) Services/Supplies**

Where services and supplies are to be provided under a single contract, then the entire contract shall be treated as:

- a services contract if the value attributable to the services exceeds that attributable to the supplies; and

- a supplies contract if the value attributable to the supplies is equal to or exceeds that attributable to the services.

### **(iii) Services/Works**

Where a contract for services includes “Activities Constituting Works” as described in Schedule 2 to the 2006 Regulations that are only incidental to the principal object of the contract then the entire contract shall be treated as a services contract.

### **(4) EU Procurement Procedures**

All procurement under the 2006 Regulations shall be carried out in accordance with one of the following procedures: - the open procedure; the restricted procedure; the negotiated procedure (with or without prior publication of a Contract Notice); or the competitive dialogue procedure.

#### **(i) Open Procedure**

This is a straightforward "one stage" tendering procedure. The assessment of suppliers and their qualifications to undertake the contract takes place at the same time as the evaluation of their tender.

#### **(ii) Restricted Procedure**

This is a two stage tendering procedure, suitable where the Council wants to limit the number of suppliers who are invited to tender. The assessment of suppliers and their qualifications to undertake the contract is carried out as a initial "pre qualification" stage through the issue of a Pre-Tender Questionnaire (PTQ). The Council is then entitled to select those suppliers who meet the PTQ requirements for invitation to tender. A minimum of 5 tenderers must, wherever possible, be invited to tender.

#### **(iii) Negotiated Procedure**

This procedure may only be used where expressly permitted under the 2006 Regulations. The Head of the Commissioning Service must obtain the prior written permission of the City Solicitor and Head of Procurement in order to use the negotiated procedure. There are two forms of the negotiated procedure:- negotiated procedure where publication of a Contract Notice is mandatory; and negotiated procedure where publication of a Contract Notice is non-mandatory.

#### **(iv) Competitive Dialogue**

This procedure is only available in limited circumstances when a particularly complex contract is being procured. The Head of the Commissioning Service must obtain the prior written permission of the City Solicitor and Head of Procurement in order to use the competitive dialogue procedure. The nature of the procedure allows the Council, through dialogue with suppliers, to develop a specification best suited to meeting its needs. A minimum of 3 tenderers must, wherever possible, be invited to participate in the dialogue.

#### **(v) General**

Commissioning Officers shall seek guidance from the CPU before determining the appropriate procedure to be selected. The Head of Procurement shall ensure that the selected procedure is carried out in accordance with the relevant provisions of the 2006 Regulations. The City Solicitor must be consulted for legal advice in order to ensure compliance with the relevant provisions.

#### **(5) Advertising**

Contracts affected by the 2006 Regulations must be advertised in the Official Journal of the European Union (OJEU). There are three kinds of notices which may require to be published (depending on the procedure selected) in the OJEU at different stages in the procurement process as follows:-

- (i) a Prior Indicative Notice (PIN) which gives advance warning to contractors of the essential characteristics of a forthcoming contract, including a forecast of when the Contract Notice will appear in the OJEU. Each PIN must be published at least 52 days and no more than 12 months before despatch of the Contract Notice;
- (ii) a Contract Notice giving more details about the particular contract including the criteria by which the contract is to be awarded;
- (iii) a Contract Award Notice giving details of any contract awarded under the 2006 Regulations which must be published regardless of whether any of the other Notices have been published.

The CPU must be consulted regarding the preparation and publication of any notice to be published in the OJEU.

#### **(6) Timescales**

- (i) The 2006 Regulations set out timescales that must be applied for expressions of interest and/or submission of tenders. These



depend upon the procedure that has been selected. The Commissioning Officer, in conjunction with the CPU must ensure that, as a minimum, the relevant timescale detailed in Table 2 below is applied during the EU tendering procedure. These are minimum timescales and may be extended (but not reduced) at the discretion of the Commissioning Officer:-

**Table 2: EU Procurement Procedures: Minimum Timescales**

<b>Procedure</b>	<b>Expressions of Interest</b>	<b>Tender Response</b>	<b>Tender Response where PIN published (general requirement)</b>	<b>Tender Response where PIN published (minimum requirement)</b>
Open (incl. Dynamic Purchasing System ("DPS"))	N/A	52 days	36 days	22 days
Restricted	37 days	40 days	36 days	22 days
Negotiated (with prior publication of a Contract Notice)	37 days	N/A	N/A	22 days
Negotiated (without prior publication of Contract Notice)	N/A	N/A	N/A	N/A
Competitive Dialogue	37 days	N/A	N/A	N/A
DPS Call-off (see Standing Order 4(9)(ii)(e))	N/A	15 days	N/A	N/A
Accelerated Procedure	15 days	10 days	N/A	10 days

NB: Timescale period commences from the day following date of despatch of relevant notice to the OJEU. Timescales must be extended if required due to the complexity of the particular procurement. Tender response periods, where stated to be "N/A" for the negotiated and competitive dialogue procedures, should allow sufficient time from the despatch of the invitation to tender to enable tenderers to prepare and submit an appropriate response. It is recommended that the tender response period under either of those procedures is no less than that for the restricted procedure.

- (ii) In cases of urgency rendering compliance with the normal timescales impractical, then subject to obtaining the prior written approval of the City Solicitor and Head of Procurement, the timescales in the restricted procedure or the negotiated procedure (with prior advertisement) for expressions of interest can be reduced to 15 days and for return of tenders to 10 days. An explanation why the accelerated timescales are used must be included in the Contract Notice. (Urgency, in this context must be narrowly defined and must normally arise for reasons external to the Council. It does not cover situations of administrative inefficiency). The Head of the Commissioning Service shall prepare and retain a written report regarding the reason(s) why the accelerated timescale was applied in relation to any particular tendering procedure.
- (iii) Certain minimum timescales specified in Table 2 may be reduced for certain procedures where electronic means of communication and information exchange are used as follows:-
  - by seven days where the Contract Notice is drawn up and transmitted by electronic means in accordance with the format and procedure set out on the EU commission's SIMAP website (<http://simap.europe.eu>);
  - by five days where the Council offers unrestricted and full direct access by electronic means to the contract documents (in accordance with Standing Order 9) from the date of publication of the Contract Notice, and where the Contract Notice specifies the Internet address at which the documents are available.

The CPU should be consulted for advice on timescales.

These reduced timescales are shown in Table 3 below:-

**Table 3: EU Procurement Procedure: Reduced Timescales where Electronic Means of Communication used**

Procedure	Expressions of Interest		Tender Response		Tender Response where PIN published (general requirement)		Tender Response where PIN published (minimum requirement)	
	SIMAP Format	Online Access Only	SIMAP Format	Online Access Only	SIMAP Format	Online Access Only	SIMAP Format	Online Access Only
*Open (incl. DPS)	N/A	N/A	45 days	47 days	29 days	31 days	22 days	22 days
Restricted	30 days	No reduction	No reduction	35 days	No reduction	31 days	22 days	22 days
Negotiated (with prior publication of a Contract Notice)	37 days (where no PIN published) 30 days (where PIN published)	No reduction	N/A	N/A	N/A	N/A	22 days	22 days
Negotiated (without prior publication of a Contract Notice)	N/A	N/A	N/A	N/A	N/A	N/A	22 days	22 days
Competitive Dialogue	30 days	No reduction	N/A	N/A	N/A	N/A	22 days	22 days
Accelerated Procedure	10 days	No reduction	No reduction	No reduction	N/A	N/A	10 days	10 days

\*Where documents are communicated by a combination of both SIMAP Format and online access, the timescale in the Open Procedure can be reduced to 40 days for tender response (where no PIN published) and 24 days for tender response (where PIN published – general requirement).

In the event that any tenderer reasonably requests further information relating to the contract documents, such information must be sent out not later than six days before the last date for receipt of tenders (or four days if the restricted or accelerated procedure is being used). The same information must also be made available to all other tenderers within the same timescales.

### **(7) Tenderers Right to Information Regarding Contract Awards**

As soon as possible after a decision has been made, following the evaluation process set out in Standing Order 7(6) to award any contract to the successful tenderer(s): -

- (i) the intention to award a Contract letter(s) shall be issued by the CPU (in accordance with the template letters approved by the City Solicitor); and
- (ii) the CPU shall prepare letters for issue at the same time as the award letter(s) (in accordance with the template letters approved by the City Solicitor) informing unsuccessful candidates (i.e. those who failed to be selected for invitation to tender) and unsuccessful tenderers of: -
  - the criteria for the award of contract;
  - where practicable the score obtained by that unsuccessful candidate/tenderer and the successful tenderer(s); and
  - the name of the successful tenderer(s).

As soon as possible after any decision to abandon or re-commence an award procedure, the Head of Procurement must inform all tenderers.

### **(8) Mandatory Standstill Period**

In relation to any contract award to which the 2006 Regulations apply:-

- (i) The Head of Procurement shall leave a minimum standstill period of 10 calendar days between the date of informing tenderers of the intention to award a contract and the actual award of the contract. If any tenderer makes a written request for a debriefing by midnight on the second working day of the 10 day standstill period, the Head

of Procurement, in conjunction with the Commissioning Officer must de-brief that tenderer during the standstill period.

- (ii) Upon such written request, any unsuccessful candidate or tenderer must be advised of the reason(s) why it was unsuccessful and the characteristics and relative advantages of the successful tenderer.
- (iii) The Head of Procurement must allow three working days between the de-briefing and the end of the standstill period. If necessary the standstill period must be extended to meet this requirement. The City Solicitor must be consulted for further guidance on this aspect of the award procedure as required.
- (iv) In any event, the Head of Procurement shall, within 15 days of a written request from any unsuccessful candidate/tenderer inform that candidate/tenderer of the reasons why it was unsuccessful and the name of the successful tenderer(s).

## **(9) Special Types of EU contracts/procedures**

### **(i) Framework Agreement**

A Framework Agreement is a general term for agreements with economic operators which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. Regulation 19 of the 2006 Regulations must be applied to the award of any Framework Agreement.

In awarding any Framework Agreement under the 2006 Regulations:-

- (a) the term of the Framework Agreement must not exceed four years unless the Head of the Commissioning Service obtains the prior written agreement of the City Solicitor that there are exceptional circumstances justifying a longer duration;
- (b) no substantial change may be made to the terms of the Framework Agreement when any contract is awarded under that Framework; and
- (c) no Framework Agreement may be used in any improper manner to distort competition or avoid application of the 2006 Regulations or these Standing Orders.

In awarding any contract under a Framework Agreement:-

- (a) the contract must comply with all the substantive terms set out in the Framework Agreement as originally awarded.
- (b) without prejudice to (a) above, where there is only one Framework supplier, in awarding any contract under that Framework the Head of the Commissioning Service may consult with the supplier in writing requesting it to supplement its tender if necessary.
- (c) where there is more than one Framework supplier:-
  - provided that there were sufficient qualified candidates and compliant tenders, the Framework Agreement must be entered into with at least three suppliers; and
  - any contract under the Framework Agreement must be awarded either: -
    - through the application of terms set out in the Framework Agreement without further competition,
    - or
    - where not all the terms of the proposed contract are laid down in the Framework Agreement, through a mini-competition.

Where award of the contract is made through mini-competition:

- (a) award criteria for any mini-competition must be stated in the Framework Agreement;
- (b) all Framework suppliers capable of performing the contract must be informed in writing about the contract and invited to tender by a specified reasonable deadline; and
- (c) the contract must be awarded to the tenderer who submitted the best tender in accordance with the award criteria stated in the Framework Agreement.

### **(ii) Dynamic Purchasing Systems (DPS)**

A DPS is a completely electronic system which may be established for a limited period to purchase commonly used supplies, services or works. Regulation 20 of the 2006 Regulations must be applied in relation to the use of any DPS.

The Council may use a DPS only for the purchase of commonly used works, services or supplies. The Commissioning Officer shall decide, in consultation with the Head of Procurement, and the City Solicitor whether a DPS may be used for the purchase of any specific works, services or supplies.

Where a DPS is so used, it must:-

- (a) operate as a completely electronic system;
- (b) not last for more than four years unless the Head of the Commissioning Service obtains the written agreement of the City Solicitor that there are exceptional circumstances justifying a longer duration;
- (c) not be operated in a manner that hinders, prevents or distorts competition.

Where it is agreed to establish and operate a DPS:-

- (a) the DPS shall be advertised by publication of a Contract Notice under the open procedure;
- (b) the Contract Notice must specify where the contract documents may be found;
- (c) any tenderer who meets the evaluation criteria and submits a compliant indicative tender must be invited to participate in the DPS;
- (d) any tenderer who misses an initial opportunity to participate may still apply at a later date to be included in the DPS;
- (e) when any particular contract is to be awarded under the DPS, a simplified Contract Notice must be sent to the OJEU in the first instance, inviting any tenderer who is not already participating to submit an indicative tender within 15 days from despatch of the notice (see Table 2 in Standing Order 4(6)(i));
- (f) when the specified deadline has passed, all indicative tenders must be evaluated and all members of the DPS invited to tender for the particular contract within a time limit set by the Council;
- (g) the particular contract must be awarded to the tenderer who submits the best tender in accordance with the award criteria specified in the original Contract Notice (although such criteria may be formulated more precisely).
- (h) tenderers must not be charged for application to join or admission to the DPS.



### **(iii) e-Auctions**

An e-Auction is a repetitive electronic process by which all tenderers submit prices to be revised downwards or otherwise submit new and improved elements of their tenders. Regulation 21 of the 2006 Regulations must be applied in relation to the use of any e-Auction.

e-Auctions may be used under most tender procedures and, where competition is being re-opened, under either a Framework Agreement or DPS. They may be used as part of a 2-stage tendering procedure which allows for the submission of qualitative information for evaluation, followed by an e-Auction for the submission of prices.

They may not be used:-

- (a) in certain circumstances where the negotiated procedure is being used;
- (b) for the award of a works or services contract concerning intellectual performance (e.g. the design of works);
- (c) where the contract specification cannot be precisely established.

Prior to the publication of any Contract Notice for a contract where it is intended to use an e-Auction, the Head of the Commissioning Service shall obtain the prior written consent of the Head of Procurement and the City Solicitor.

Where it is agreed to conduct an e-Auction:-

- (a) the contract documents must be drafted and the e-Auction conducted in accordance with any specific procedural rules issued by the City Solicitor in consultation with Head of Procurement
- (b) the Contract Notice must state that an e-Auction may be used for the award of the contract;
- (c) the award criteria for the contract must be either price only or on price and/or other factors where the award criteria is the Most Economically Advantageous Tender. An e-Auction can only take quality criteria into account where these can be quantified and expressed in figures or percentages.
- (d) all tenderers who submit admissible tenders must be invited to participate in the e-Auction.
- (e) the invitation to tender must include details on how the e-Auction will be conducted;
- (f) throughout the e-Auction, tenderers may submit new prices or values and the CPU must ensure that sufficient information is communicated instantaneously to each tenderer to ascertain its relative ranking in the e-Auction at any time;

- (g) the identity of participating tenderers may not be disclosed during any phase of the e-Auction;
- (h) at the close of the e-Auction, the contract must be awarded on the basis of the results of the e-Auction taken together with any other tender evaluation criteria.

#### **(10) Special Rules: Works Concessions; Public Housing Schemes; Design Contracts**

Special rules apply to the procurement of the following types of contract:-

- (i) public works concession contracts: where the contractor or "concessionaire" is not paid directly by the Council, but is instead given an opportunity to exploit the works to be constructed in order to generate profit;
- (ii) certain design and construct contracts for public housing schemes; and
- (iii) design contests for the acquisition of plans or designs by the Council following adjudication by a jury, as part of a procedure leading to the award of a public services contract of a value in excess of the relevant EU threshold.

Such contracts must be awarded in accordance with the relevant rules set down in the 2006 Regulations. The Head of Procurement shall consult the City Solicitor prior to commencing any tendering procedure for the award of such contracts.

#### **5. COMPETITIVE TENDERING (NON-EU)**

(1) This Standing Order applies together with the procedures in Standing Orders 7 and 9 where the Head of the Commissioning Service proposes to award any contract with an estimated value of between £60,001 up to 10% less than the EU Threshold (for supplies or services) or between £75,001 up to 10% less than the EU Threshold (for works) or is otherwise exempt from the provisions of Standing Order 4.

(2) The Commissioning Officer must:-

- (i) assess whether the contract might potentially be of interest to economic operators located in other Member States of the European Union; and

- (ii) ensure a degree of advertising and follow a procedure leading to the award of a contract which is sufficient to enable competition in accordance with the principles of openness, fairness and non-discrimination.

(3) For any contract that is deemed to be potentially of interest to economic operators located in other Member States of the EU, advertisement on the Public Contracts Scotland Portal **and** in accordance with Standing Order 4 shall be required in order to comply with this Standing Order.

(4) For any contract that is not deemed to be potentially of interest to economic operators located in other Member States of the European Union, advertisement on the Public Contracts Scotland Portal, or for Works contracts use of Constructionline, shall be deemed sufficient to comply with this Standing Order.

## **6. COMPETITIVE QUOTES - SUPPLIES/SERVICES CONTRACTS BELOW £60,000 AND WORKS CONTRACTS BELOW £75,000**

(1) The tendering procedure laid down in Standing Order 5 need not be applied to any contract with a total estimated value below £60,000 (for supplies/services) or £75,000 (for works) as long as the duration of the contract does not exceed 1 year.

(2) In these circumstances, the Commissioning Officer shall comply with the requirements of the Council's Financial Regulations and where possible, obtain four quotes by telephone, fax or written quotation. Any oral quotation must be confirmed in writing. All quotations must be retained. The successful quotation shall be accepted by the Head of the Commissioning Service following evaluation in accordance with the Corporate Procurement Policy.

(3) Even at this value of expenditure, a contract is required. The Commissioning Officer must ensure that either an appropriate Works contract is used or in the case of supplies/services, an appropriate contract as determined by the City Solicitor.

(4) In the event that a supplier or contractor refuses to accept the Council's Terms & Conditions of Contract for any supplies or services, under no circumstances may any officer of the Council accept that supplier's or contractor's own Terms & Conditions of Contract without first having referred those Terms & Conditions of Contract to the City Solicitor for review and approval. In relation to works contracts, Commissioning Officers shall take advice from the City Solicitor, where appropriate, prior to accepting such terms and conditions.

NB - Experience suggests that contracts for leasing of equipment (e.g. photocopiers, vending machines etc.) can be onerous. The Commissioning Officer must refer the contractual documentation to the City Solicitor for assessment, and obtain approval from the City Chamberlain and Head of Procurement to enter into such leasing agreements.

## **7. TENDERING PROCEDURES FOR ALL CONTRACTS (SUBMISSION, OPENING, CHECKING, EVALUATION, REPORTING AND ACCEPTANCE)**

This Standing Order applies in respect of all contracts, irrespective of value, to be procured in accordance with Standing Order 4 (EU Procurement) and Standing Order 5 (Competitive Tendering Non-EU). This Standing Order does not apply to contracts procured in accordance with Standing Order 6 (Competitive Quotes) or to contracts entered into via External Frameworks in accordance with Standing Order 21(1) or via Constructionline in accordance with Standing Order 21(2).

### **(1) Submission**

- (a) The invitation to tender and contract documents shall:-
- (i) state the nature and purpose for which tenders are invited;
  - (ii) state the location, date and time (in all cases 16:00 hours) for the delivery of tenders;
  - (iii) state that tenders received after the closing date and time specified in the contract documents, or at a place other than the location specified, shall not be considered;
  - (iv) specify the period during which tenders must remain open for acceptance;
  - (v) state that the Council reserves the right to accept other than the lowest priced tender or to accept no tender at all;
  - (vi) set out the criteria which shall be used in evaluating tenders;
  - (vii) where the evaluation criteria are other than the lowest price, these shall be set out in order of importance in the contract documents;
  - (viii) include a Form of Tender page with provision for the total tender price to be inserted (where appropriate) and a signature by an authorised signatory on behalf of the tenderer, together with a Certificate as to Canvassing and a Declaration;
  - (ix) state that no tender shall be received except in a sealed envelope bearing the words "Tender for ....." followed by the name and number of the contract to which it relates and the name or other description of the tenderer. (NB this last requirement shall not apply where the procurement procedure is being carried out by electronic means of communication only.
- (b) Tenders must be delivered to a prescribed location. All tenders for Supplies and Services shall remain in the custody of the Head of Procurement, and tenders for Works shall remain with the Commissioning Officer, until they have

been opened. The date and time of receipt by the Council of tender envelopes from tenderers shall be clearly stamped thereon at the time of receipt.

(c) No tender shall be considered for acceptance unless it is received at the specified location by the date and time prescribed according to the contract documents. Late tenders must remain unopened. The tenderer must be advised as soon as possible that if the late tender is not uplifted (or re-called if the procurement procedure is being carried out by electronic means of communication) within 14 days it will be destroyed (or deleted). Where there is any question as to whether or not a tender has been received late, the written approval of the City Solicitor shall be required to admit the tender for consideration.

(d) Any tender submitted to an address other than the location specified in the contract documents must remain unopened. The tenderer must be advised as soon as possible that if the tender is not uplifted (or re-called if the procurement procedure is being carried out by electronic means of communication) within 14 days it will be destroyed (or deleted).

## **(2) Opening**

Tenders shall be opened as follows:-

(a) The Head of Procurement shall prepare a list of all parties to whom tender documents have been sent.

(b) All tender envelopes timeously received shall be opened by the Head of Procurement or a member of staff authorised by him/her in the presence of two Members of the Council, who shall immediately initial the tender documents.

(c) Immediately following tender envelopes being opened the Head of Procurement shall note those tenderers who have offered on the list mentioned in paragraph (a) hereof. Opposite the appropriate tenderer, the Head of Procurement shall insert the amount of the tender. When the list is completed by the insertion of the foregoing information it shall be signed by the same two Officers as mentioned in paragraph (b) hereof, and countersigned by the Head of Procurement.

(d) Tender opening will take place on Mondays and Wednesdays every week.

## **(3) Disqualification**

(a) Mandatory Disqualification

The following tenders must not be considered for acceptance:-

- tenders submitted in whole or in part in pencil;
- tenders submitted by fax;
- tenders submitted by email (unless the procurement procedure is being carried out by electronic means of communication);
- tenders submitted to the wrong location;
- tenders submitted late, i.e. after the date and time of submission.

(b) Any tender which attempts to qualify any terms or conditions in the contract documents may be disqualified. Where the Commissioning Officer or Head of Procurement considers that it would be appropriate to disqualify such a tender he or she shall consult the City Solicitor who will decide, in consultation with the Head of Procurement where necessary, whether the tender shall be disqualified.

#### **(4) Checking**

(a) Between the last date and time for the lodgement of tenders and the date on which a decision is taken as to which, if any, tender is to be accepted, the CPU in conjunction with the Commissioning Officer:-

- (i) shall rectify errors in extensions or summations discovered in the checking of any tender and correct the total sum quoted in the tender;
- (ii) may contact a tenderer if, on examination of the tenders, it is discovered that a tenderer has not complied with the requirements of the tender documentation. (Contact under this sub-heading shall be limited to ascertaining if the tenderer is prepared to conform to the requirements of the tender documentation without amendment to the total sum quoted in its tender. The tender of any tenderer who does not so confirm shall be rejected). A full record shall be kept of such contact and retained with the original tender.
- (iii) may contact a tenderer if it is considered that a tenderer has made a major error in the tender. (Contact under this sub-heading shall be limited to ascertaining if the tenderer wishes to confirm the tender as it stands (subject to arithmetical correction) or wishes to seek permission to withdraw the tender). A full record shall be kept of such contact and retained with the original tender.

(b) In order to ensure that there is no distortion of competition, post-tender communications undertaken prior to contract award shall be carried out in a restricted and carefully handled manner and shall be undertaken by the CPU in conjunction with the Commissioning Officer. Any amendment to tenders or contract documents made as a result of such communications must not go beyond clarifying or supplementing a tenderer's offer. It is essential to consider,

prior to commencing communications whether the amendments that may be achieved are such that a tenderer excluded from the process (whether on the list of tenderers or not) could allege that they had been unfairly treated and/or could have submitted a better offer.

(c) In particular, the CPU shall ensure that all discussions on fundamental aspects of tenders, variations on which are likely to distort competition, and in particular on prices, shall be ruled out. In conducting post tender communications prior to contract award, the CPU shall comply with the following additional rules:-

- (i) all tenderers must be treated equally and in an open and fair manner;
- (ii) tenderers must not be permitted to amend their bids in a manner that allows them to improve their offer;
- (iii) post tender communications must not be carried out in such a manner as to leave the Council open to charges of acting anti-competitively;
- (iv) where any factor giving rise to post tender communications is not specific to one tenderer, all tenderers must be invited to participate in such communications;
- (v) there must be no material change to the specification(s) and/or criteria on which tenders are to be assessed;
- (vi) if it becomes apparent that a material change is required, the tendering process must be recommenced with a revised specification or evaluation criteria;
- (vii) the Commissioning Officer must keep written records of all meetings with contractors and these must include the following details:-
  - who was present from the Council (always more than one officer) and from the tenderer;
  - the date, time and location of any meeting; and
  - the nature of the discussion and the outcome (it would be advantageous if both parties can confirm agreement of the accuracy of this record);
- (viii) At all stages in the process, the CPU must seek advice from the City Solicitor, as appropriate.

## **(5) Evaluation**

(a) The tender documents shall state whether tenders are to be evaluated on the criteria of either lowest price or Most Economically Advantageous Tender. Tenders shall be evaluated strictly in accordance with the evaluation criteria set out in the tender documents. No tender is to be accepted in accordance with criteria not set out in the tender documents unless following consultation with the City Solicitor it is agreed that there are exceptional circumstances. The Director of the Commissioning Service shall keep a written record of the exceptional circumstances and the risk assessment undertaken.

(b) If, during the evaluation process, any post-tender communication with tenderers is necessary prior to contract award in order to clarify or supplement any aspect of their tender, such communication shall be conducted in accordance with 4 (b) and (c) above.

## **(6) Acceptance**

(a) The Most Economically Advantageous Tender may be accepted by the Head of Procurement in consultation with the Director of the Commissioning Service, City Solicitor and City Chamberlain.

(a) If none of the tenders submitted is to be accepted, the Head of Procurement shall notify all tenderers accordingly. No tender shall be accepted unless the Director of the Commissioning Service and the City Chamberlain are satisfied as to the technical capability, professional fitness and financial standing of the successful tenderer.

(b) After a tender has been accepted, the Head of Procurement shall notify unsuccessful tenderers, indicating who was awarded the contract and shall comply with the requirements set out in Standing Order 4(7).

(c) All letters issued under this Standing Order shall be issued at the same time. The City Solicitor must be consulted in cases where further advice or assistance is required. Where the 2006 Regulations apply to the award of any contract, letters shall be issued so as to ensure compliance with the mandatory ten day standstill period.

(d) No tender shall be accepted unless –

- (i) where any revised estimate of cost, including the tender, exceeds the amount provided in the annual estimates, the additional cost has received prior approval from the appropriate Committee; and



- (ii) the appropriate contractual documentation has been approved by the City Solicitor.

(e) Acceptance of a tender is not the same as signing a contract. In assessing contract documentation under (d) above, the City Solicitor shall determine the most appropriate form of contract for each procurement, regardless of value. All contracts let following a tender process under these Standing Orders must be signed in accordance with Standing Order 44 of the Council's "Standing Orders and Orders of Reference" unless it is agreed otherwise in writing by the City Solicitor, their nominated representative or the Chief Executive.

## **8. APPLICABLE LAW**

All contracts entered into in terms of and in accordance with these Standing Orders shall, unless otherwise authorised by the appropriate Director in consultation with the City Solicitor and only then in special circumstances, be in writing and shall be subject to the law of Scotland and the exclusive jurisdiction of the Scottish Courts.

All contracts entered into in terms of and in accordance with these Standing Orders shall be signed in accordance with Standing Order 44 of the Council's "Standing Orders and Orders of Reference" unless it is agreed otherwise in writing by the City Solicitor, their nominated representative or the Chief Executive.

## **9. ELECTRONIC PROCUREMENT**

(1) The Head of Procurement may, in consultation with the City Solicitor, direct that a procurement procedure is to be carried out by electronic means of communication.

(2) Where such direction has been made:-

- (i) the tender documents may be issued, tenders may be submitted and received, and information throughout the procurement process may be exchanged by electronic means;
- (ii) the timescales set out in Table 2 at Standing Order 4(6)(i) may be reduced in accordance with Table 3 at Standing Order 4(6)(iii) where the tendering procedure is subject to the 2006 Regulations; and

- (iii) the Commissioning Officer shall comply with such procedures as may be issued by the Head of Procurement in consultation with the City Solicitor.

## **10. NEGOTIATED AND EXTENDED CONTRACTS**

(1) With the exception of any contract to which the 2006 Regulations apply, if the Head of the Commissioning Service, the City Solicitor and the City Chamberlain consider that there are special circumstances which justify the negotiation of either:-

- (i) a contract with one supplier; or
- (ii) in the case of an existing contract, an extension to that contract;

without prior advertisement in accordance with the Standing Orders, then Standing Order 5 shall not apply to such negotiation.

(2) The Head of the Commissioning Service shall obtain the prior written agreement of the City Solicitor and the City Chamberlain in respect of any contract to be awarded or extended in accordance with Standing Order 10(1).

## **11. CORRUPT OR ILLEGAL PRACTICES**

(1) Every written contract shall contain a clause entitling the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift for consideration of any kind as an inducement or reward for doing or for refraining from doing or for having done or refrained from doing any action in relation to the winning or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour, these acts shall have been done by any person employed by the contractor or acting on its behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council the contractor or any person employed by it or acting on its behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward, the receipt of which is an offence under Section 68(2) of the Local Government (Scotland) Act 1973.

(2) Without prejudice to the foregoing generality, if any contractor tendering for a contract with the Council or under a contract entered into with the Council shall offer or give any gratuity, bonus, discount, consideration or bribe of any kind whatsoever to any Member or Official of the Council, the Council shall forthwith remove that contractor from the list of tenderers or determine that contract as the case may be, and such contractor shall be liable for any loss or damage which the Council may thereby sustain.

## **12. HEALTH AND SAFETY**

The Commissioning Officer shall, in the selection of tenderers for the execution of construction and related works, take reasonable steps to ensure that all prospective tenderers employing five or more persons shall have submitted in advance evidence to show compliance with the relevant sections of the Construction (Design & Management) Regulations 2007 and any amendment or replacement and that in all cases due regard is had to the requirements of the Health and Safety at Work etc Act and regulations thereunder.

## **13. INSURANCES**

(1) Every contract in connection with the execution of works and, where appropriate, the supply of goods or materials and the provision of services shall provide that the contractor shall:-

- (i) maintain such insurances as are necessary or are specifically required to cover –
  - (a) liability to workpeople under statute and at common law; and
  - (b) liability to third parties;
  - (c) liability to the Council for failing to meet appropriate professional standards; and
- (ii) whenever required, produce for inspection by any officer authorised by the Council for that purpose documentary evidence that the insurances are properly maintained and the relative policy or policies and receipts in question.

(2) Certificates of insurance (and any renewal receipts therefor during the period of the contract) shall be exhibited to the Council prior to the commencement of every contract for the carrying out of works or the provision of supplies or services and on demand thereafter throughout the whole period of the contract.

## **14. PERFORMANCE BONDS**

(1) At the discretion of the Commissioning Officer, contractors may be required to enter into a Bond with a bank or insurance company for a sum equal to 10% of the contract sum for the due performance of the contract/or a parent company guarantee.

(2) In the case of a contract subject to the conditions of contract issued by the Scottish Building Contracts Committee, the Performance Bond or Bonds shall be discharged on the issue of a Certificate of Practical Completion and in the case of a contract subject to the Institution of Civil Engineers Conditions of Contract, the Performance Security or Bond shall be discharged to the extent of 50% on the issue of a Certificate of Substantial Completion and shall be discharged to the remaining extent at the end of the Defects Correction Period under the contract.

## **15. ADMINISTRATION AND MONITORING OF CONTRACTS**

(1) The Head of Procurement shall maintain a Contract Register for the monitoring of all contracts and framework agreements developed or in use across the Council, which shall include the value or amount of each contract (where able to be so identified), all payments made to account and the total payments made on the contract. In addition, the Head of Procurement shall maintain any records of award of contract required under the 2006 Regulations. The Commissioning Officer within the Commissioning Service shall ensure that the prescribed information as detailed by the CPU is communicated to the CPU. Quarterly updates of each Service's register should be sent to the Head of Procurement.

(2) Throughout the procurement process the Commissioning Officer shall:-

(a) communicate the information regarding the proposed contract at the time when the procurement process for the award of that contract is initiated;

(b) use a unique contract reference number in relation to that contract throughout the procurement process (details of these can be obtained by the Central Procurement Unit) for the award of that contract on all notices, publications, documentation and correspondence; and

(c) ensure that, as successive stages in the procurement process take place, the prescribed information in the Contract Register is updated accordingly up to and including contract termination.

(3) Contract monitoring and management arrangements agreed during the tender process will be determined by the complexity and risk associated with the contract, conditions in the relevant market and must consider both financial and quality aspects. The Director of the Commissioning Service must ensure processes are in place for this.

(4) Contracts entered into in terms of these Standing Orders must be monitored and managed by the Commissioning Service throughout the contract term, to ensure delivery of the contracted supplies, services or works in accordance with

the contract requirement and standard. No contract for Supplies or Services shall be amended without the prior written consent of the City Solicitor and the Head of Procurement. In relation to Works contracts, Commissioning Officers shall take advice from the City Solicitor, where appropriate, prior to amending any contracts.

## **16. DISPOSAL OF SURPLUS GOODS AND MATERIALS**

(1) Subject to the provision of these Standing Orders all surplus goods and materials in excess of £10,000 in value to be disposed of by any part of the Council shall be advertised for sale either by inviting sealed offers or by public auction, unless in special circumstances (of which the Committee concerned shall be the judge) it is otherwise decided.

(2) The arrangements for the disposal of surplus goods and materials not falling within paragraphs (1) shall be delegated to the appropriate Director.

## **17. ACQUISITION AND DISPOSAL OF LAND AND BUILDINGS**

(1) Prior to proposals by Standing Committees regarding the possible acquisition, development, disposal or change of use of lands or buildings owned by the City Council and relating to the provision of services for which they are responsible being recommended for approval to the Finance and Resources Committee the City Solicitor and City Chamberlain shall be fully consulted in order that an evaluation of the proposals can be made and the Committees advised accordingly.

(2) When considering any proposals:

- (a) A Committee, other than the Superannuation Investment Committee in considering a proposal which would involve (a) the acquisition of land or buildings or (b) the provision of buildings it shall take into account any instructions thereon which the Finance and Resources Committee may wish to give in relation to the matter.
- (b) When a Committee, following the appropriate consultations, has (a) approved a change of use of any land or building or (b) declared any land or building surplus to requirements, it shall be referred to the Finance and Resources Committee for final determination.

## **18. GENERAL DELEGATIONS TO CHIEF EXECUTIVE AND CITY SOLICITOR**

(1) The City Solicitor, whom failing the Director of Corporate Governance, is authorised to raise or defend, or in emergency (and with the approval of the Chief Executive) settle legal actions of all descriptions.

(2) The Chief Executive, whom failing, any appropriate Director is authorised in an emergency to initiate action under any statutory procedure related to a function vested in the Council subject to report being made to the appropriate Committee at the first opportunity.

## **19. APPLICATION OF INTERPRETATION ACT ETC**

(1) The Interpretation Act 1978, shall apply to the interpretation of these Standing Orders as it applies to the interpretation of an Act of Parliament.

(2) Nothing in these Standing Orders shall prejudice the taking of any action required by virtue of any statute.

## **20. EQUAL OPPORTUNITIES**

Before entering into a contract, the Council shall obtain from the contractor an assurance in writing that, to the best of its knowledge and belief, it has complied with all statutory requirements in respect of compliance with human rights and equal opportunities legislation and is not discriminating against any person or persons.

## **21. USE OF EXTERNAL FRAMEWORKS AND CONTRACTS (e.g. SCOTLAND EXCEL, CATALIST, etc.) AND CONSTRUCTIONLINE**

### **(1) External Frameworks and Contracts**

Use of any specific External Frameworks or Contracts by the Council must be approved in writing by the Head of Procurement and the City Solicitor prior to the Council entering into such Frameworks/Contracts. The Head of Procurement will keep a "Register of Approved External Frameworks and Contracts". The City Solicitor will review the Terms and Conditions pertaining to each Approved External Framework/Contract and will complete a due diligence which will be kept in the Register of Approved External Frameworks and Contracts. If Commissioning Services wish to purchase via an Approved External Framework or Contract they must obtain the prior written approval of the City Solicitor and

the Head of Procurement. Only once such written approval has been given will the Council be able to enter into such External Frameworks or Contracts.

## **(2) Constructionline**

Where the Council is entering into a non-EU Works contract then Commissioning Officers will be permitted to utilise Constructionline notwithstanding the provisions of these Standing Orders.

## **22. ASSIGNATION**

Except where otherwise provided in a contract entered into with the Council, a contractor shall not assign or sub-let the contract or any part thereof except with the prior written consent of the Council.

## **23. RESPONSIBLE THIRD PARTIES**

It shall be a condition of the engagement of the services of any third party or person (not being an Official of the Council) including any consultant and/or other professional advisor, who is to be responsible to the Council for a contract that, in relation to that contract, he/she shall:-

- (i) comply with these Standing Orders as though he/she were an Official of the Council;
- (ii) at any time during the carrying out of the contract produce on request to the appropriate Chief Officer all records maintained by him/her in relation to that contract; and
- (iii) on completion of the contract, transmit to the appropriate Chief Officer all such records relating to that contract.

## **24. BREACH OF STANDING ORDERS – REPORTING & DISCIPLINARY ACTION**

(1) Any non-compliance with or breach of these Standing Orders must be reported immediately on discovery to the relevant Service Manager, Head of Service or Director, as appropriate, and the City Solicitor in her capacity as Monitoring Officer to the Council.

(2) Failure to report any known non-compliance or breach may result in disciplinary action being taken against the employee who failed to report the non-compliance or breach.

(3) The relevant Service Manager, Head of Service or Director, as appropriate, will undertake an investigation in accordance with the Council's Managing Discipline Policy where deemed necessary. Appropriate disciplinary action may be taken where: -

- (i) Serious non-compliance with or breach of the Standing Orders is identified; or
- (ii) Repeated non-compliance with or breach of the Standing Orders is identified.

(4) In the event of a serious breach of the Standing Orders, the City Solicitor in her capacity as Monitoring Officer may undertake such investigations as deemed necessary, and will report to the relevant Director, Chief Executive or Committee of the Council as appropriate.

## **25. SUSTAINABILITY**

Sustainable Procurement incorporates environmental, economic and social considerations. Sustainable Procurement, where relevant to the subject of the contract, should be incorporated into every procurement process and the Council's Sustainable Procurement Policy should be followed.

## **26. FREEDOM OF INFORMATION**

(1) The tender documents shall give notice to tenderers of the Freedom of Information (Scotland) Act 2002 (and, if applicable, the Environmental Information (Scotland) Regulations 2004). The Act and Regulations give a statutory right of access to all information held by the Council except where an exemption or exception can be applied.

(2) Tenderers who seek to incorporate provisions within any contract that all or some information is provided by them in confidence will not necessarily be entitled to rely on such provisions.

(3) The Commissioning Officer shall ensure that the standard Freedom of Information clause drafted by the City Solicitor is incorporated in the contract documents.



## **PART B - SOCIAL CARE CONTRACTS**

### **27. RESOURCE TRANSFER FROM HEALTH BOARDS**

- (a) Where agreement has been reached between the Council and any relevant Health Board for the transfer of resources, whether in money or otherwise, from that Board to the Council, then the Director of Social Care and Wellbeing, in consultation with the City Chamberlain and City Solicitor, may enter into a contract with that Board for the transfer of those resources without the requirement for Committee approval subject to: -
- (i) the contract in question being for the transfer of resources to the Council and for no other purpose; and
  - (ii) the Director of Social Care and Wellbeing advising the Council at no less than three monthly intervals of the amount of resources so agreed.
- (b) Where the Council intends to enter into any arrangement or contract to which Part B of these Standing Orders applies (and which is to be funded in whole or in part by resources transferred or to be transferred from any Health Board in accordance with Standing Order 27(a)) then the said Board may be involved in discussions with and be consulted by the Commissioning Officer in relation to the decision to award any contract to such extent as the Director of Social Care and Wellbeing considers appropriate, save that the final decision to award any such contract shall always be that of the Council acting in accordance with Part A of these Standing Orders.

### **28. RESIDENTIAL/NURSING HOME CARE**

- (a) In order to assist the Council to comply with its obligations in terms of the Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993 ("the 1993 Directions") or such other Directions as may from time to time be in force, the Director of Social Care and Wellbeing in consultation with the City Solicitor shall utilise the national model contract on a call off basis only for the provision of private or voluntary sector care home services, such care to be paid for by the Council at rates set nationally and approved by the Council in each financial year.
- (b) The Director of Social Care and Wellbeing may enter into contractual arrangements with the providers of such care services on the terms specified in said national model contract, subject to: -

- (i) confirming that the provider in question is an appropriate person to provide such services;
- (ii) the provider being the holder of a current and valid Certificate of Registration from the appropriate Registration Authority to provide the categories of care for which the Council wishes to contract; and
- (iii) the provider being on the Council's Approved Provider List.

## **29. NON-RESIDENTIAL SERVICES**

The Council may from time to time approve sums of money to be utilised solely for the purposes of providing non-residential social care services. The Director of Social Care and Wellbeing and the City Solicitor shall develop standard model contracts for such services and which shall thereafter be entered into with the providers of such services, subject to: -

- (i) the Director of Social Care and Wellbeing confirming that the provider is a suitable person to provide such services; and
- (ii) the provider being on the Council's Approved Provider List; and
- (iii) if appropriate, the provider being the holder of a current and valid Certificate of Registration from the appropriate Registration Authority to provide the categories of care for which the Council wishes to contract.

## **30. COMMISSIONING SERVICES/TENDERING**

- (a) In tendering for social care services and in recognition of the need for Service Users to be involved in the arrangement made for care and the 1993 Directions, the Director of Social Care and Wellbeing shall ensure that Service Users and/or their representatives are fully consulted throughout the tendering process. In particular, a Service User and/or representative will be invited to participate in the evaluation of tenders, including attendance at any presentations or site visits conducted as part of that evaluation.
- (b) Notwithstanding the terms of Standing Order 30(a) above, the Director of Social Care and Wellbeing, subject to the agreement of the City Solicitor, may certify a purchase as being unsuitable for tendering, due either to the nature of the services required or the timescales involved. In such circumstances, there shall be no requirement for a competitive tendering exercise to be conducted, however the selected provider must satisfy the requirements of Standing Order 29 (a) (i) - (iii).

### **31. PART A OF THESE STANDING ORDERS**

Except as may be required to accord or comply with Standing Order No. 30, the entire provisions of Part A of these Standing Orders shall apply to Social Care Contracts as they apply to Council Contracts in general.

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## ABERDEEN CITY COUNCIL

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**COMMITTEE** Council  
**DATE:** 18 November 2009  
**REPORT BY:** City Chamberlain  
**TITLE OF REPORT:** Amendments to Standing Orders - Finance  
**REPORT NUMBER:** CG/09/140

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### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek Council  
(a) approval to the proposed revised Council's Finance Standing Orders (Part IV) which takes account of the revised management and committee structure and  
(b) agreement to a separate stand alone document Standing Orders - Finance

### 2. RECOMMENDATION(S)

- 2.1 It is recommended that the Council  
  
(a) consider and approve the revised Standing Orders – Finance as detailed in this report ; and  
(b) agrees that these standing orders will be a separate stand-alone document.

### 3. FINANCIAL IMPLICATIONS

- 3.1 Minor in relation to the requirement to reprint the revised Standing Orders.

### 4. SERVICE & COMMUNITY IMPACT

- 4.1 None directly.

### 5. OTHER IMPLICATIONS

- 5.1 None directly.

### 6. REPORT

- 6.1 Part IV of Aberdeen City Council's Standing Orders governs Finance and were due for review to take account of the changed circumstances, including service and committee structural changes.

- 6.2 Principally the Finance Standing Orders have remained the same but with a combination, simplification and rationalization of previous Standing Orders. In preparing this revision a review of other Council's Standing Orders has been undertaken.
- 6.3 The main elements to highlight which vary from the current Standing Orders are the :
- (a) proposed process for revenue and capital budget approvals with the Finance and Resources Committee and the Housing and Environment Committee making recommendations to Council for setting Council tax and housing rents and the respective capital programmes; and
  - (b) proposal that the Financial Regulations are approved by the Finance and Resources Committee based on recommendations of the City Chamberlain.
- 6.4 The revised standing orders also address recent internal audit recommendations, for instance, in respect of reporting progress on spend on capital projects.
- 6.5 Attached at Appendix 1 is the proposed revised Finance Standing Orders.
- 6.6 The Council's Standing Orders relating to Finance are currently contained in Part IV of the Council's main Standing Orders. It is proposed that the Finance Standing Orders should be a separate stand alone document rather than being part of the main standing orders.

7. **REPORT AUTHOR**

Susan Cooper, City Chamberlain, [sucooper@aberdeencity.gov.uk](mailto:sucooper@aberdeencity.gov.uk), (52)2551

8. **BACKGROUND PAPERS**

None

**ABERDEEN CITY COUNCIL**  
**STANDING ORDERS - FINANCE**

**CONTENTS**

1. Budgeting
2. Budget monitoring
3. Spending Budgets
4. Review of Charges
5. Annual Accounts of Council
6. Banking and Control of Cheques
7. Services Invoices
8. Internal Audit
9. Financial Regulations

**1. Budgeting****Revenue**

- (1) Each Chief Officer shall submit to the City Chamberlain each year within a timetable set by the City Chamberlain, Revenue Budgets in such form and detail as the City Chamberlain may require, of the revenue expenditure and income applicable to their respective Services for the financial year to which the Revenue Budget relates.
- (2) In preparing their Revenue Budgets the Chief Officers shall follow such guidance as may be provided by the City Chamberlain in accordance with any budget policy laid down by the Finance and Resources Committee and any revised guidance of policy formulated after consideration of any notification by the Scottish Government of the Council's settlement figures.
- (3) The Revenue Budgets as revised and adjusted by the Finance and Resources Committee shall be submitted to a Special Meeting of the Council.
- (4) The City Chamberlain will prepare a financial context report for the Finance and Resources Committee and the Housing and Environment Committee for the next and future financial years. The Finance and Resources Committee and Housing and Environment Committee will then remit the report to Council and may make recommendations to the Council on setting the Council Tax and rent on Council houses, respectively, for the next financial year and on indicative figures for future years.
- (5) After considering the report and any recommendations, the Council shall approve the allocation of resources, authorise the spending and set the Council Tax and rent for Council houses usually at a Special meeting of the Council before 11<sup>th</sup> March each year.

## **Capital**

- (6) Updated draft estimates for the non-housing and housing Capital programmes will be reported to the Finance and Resources Committee and the Housing and Environment Committee, respectively, which will remit them to Council with any recommendations necessary.
- (7) After considering the reports on capital estimates, and any recommendations made by the Finance and Resources Committee and the Housing and Environment Committee the Council may revise the capital programme as it thinks necessary, approve the revised version and authorise the spending.
- (8) The provisions of this Order shall apply with any necessary modifications to any replacement of the Council Tax.

## **2. Budget Monitoring**

- (1) When the revenue and capital budgets have been approved by the Council, it shall be the duty of each Chief Officer to ensure, so far as practicable, that the expenditure of his/her service under each heading within the budgets applicable to the service is not exceeded
- (2) The City Chamberlain shall provide each Chief Officer with periodic statements of income and expenditure for this purpose.
- (3) In addition periodic statements of income and expenditure shall be provided to each service committee and to the Finance and Resources Committee.
- (4) The Service Director shall provide a report to the appropriate service committee outlining progress on capital projects including reasons for any predicted overspend.
- (5) The City Chamberlain shall arrange for the submission to the Finance and Resources Committee (and the Housing and Environment Committee in relation to the Housing Revenue Account (HRA) and housing capital) monitoring reports on the overall revenue and capital budgets and on the Council's overall performance against the approved budget for any year and at such intervals as may be determine by Committee.
- (6) The Committee shall take into consideration the reports submitted by the City Chamberlain and
  - may give such direction to Service Directors as to measures to be taken in relation to the revenue and capital budgets for the remainder of the financial year as may be necessary or advisable in the current circumstances
  - may make recommendations to Council as may be necessary or advisable in the current circumstances



### **3. Spending Budgets**

- (1) A Chief Officer may not incur any expenditure unless
  - it is revenue spend which has been approved as part of the revenue budget under Standing Order 1(5); or
  - it is capital spend which has been approved as part of the Capital Programme approved by Council under Standing Order 1(7), or any separate Act of Council, and where necessary, a tender or quotation has been received under Contracts Standing Orders
- (2) A Chief Officer may incur capital expenditure which, according to the best available estimate at the time of being incurred, will not exceed sums approved by Council from time to time.
- (3) Subject to paragraph (1) of this Standing Order, if a Director
  - proposes expenditure (whether capital or revenue) for which no provision or insufficient provision has been made under the appropriate headings in the Budgets or to reduce income provided and
  - does not propose to transfer funds to pay for the proposed spending which can be absorbed within the total budget for the service or project

he/she shall submit a report in the first place to the Committee controlling the function concerned and, if approved by that Committee for their interest, shall thereafter be submitted to the Finance and Resources Committee for final determination
- (4) In the case however of a proposal for expenditure to be implemented by the Finance and Resources Committee it shall not be necessary to submit the proposal to any other Committee.
- (5) The report to Committee must include a assessment of the spending consequences in current and future years and for revenue expenditure, the identified budget head(s) which will be reduced in current and future years.
- (6) A Service Director, in consultation with the Convener of the appropriate committee for the service may submit a request for expenditure of an emergency nature. In such circumstances the expenditure may be incurred on the authorisation of the City Chamberlain, in consultation with the Chief Executive and the Convener of the Finance and Resources Committee.
- (7) The Service Director requesting the expenditure shall arrange for the matter to be reported to meetings of the Committee controlling the function concerned and to the Finance and Resources Committee.

#### **4. Review of Charges**

- (1) Each Director / Head of Service shall review as frequently as circumstances demand but not less frequently than annually the scales of charges levied for services for which he/she is responsible and shall submit a report thereon to the appropriate Committee of the Council.
- (2) Every such report shall detail the reasons for the proposals contained therein and shall contain an estimate of the variation in income which will result from the application of any revised charge or charges which may be proposed.
- (3) Any annual report required by paragraph (1) hereof shall be submitted in accordance with the timetable prescribed by the City Chamberlain.

#### **5. Annual Accounts of Council**

- (1) The City Chamberlain shall ensure that all of the Accounts of the Council are made up and balanced as soon as practicable, after 31 March, the end of each financial year.
- (2) The City Chamberlain shall ensure that sufficient copies of an abstract of the accounts, the annual Financial Statements, for each financial year are prepared by him/her not later than 30 June
- (3) The City Chamberlain shall submit the annual Financial Statements, to the Council and the Controller of Audit by 30 June or such later date as the First Minister may approve.
- (4) The City Chamberlain shall lay before a meeting of the Council each certified Abstract of Accounts received under Section 101(4) and each report received under Section 102(1) of the 1973 Act.
- (5) The provision of the certified accounts and report to Council at (4) above shall not be later than two months after the date of receipt.
- (6) Before determining any matter relating to or arising from the certified accounts of the Council (including any reports received in terms of Section 102 of the 1973 Act) the Council shall obtain and consider the views of the Audit and Risk Committee.

#### **6. Banking and Control of Cheques**

- (1) The Council's main bank account shall be kept with a bank approved by the Council and subsidiary accounts may be kept with such banks and to such extent as the City Chamberlain *deems expedient*.
- (2) The issue of cheques on behalf of the Council shall be controlled by the City Chamberlain and shall bear the signature of the City Chamberlain or of a Senior Officer designated by him/her.

- (3) The Council's bank accounts shall not be overdrawn at any time in excess of such sum or sums as may be authorised by the Finance and Resources Committee.

## **7. Services Invoices**

- (1) Each Chief Officer shall ensure in relation to his/her service that, so far as practicable, invoices for payment by the Council are rendered and submitted to the City Chamberlain, with any appropriate discount deducted, within one month and always subject to whatever the conditions of the relevant contract may allow after work has been erected or goods and materials have been supplied,
- (2) Each Chief Officer shall also ensure that books, contracts, invoices, accounts and other documents are all duly kept, marked, installed and preserved.
- (3) All accounts between services, payable or receivable, shall be checked and authorised by the appropriate officers and the corresponding entries made in the accounts of the services concerned within a period of two months from the date of issue.
- (4) In the event of the services concerned failing to agree as to the liability for the account or amount thereof, the matter shall be referred to the Chief Executive and the City Chamberlain for final determination.

## **8. Internal Audit**

- (1) The Director of Corporate Governance and the City Chamberlain or any member of his/her staff authorised by him/her shall
  - a) have access at all times to the books, accounts, invoices, other documents and records however held relating to income and expenditure of all services of the Council; and
  - b) be entitled to call for such explanations and background reports as he/she may deem necessary.
- (2) The above will also apply to any appointed consultant or employee of a consultant authorised by him/her.

## **9. Financial Regulations**

- (1) In addition to, and carrying the same authority as the specific provisions contained in these Standing Orders, the Council's Financial Regulations form the financial and administrative principles and procedures for the authority as a whole.
- (2) The Financial Regulations are the foundation to providing and maintaining satisfactory financial systems to secure the proper administration of the Council's financial affairs and are to be regarded as standard and expected practice for employees of the Council. It shall be the duty of the Chief Officer of each service to ensure compliance with these rules and procedures.

- (3) The City Chamberlain shall provide Financial Regulations for the approval of the Finance and Resources Committee and they be amended from time to time by the this committee on the recommendation of the City Chamberlain.

## ABERDEEN CITY COUNCIL

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COMMITTEE	Council
DATE	18 November 2009
DIRECTOR	Stewart Carruth
TITLE OF REPORT	Outside Bodies
REPORT NUMBER:	CG/11/096

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### 1. PURPOSE OF REPORT

The Council is asked to note the updates provided in respect of several outside bodies and their current status, and determine whether or not to retain Elected Member representation on these organisations based on the information provided.

### 2. RECOMMENDATION(S)

- (i) the Council is asked to consider the information provided by the Outside Bodies contacted, and review the extent of its representation on these Outside Bodies to determine if Elected Member representation should be retained on the various organisations detailed below.

### 3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

### 4. SERVICE & COMMUNITY IMPACT

The Council appoints Members to various Outside Bodies which have significant influence and impact in the community.

### 5. OTHER IMPLICATIONS

None.

## 6. REPORT

At its meeting on 30<sup>th</sup> September, 2009, the Council requested that further information be provided on Council Appointments to certain Outside Bodies, and instructed officers to investigate if the following organisations remained in existence, and if so, whether Council representation on these organisations was still required. Officers in Democratic Services have attempted to contact those organisations highlighted at the Council meeting on 30<sup>th</sup> September, and the information obtained is listed in the table below.

Outside Body	Status	Current Representation	Recommendation
Aberdeen Airport Consultative Committee	<p>At the request of Members, officers wrote to the Committee to ask if they would consider adding Councillor Crockett to the membership of the Committee.</p> <p>The AACC advised that they did discuss the matter two years ago and wish to inform the Council that they are unable to make a change to their Constitution (which does not allow for four members) without the full agreement of the Committee. As a first stage they will discuss it at their Passenger Services Group meeting in December. If the Group advise a change, the Committee will consider the matter formally at the AACC meeting in March.</p>	Councillor Clark Councillor McDonald Councillor Penny	Membership to remain as is at present.
Fersands Area Forum	The Project Coordinator has advised that the Area Forum does not require Councillor representation, but that Elected Member representation would be required for the Fersands and Fountain Community Project.	<u>Area Forum</u> – Councillor Adam Councillor Fletcher Councillor Kirsty West	That the Council consider the request from the organisation for representation for the Community Project.
Grampian Service Brokerage Ltd	No response received.		Council is asked to consider if it wishes to retain membership of this body.

<b>Outside Body</b>	<b>Status</b>	<b>Current Representation</b>	<b>Recommendation</b>
Kaleidoscope	Council officers have advised that Kaleidoscope no longer receive funding from the Council. It has been two years since the Council's Arts Education team has had any contact with the group and although the intention had been to revive it, it no longer exists.	Councillor Jennifer Stewart Councillor Kirsty West Councillor Young	Remove from Outside Bodies list.
Margaret Blackwood Housing Association Ltd	No response received.	Councillor Kevin Stewart	Council is asked to consider if it wishes to retain membership of this body.
Oakbank School of Governors	Details on membership of this outside body will be contained in a separate report which will be reported to a future meeting of the Council.	Councillor Allan Councillor Donnelly Councillor Hunter Councillor Laing Councillor Young	
Printfield Area Forum	The Forum is still in existence and asks that Councillor representation be retained.	Councillor Adam Councillor Fletcher Councillor Kirsty West	Retain Elected Member representation.
Robert Gordon College Board of Governors	Details on membership of this outside body will be contained in a separate report which will be reported to a future meeting of the Council.	Councillor Cassie Lord Provost Peter Stephen Councillor Kirsty West Councillor Yuill	
Royal Aberdeen Workshops for the Blind	Details on membership of this outside body will be contained in a separate report which will be reported to a future meeting of the Council.	Councillor Clark Councillor Crockett Councillor Hunter	
Social Investment North East	Organisation no longer exists.	Councillor McCaig	Remove from Outside Bodies list.
Techfest	Techfest has changed its constitution and is now a Board, rather than a Committee. Elected Members would therefore have to be a Trustee of the Board to attend meetings.  The organisation has advised		It is recommended that the Council decide if they wish to nominate a named representative as a contact point for the organisation.

Outside Body	Status	Current Representation	Recommendation
	that they would be delighted to have a named Councillor who they could contact directly with any information.		
WEA Reachout Project	Although the project does not have regular meetings which Council representatives attend, they feel that it would be beneficial to have an appointed Councillor to improve the flow of information. The lead officer advised that she appreciated that there is a high demand from various bodies, but would be grateful if some form of relationship could be maintained with Elected Members in the form of a named person if at all possible.	Councillor Cooney	It is recommended that the Council decide if they wish to nominate a named representative as a contact point for the organisation.
William Harvey Trust	As the income of the Trust is relatively small, it has only met at intervals of two or three years. There will be a meeting in the near future to make a distribution to charities which fall within the remit of the Trust and to also take a decision on the future of the Trust. It is therefore requested that the Council maintain a nominated representative meantime to enable the decision on the future of the Trust to be taken by as many interested representatives as possible.	Councillor Graham	Retain Elected Member representation.

## 7. REPORT AUTHOR DETAILS

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Tel: 522607

## 8. BACKGROUND PAPERS

None.



## ABERDEEN CITY COUNCIL

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**COMMITTEE:** COUNCIL  
**DATE:** 18 NOVEMBER 2009  
**REPORT BY:** CITY CHAMBERLAIN  
**TITLE OF REPORT:** REVENUE BUDGET 2010/11 UPDATE POSITION  
**REPORT NUMBER:** CG/09/145

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### 1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to inform Members on the projected base budget position for 2010/11 with the information that has currently been provided by Services in relation to known budget movements. The Council still awaits final details on a number of issues and these are covered within the report.

### 2. RECOMMENDATION(S)

- 2.1 It is recommended that the Committee:
- a. consider the contents and note this report; and
  - b. instruct Directors to ensure that cost reduction opportunities continue to be identified to ensure that a balanced budget can be presented to Council in due course.

### 3. FINANCIAL IMPLICATIONS

- 3.1. The current forecast out-turn position identifies that further pressure is being experienced by Services in producing a balanced budget for 2009/10. Sustainable alternatives are being sought for the current financial year and the outcomes would clearly have an impact on the 2010/11 budget.
- 3.2. The Council also retains working balances to meet any unforeseen expenses during the financial year. In being prudent the Council aims to retain 2.5% to 3% of net spend which equates to approximately £11 million.
- 3.3. The projected level of working balances after taking into account known commitments is currently anticipated to be £8.5 million or 2% of net spend as at 31 March 2009.

#### **4. SERVICE & COMMUNITY IMPACT**

- 4.1. As a recognised top priority the Council must continue to take the necessary measures to continue to balance its budget. Therefore, Services are required to work within a financial constraint and every effort is being focused on delivering services more efficiently and effectively and not on only reducing services to individuals and communities.
- 4.2. Options for balancing the budget may have an impact upon service delivery and the wider community and these will be identified through each directorate and reported as necessary to the relevant service committee and ultimately to Council on 16 December 2009 and the 11 February 2010.

#### **5. OTHER IMPLICATIONS**

- 5.1. A major impact on the Council's position for 2010/11 is the current economic down turn of the United Kingdom economy and the quantitative easing implemented by the Bank of England to move the country out of recession.
- 5.2. This resulted in a revised national settlement for Scotland for which the detail is now expected for the end of November 2009 and which will have an impact on the final assessment of the scale of adjustment to achieve a balanced budget in 2010/11.
- 5.3. In addition we can anticipate, in future years, a position of significant contracting of public sector funding which will change the shape of and the range of services which can be delivered.

#### **6. REPORT**

##### **Summary – 2010/11 Budget Position**

- 6.1 The current position can be summarised in the following table with the caveat that a number of factors will change this most likely position position. These include – Aberdeen City Council's finance settlement figure, joint board requisitions, the setting of the Non-Domestic rate income poundage, property rates revaluation in April 2010, and decisions on the pace of implementation of Concordat and Single Outcome Agreements (SOA) commitments.

**2010/11 General Fund Revenue Budget** **£ million**

Funding

Current Estimated Funding	445.821
Current Estimated General Revenue Grant Increase	3.300
	449.121

Projected Spend

Current Estimated Spend (as at 6 October 2009)	466.157
Add: Cost Risks (Ref to para 6.12 to 6.15)	9.737
	475.894

Estimated – Savings/Efficiencies target 26.773

6.2 It should also be noted that linking into the Medium Term Financial Plan (MTFP) services have identified additional costs totalling approximately £9 million. These will have to be scrutinised as part of the budget process to determine which items the Council would wish to add to it's cost base. This would increase the above funding gap or savings/efficiencies targets.

**Current Projected Spend**

6.3 The attached table shown at Appendix A shows how the budget moves from £446.046 million in 2009/10 to produce a base line budget of £466.157 million for 2010/11 based on the known movements that the Council will need to budget for which are also outlined at Appendix A

6.4 In determining the base line position for 2010/11 it has become evident that there are a number of areas where the Council is potentially exposed to greater costs based on the current projected position for 2009/10. Primarily, the major risks relate to sports income being considerably down, out of city placements and the increasing demand for adult services.

6.5 There are also ongoing reviews of budgets being undertaken which may have an adverse impact on the base position for 2010/11 and they are also considered further in relation to cost risks. These include:

- Requisitions from Joint Boards (overall assumed 2009/10 contributions);
- Non Domestic Rate revaluations (an additional £130,000 provided for at present);
- Pay Awards (no provision has been made at present other than for already agreed negotiated settlements e.g. teachers);
- Cost of redundancy for further potential workforce reductions;
- Equal Pay appeals (currently £700,000 provided for);
- Audit Fee (currently £520,000 provided for);

- Achievement of 2009/10 savings that are at risk;
- Council Tax collectable and bad debt provision;
- Demand led services (especially given the current economic climate);
- Government Funding levels;
- New statutory pressures;
- Capital spend and cost of debt;
- 3R's Funding (Original business model assumed the use of the Capital Fund which is now part of the Council's General Capital Grant Allocation).

### **Funding**

- 6.6 In preparing the baseline position it has been assumed that there will be no increase in government grant funding. Therefore, at present it is assumed that the total income available to fund the General Fund is £445.8 million, including trading services surpluses.
- 6.7 However, given the Scottish Government's continued commitment to see Council Tax levels in Scotland frozen for a third consecutive year, it is reasonable for the Council to expect to receive an additional £3.3 million.
- 6.8 This should also be taken into the context that the overall Scottish settlement figure is lower than the previously announced provisional settlement.
- 6.9 There are also further anticipated adjustments for Police and Fire pensions and the Fairer Scotland Fund now also being included within the overall General Revenue Grant which the Council will receive for 2010/11.
- 6.10 Given the above, at this stage it is felt prudent that the Council should only anticipate an increase equivalent to the previous Council Tax funding settlement of £3.3 million. Any other adjustment at this stage is likely to be offset by the current reduction announced by the Westminster government.

### **Current Cost Risks**

- 6.11 There are currently a number of cost risks including some of which the Council currently awaits for external input as to the likely impact these will have on the 2010/11 budget.
- 6.12 Based on a most likely position to date these pressures would result in additional costs as detailed below. The figures are merely indicative of what a potential increase will equate to, and is not reflective of the ultimate increase in costs the Council is likely to face:

<b>Note</b>	<b>Description</b>	<b>Assumed variation to baseline</b>	<b>Cost Impact £'000</b>
1	Pay Awards	1%	1,738
1	NDR Revaluation		430
	Joint Board Requisitions	2%	812
	2009/10 Out-turn		8,925
			<u>11,905</u>
1	Assume these items met from corporate budget provision		<u>(2,168)</u>
			<u>9,737</u>

Note: Any variation on the above figures/assumptions will impact on the Council's base budget position for 2010/11.

- 6.13 Further information on the above cost risks are set out at Appendix B.
- 6.14 It is felt prudent that all these items should be included in the likely position to date, as such demand led pressures are to some extent unavoidable unless the Council reviews the way it provides services.

### **Savings**

- 6.15 Services are reviewing their individual budgets to determine what savings can be proposed to ensure that the Council is in a position to set a balanced budget. These proposals are currently being reviewed with services to risk assess and confirm the deliverability and to further identify alternative items that members may wish to include in their budget proposals.
- 6.16 It is planned that the savings identified will be presented to the Finance and Resources Committee on 10 December 2009, after consultation with stakeholders and partners.

### **2011/12 and 2012/13 Budget Position**

- 6.17 An estimated budget position for the financial years 2011/12 and 2012/13 is currently being developed. This will require certain high level assumptions to be made but it will however provide an indication of the continued financial pressure that the Council will continue to face over the short to medium term.
- 6.18 It is planned that this position will be reported to the Finance and Resources Committee on 28 January 2010. It should be borne in mind that the budget for these financial years will be calculated and based on a

range of assumptions with no indication of the likely level of general revenue grant that will be receivable from the Scottish Government.

### **Conclusion**

- 6.19 In conclusion, it can be seen that the Council continues to face difficult financial circumstances. The Scottish Government anticipate announcing individual Council settlement figures at the end of November 2009.
- 6.20 Once this information has been received and reviewed a further briefing for elected members will be made available and the final position reported to Finance and Resources Committee in December.

## **7. AUTHORISED SIGNATURE**

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## **8. REPORT AUTHOR DETAILS**

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01224 523561

## **9. BACKGROUND PAPERS**

Financial ledger data extracted for 2009/10, service committee reports on financial monitoring and the Council's Medium Term Financial Plan;

## APPENDIX A

## SUMMARY OF MOVEMENTS

	Revised Budget 2009/10 £ million	Corporate Adjustments £ million	Cost of Current Service Provision £ million	Income movements £ million	Savings Approved £ million	Service Transfers £ million	Draft Base Budget 2010/11 £ million
<b>NET EXP</b>							
Council Expenses	2.441	(0.222)	0.012	0	0	0	2.231
Office of Chief Executive	1.351	0.011	(0.001)	0	0	(0.410)	0.951
Corporate Governance	23.870	1.403	0.429	(0.262)	0	2.201	27.641
Enterprise, Planning and Infrastructure	46.383	1.667	4.250	1.150	(0.115)	(22.833)	30.503
Housing and Environment	33.123	0.741	2.230	0.362	0	23.643	60.100
Education, Culture and Sport	173.013	4.376	2.950	0.328	(0.430)	(0.397)	179.840
Miscellaneous Services	54.731	0.144	(3.306)	0	0	(2.327)	49.242
Social Care and Wellbeing	111.134	4.243	1.877	(0.538)	(1.188)	0.123	115.650
	<b>446.046</b>	<b>12.363</b>	<b>8.441</b>	<b>1.040</b>	<b>(1.733)</b>	<b>0</b>	<b>466.157</b>
<b>FUNDING</b>							
Central Government Grants	(333.426)						(333.426)
Council Tax	(105.685)						(105.685)
Community Charge Arrears	(0.275)						(0.275)
Reserves and Balances	0						0
Trading Services	(6.660)		0.085		0.140		(6.435)
	<b>(446.046)</b>						<b>(445.821)</b>
Budget (Surplus)/Deficit	<b>0</b>						<b>20.336</b>

**Description****£ million**

Net 2009/10 Budget position rolled forward into 2010/11

446.046

**Corporate Adjustments**

12.363

Other than some minor approved committee decisions this adjustment represents the increased staffing costs. This comprises two elements – Teachers 2.4% pay award and revised teaching numbers (£2.6 million) and incremental pay awards for staff moving up their pay scale (£9.6 million). The outcome of job evaluation has resulted in a large number of staff being placed on the bottom of a new scale and hence they are then able to progress up the scale, with consequential increases in Employer's National Insurance and Superannuation costs. This cost will be incurred for the following two financial years and will therefore be a continued cost pressure.

**Cost of Current Service Provision**

8.441

This represents areas where it is known there are contractual uplifts and new duties or costs that the Council will have to meet in future years. The main movements relate to the change in grant conditions for Private Sector Housing Grant (£750,000), Care Coordinators (£250,000), Landfill/Waste (£1.3 million), Disabled Parking Bill (£400,000), Pothole repairs (£300,000), Civil Enforcement of Bus Lanes (£210,000), ICT Full year costs (£310,000), Property Valuations (£150,000), Reduction in recharges (£900,000), Social Care and Wellbeing pressures and full year impacts (£2.6 million) and miscellaneous other service pressures (£770,000).

**Income Movement**

1.040

This represents known movements in income received by the Council from third parties. Primarily, the main movements relate to a reduction in income in Planning Fees (£500,000), reduction in building warrant income (£700,000) both of which are due to the current economic downturn, coupled with additional income of approximately £500,000 from full year impact on income levels.

**Savings Approved**

(1.733)

This relates to full year savings that will be implemented in 2010/11 but formed part of the 2009/10 budget proposals. These are currently being reviewed with Heads of Service to check their robustness and primarily relate to Social Care and Wellbeing (£1.3 million) and Education, Culture and Sport (£430,000).

**TOTAL PROJECTED EXPENDITURE****466.157**



**Cost Risks**

**Pay Awards (Non Teaching Staff)**

The Council has a central contingency budget provision of £3.2 million that is currently in the 2010/11 budget and a risk strategy could be that a provision is made for 1% and any subsequent ear marked increase above this would be met from the centrally held contingency.

A 1% movement for a pay award roughly equates to a cost for the Council of £1.7 million which could therefore be accommodated within the central contingency if this scenario is implemented.

**NDR Revaluation**

The current NDR valuation roll is due to be updated from a revaluation in April 2010. It is anticipated that this will have an impact on the public sector buildings. If the valuation was to increase by the current estimated 26% and there is a reduction in the poundage rate to 40 pence the cost to the Council would be £430,000.

**Joint Board Requisitions**

The Council currently pays out approximately £40 million, in total, in requisitions to Police, Fire and the Valuation Board. This position assumes a 2% increase.

**2009/10 Out-turn**

The current estimate for the 2009/10 out-turn is currently showing an adverse variance. There are primarily 4 areas that have created the majority of the variance and they are:

<u>Education, Culture and Sports</u>		<u>Social Care and Wellbeing</u>	
Out of City Placements	£0.650 million	Adult Services (Net)	£4.775 million
Reduction in Sports Income	£0.800 million	Out of City Placements	£2.700 million

It is felt prudent that all of these items should be included in this scenario,, as such demand led pressures are to some extent unavoidable unless the Council review the way it provides these services and sustainable alternatives are found.

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COMMITTEE	Council
DATE	18 November 2009
LEAD OFFICER	Chief Executive
TITLE OF REPORT	Chief Officers Second Tier Restructuring
REPORT NUMBER:	OCE/09/12

## 1. PURPOSE OF REPORT

The purpose of this report is to make recommendations to Council for the establishment of a revised structure and remits for second tier Chief Officers.

## 2. RECOMMENDATION(S)

It is recommended that Council:

- i) Agrees to the proposals to establish 16 new posts of Head of Service shown at Appendix One;
- ii) Agrees to the revised remuneration proposals for Heads of Service;
- iii) Notes the proposed recruitment arrangements;
- iv) Otherwise notes the report.

## 3. FINANCIAL IMPLICATIONS

Based upon the current (2009/10) full year costs there will be a financial benefit to be gained from restructuring the Heads of Service as follows:

Current 25.5 Heads of Service	£2,256,342
Proposed 16.5 Heads of Service	<u>£1,611,086</u>
<b>Saving</b>	<b>£645,256</b>

The current structure is based on a standard salary grade of Chief Officer Grade 30 while the proposed structure is based primarily on a salary grade of Chief Officer Grade spinal column point 34 (£75,285), with the exception of 2 posts (i.e. Head of Finance – s.95 Officer – and Head of Legal and Democratic Services – Monitoring Officer) at Grade 36 spinal column point (£78,639.) . The higher grade of the two posts is justified through the Council-wide statutory functions of the section 95 and Monitoring Officer. These posts also have statutory reporting responsibilities to Scottish Government.

The grades have been influenced through benchmarking with other Chief Officer grades and remits across local government in Scotland and in the context of the Chief Officer remuneration scale.

Against this saving there will be limited one-off costs, namely the recruitment and selection costs associated with filling 16 posts. These costs fall into a number of categories and can be described in general as recruitment consultants, advertising and accommodation and catering costs. The overall estimated cost for the full recruitment and selection is £297,455.

The costs of recruitment will be incurred in financial year 2009/10. As agreed at the Council meeting on 25 March 2009, the costs of the recruitment process to the new structure will be met from contingencies. Any severance costs relating to postholders in the current structure will be met from the general fund balances supported by the consent to borrow agreed by the Scottish Ministers. Thereafter, the savings will be achieved starting in financial year 2010/11, accruing a saving to the Council of £645,256 per annum.

The exact costs cannot be determined at this time due to a variety of factors, not least the changes the Council is currently consulting on in relation to the voluntary severance / early retirement scheme, the circumstances, particularly age, length of service and salary and, the individual outcomes of the recruitment and selection process.

What is clear however is that the Council will incur a cost in taking this forward and it will have to evaluate the affordability and funding arrangements for these costs as and when they are actually quantifiable. It should be recognised that the value of these costs may be in excess of £1,000,000, however the long term benefits to Council should not be forgotten as the phasing of a substantial proportion of the potential exit costs can be phased over a 5 year period.

Savings over a 5 year period amount to £2,928,825 (Salary savings £3,226,280 less the recruitment costs £297,455).

#### 4. SERVICE & COMMUNITY IMPACT

The overarching aim of the proposed management re-structuring is to ensure that the Council is organised to deliver Best Value, to strengthen the Council's overall accountability and its ability to deliver effectively the commitments set out in *Vibrant, Dynamic and Forward Looking* and the Single Outcome Agreement.

#### 5. OTHER IMPLICATIONS

The revised management arrangements will impact beneficially on the Council's work through the achievement of greater efficiency, clarity and accountability. The current proposals to address the structure in respect of second tier Chief Officer posts and remits have emerged from the wide-ranging consultation that informed the overall restructuring proposals. Chief Officers have been part of the consultation, as have Trades Unions at local and regional level. All aspects of the proposals have been considered in the context of equalities and human rights impact.

The recruitment process consistent with that for the posts of Director will be open and transparent. The proposed process is made without prejudice to the present

post holders but reflects the significant changes to the management structure and in many cases to job content. Additionally in terms of the accountability of the Council, elected members and Chief Officers as the Council's most senior officers, the extensive improvement required as identified through the recent audits, inspections and overall performance merits a demonstrably challenging process to achieve the best possible outcomes for stakeholders.

In reducing the number of Head of Service posts by 9 posts and the impact of the decision already taken by Council to externally advertise these new posts, there will be a redundancy situation for some Heads of Service. Until the recruitment process is complete it is impossible to know the number of staff affected. For those who choose not to apply for any of the new posts or are unsuccessful in an application, in recognising our statutory obligations to mitigate redundancies, the Council will explore any suitable redeployment opportunities. If there are no suitable redeployment opportunities the staff concerned will be in a redundancy situation.

## 6. REPORT

These proposals for the completion of strategic management re-structuring are based upon a need to achieve better outcomes and public value for our communities; a commitment to achieving best value across the board and, the immediate need to complete the establishment of a clear framework for accountabilities and roles and responsibilities for officers. The overall re-structuring has been the subject of considerable consultation and the respondents in respect of this phase are shown at Appendix Two.

### Consultation

The overall response to the consultation has been positive. A number of specific queries have been received in relation to terminology, titles and role.

Four specific comments have been made in relation to remuneration levels, one in relation to statutory appointments, one in relation to the baseline for evaluation and two in relation to the overall level of remuneration. One of the latter reflects concern over the principle of remuneration review in the context of the current economic climate but also recognises the need to for competitiveness in the recruitment process. The third comment in respect of remuneration urged the Council to implement benchmarking in order to support the competitive recruitment process.

One comment has been raised in relation to the posts going to directly to open advertisement. Clarification has been given that this was approved by Council in March 2009, reflecting the need for transparency and accountability, particularly give recent performance and audit reports.

Clarification has been given to a query about the locus of economic and business development activities in that this post and remit was established in the first tranche of re-structuring.

Comments have been made regarding the need for planning and delivery across the board, recognising that all areas of operational delivery require planning. Comments have been made welcoming the lead role on strategic issues held by directorates facilitating understanding and activity across the whole of the corporate body on particular themes such as regeneration, sustainability and child protection. Clarification was sought from one respondent on the role of community planning. Clarification has been given in that support for Community Planning is led by the Director of Corporate Governance but that all directorates would be involved in the delivery of outcomes identified in the Single Outcome Agreement and in supporting the delivery of the Community Plan. One respondent commented on the need to be clearly citizen focused. One respondent commented on the need to emphasise the importance of partnership and joint working.

A number of queries have been raised about the specifics of portfolio design. The portfolios reflect discussions up to the point of wider consultation and will continue to be appraised for effectiveness. Following implementation there may require some de minimus adjustments going forward and it is recommended that these are subject to consultation with the Conveners and Vice Conveners of the relevant service committees.

#### Recruitment arrangements

It is proposed that the recruitment process commences immediately, subject to the decision of Council, with a view to all appointments being completed by the end of March 2010. The intervention of the Christmas and New Year period is anticipated to break the process between advertising and search and the interview schedule. In accordance with the arrangements agreed by Council at its meeting on 24 June 2009, consultation with the Convener and elected members serving on the Appointments panels will inform the interview schedule.

It is proposed that following the successful role of the external stakeholders assessment centre in the appointments of the directors, the model should be introduced for the appointments of the Heads of Service appointments.

#### 7. REPORT AUTHOR DETAILS

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tel: 01224 522941

## 8. BACKGROUND PAPERS

None

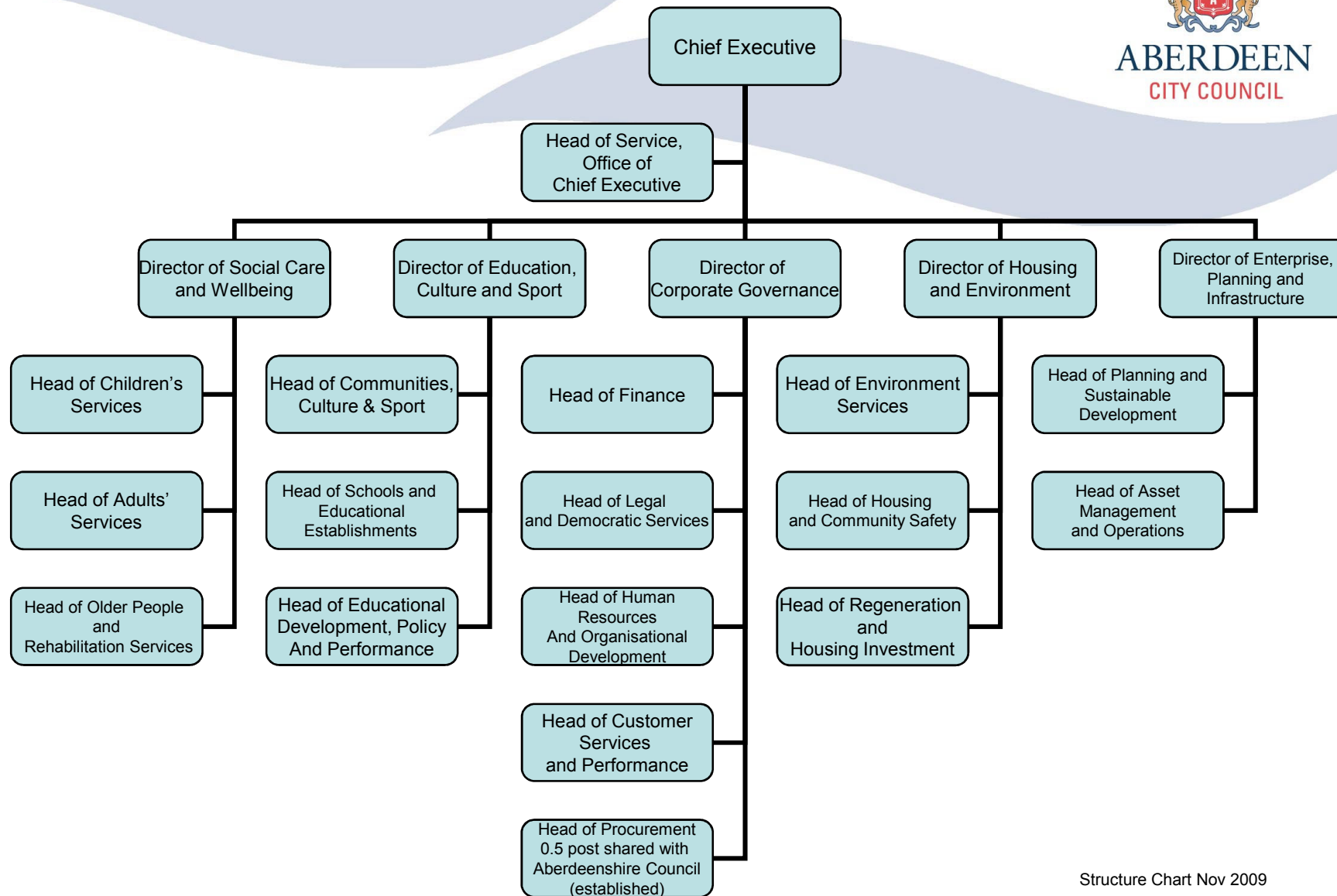
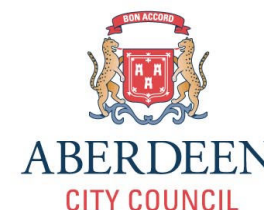
Appendix One – Structure Charts

Appendix Two – Respondents to the consultation





# Management Structure Proposals



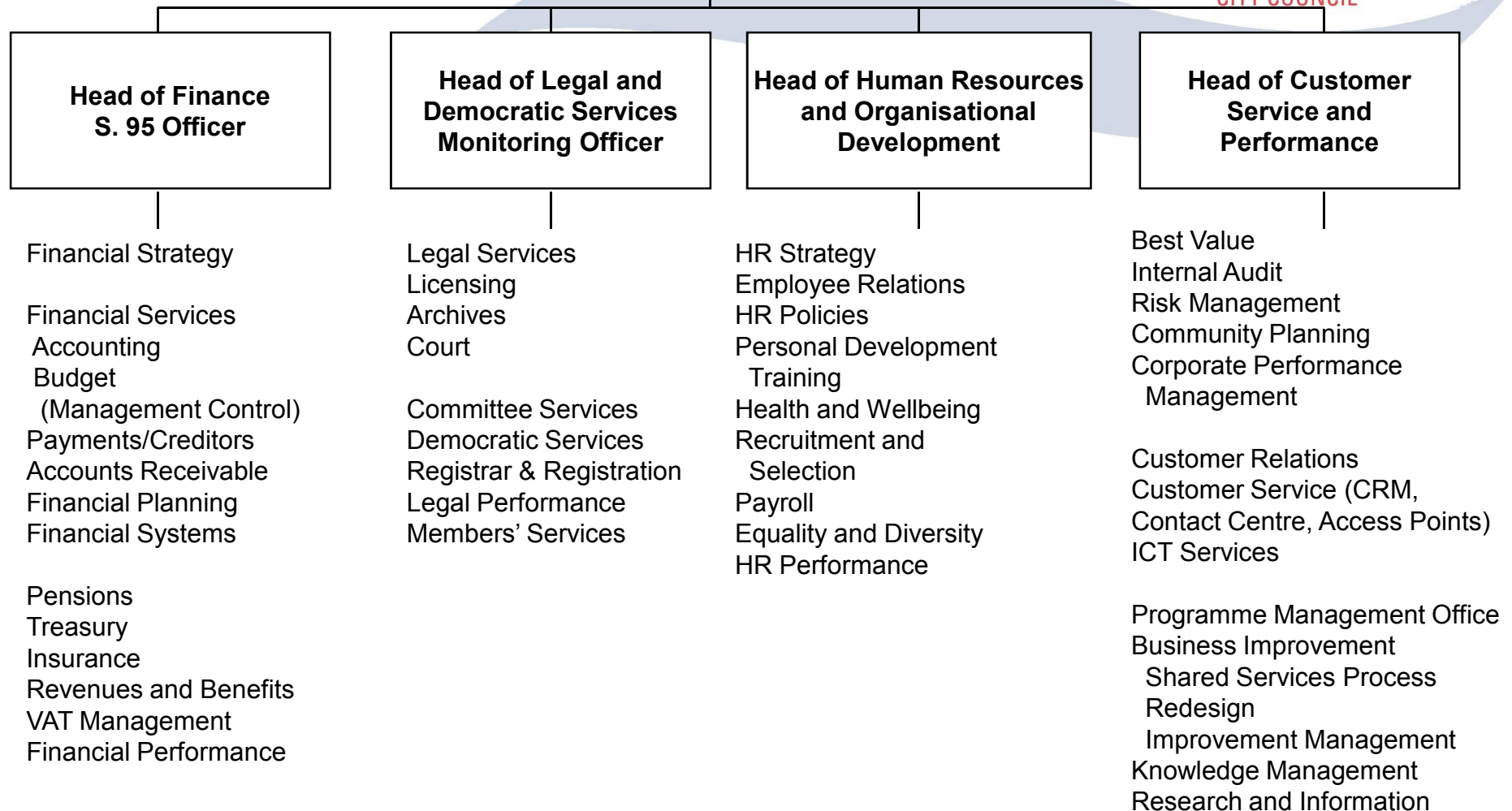
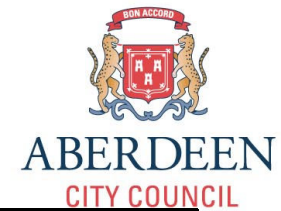
Structure Chart Nov 2009

**Chief Executive**

**Head of Service  
Office of Chief Executive**

Business Support to Office of Chief Executive  
Office of the Lord Lieutenancy  
Civic Office  
Elections  
Communications

# DIRECTOR Corporate Governance





**DIRECTOR  
Education, Culture and Sport**

**Head of Communities,  
Culture and Sport**

**Head of Schools and  
Educational Establishments**

**Head of Educational  
Development, Policy and  
Improvement**

Community Learning and Development  
Culture  
Sport  
Social and Economic Regeneration  
Sustainable Development  
Educational Psychology  
Post-school Transitions  
Children's Services Joint Working

Early Years  
Primary Schools  
Secondary Schools  
Offsite and Specialist Provision  
Additional Support Needs 0-18  
Learning Strategy 0-18  
Curriculum and Quality Development  
Service Improvement  
CPD for Pre-School and Schools

New Educational Development  
Performance and overall Service  
Improvement  
Learning Estate Strategy  
Workforce Planning  
Service Resource and Budget  
Management  
Quality Assurance, Inspection and  
Audit  
ICT Policy and Practice



**DIRECTOR**  
**Enterprise, Planning and Infrastructure**

**Head of Asset  
Management and  
Operations**

**Head of Planning  
and Sustainable  
Development**

- Fleet
- Property and Facilities Management
- Roads and Lighting Operations
- Asset Management
- Capital Planning
- Coastal Defence and Flooding
- Professional Property Services
- Contract Management
- Partnerships and Projects

\*\*\*

- Infrastructure Strategy
- Infrastructure Programmes and Design
- Sustainable Development
- Planning Strategy
- Building Standards
- Development Management
- Partnerships and Projects
- Masterplanning Design
- Aberdeen Western Peripheral Route

\* Shared ACSEF Management Post  
 \*\* Linkage to AECC Management Team and Board  
 \*\*\* Does not include Housing Portfolio  
 \*\*\*\* Economic and Business Development portfolio separately established



**DIRECTOR  
Housing and Environment**

**Head of Environment  
Services**

Waste Policy and Planning  
Street Cleaning  
Grounds Maintenance  
Waste Collection and Disposal  
Environmental Health  
Trading Standards  
Laboratory of the Public Analyst

**Head of Housing and  
Community Safety**

Housing Policy and Planning  
Estate Management  
Allocations/Selections  
Homelessness  
Commissioning  
Community Safety  
City Wardens  
Police/Fire Liaison  
Civil Contingencies Cat 1 Response

**Head of Regeneration and  
Housing Investment**

Regeneration Policy and Planning  
Regeneration Programme Management  
Neighbourhood Community Planning/  
Joint Working  
HRA Asset Policy and Business Planning  
New Build  
Capital Refurbishment and SHQS  
Programme Delivery  
Housing Repairs



**DIRECTOR  
Social Care and Wellbeing**

**Head of Children's  
Services**

- Family Community Support
- Alternative Family Care
- Young People's Care and Accommodation
- Children in Need
- Reception and Protection
- Out of Hours

**Head of Adults' Services**

- Learning Disability
- Mental Health & Substance Misuse
- Criminal Justice

**Head of Older People and Rehabilitation Services**

- Integrated Care at Home
- Resources
- Care Management
- Rehabilitation

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**Respondents to Consultation on Management Restructuring**

Robert Collier, Chief Executive, Aberdeen and Grampian Chamber of Commerce

Lavina Massie, Chair, TACA

Alan Stott, Burgess of Guild

Rob Wallen, Principal and Chief Executive, Aberdeen College

Chief Superintendent Adrian Watson, Divisional Commander, Grampian Police

Cllr John Corall

Cllr Martin Greig

Cllr Willie Young on behalf of the Labour Group

Aberdeen City Council Change Managers

Kath Beveridge, Head of Community Planning and Regeneration

Joe Craig on behalf of UNITE UCATT and GMB

Anne-Marie Gauld, Environmental Planner

Sinclair Laing, Sustainable Development Officer

Janice Lyon, Energy Manager

Will Napier, Programme Co-ordinator

Fiona Smith, on behalf of UNISON

Gary Smith, Laboratory Manager, Laboratory of the Public Analyst

Norrie Steed, Head of Service, Housing & Environment

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**JOB DESCRIPTION**

<b>Job Title:</b>	<b>Head of Legal and Democratic Services</b>
<b>Accountable to:</b>	Director of Corporate Governance
<b>Line management:</b>	Service Managers with responsibility for specific functions that fall under the overall responsibility of the Head of Legal and Democratic Services
<b>Key Relationships:</b>	Corporate Management Team and Heads of Service Conveners and Vice-Conveners of relevant service Committees Elected Members Trades Unions Appropriate public service partners

<b>2. JOB PURPOSE</b>
To undertake on behalf of the Council, all duties and responsibilities associated with the role of: <ul style="list-style-type: none"> <li>Monitoring Officer under Section 5 of the Local Government (Scotland) Act 1973</li> <li>Data Controller in accordance with Data Protection Act 1998</li> </ul>

<b>3. CORE RESPONSIBILITIES</b>	
3.1	<ul style="list-style-type: none"> <li>providing effective management and leadership</li> </ul>
3.2	<ul style="list-style-type: none"> <li>maximising levels of performance, motivation and morale of staff</li> </ul>
3.3	<ul style="list-style-type: none"> <li>being action-oriented and people-focused</li> </ul>
3.4	<ul style="list-style-type: none"> <li>coaching and developing staff</li> </ul>
3.5	<ul style="list-style-type: none"> <li>maintaining and promoting the core values and corporate goals of the Council and ensuring they are communicated effectively to staff</li> </ul>
3.6	<ul style="list-style-type: none"> <li>actively supporting and implementing corporate objectives, and being accountable for the delivery of those objectives</li> </ul>
3.7	<ul style="list-style-type: none"> <li>ensuring that staff are kept well informed about corporate objectives and priorities and matters that impact on their employment and the service they provide</li> </ul>
3.8	<ul style="list-style-type: none"> <li>using resources appropriately to achieve best value results for the organisation and the wider community, keeping a considered and appropriate balance between cost, quality and price</li> </ul>
3.9	<ul style="list-style-type: none"> <li>continually reviewing service performance and striving to improve the quality and efficiency of the service within their functional area</li> </ul>
3.10	<ul style="list-style-type: none"> <li>working with others co-operatively (including external organisations where appropriate) to meet corporate objectives</li> </ul>

3.11	<ul style="list-style-type: none"> <li>actively promoting and delivering equality of opportunity to staff and service users</li> </ul>
3.12	<ul style="list-style-type: none"> <li>actively contributing to a flexible, agile and learning organisation</li> </ul>
3.13	<ul style="list-style-type: none"> <li>proactively managing the health and safety of staff within the post's functional area and ensuring that all key elements of effective health and safety management are in place (e.g. risk assessments)</li> </ul>
3.14	<ul style="list-style-type: none"> <li>recruiting competent staff</li> </ul>
3.15	<ul style="list-style-type: none"> <li>valuing others by delegating responsibility and demonstrating trust within agreed boundaries</li> </ul>
3.16	<ul style="list-style-type: none"> <li>creating a culture where innovation and managed risk taking are encouraged</li> </ul>

<b>4. ROLE SPECIFIC RESPONSIBILITIES</b>	
	This post assumes responsibility as Monitoring Officer in terms of the Local Government and Housing Act 1989. The specific roles that the Head of Service will be responsible for will include: Provision of a Legal Advisory Service, Licensing, Archives, Courts, Committee and Democratic Services, Members Services and Service Performance.
4.1	<ul style="list-style-type: none"> <li>To lead the delivery and provision of Legal and Democratic Services</li> </ul>
4.2	<ul style="list-style-type: none"> <li>To manage, support and direct the service effectively, deploying resources to meet service delivery and performance standards</li> </ul>
4.3	<ul style="list-style-type: none"> <li>To lead in the provision of quality comprehensive legal advice and support to the Council, Corporate Management Team and officers</li> </ul>
4.4	<ul style="list-style-type: none"> <li>To act as the Council's principal Legal Adviser, ensuring the implementation of all legal action required to support the Council's activities</li> </ul>
4.5	<ul style="list-style-type: none"> <li>To develop and lead corporate and effective approach to Democratic Services across the organisation</li> </ul>
4.6	<ul style="list-style-type: none"> <li>To assist and support the formulation of corporate strategic initiatives and identify clear management aims and objectives for the Council</li> </ul>
4.7	<ul style="list-style-type: none"> <li>To promote continuous service improvement and best value within the service through performance management and assessment, establishing performance targets and indicators and service planning</li> </ul>
4.8	<ul style="list-style-type: none"> <li>To foster and ensure a culture where corporate employee performance assessment and development systems are effective in supporting a positive, motivated workforce</li> </ul>
4.9	<ul style="list-style-type: none"> <li>To develop and promote effective methods of communication with elected members, trade unions, employees, service users and relevant external agencies / partner organisations</li> </ul>
4.10	<ul style="list-style-type: none"> <li>To ensure compliance with Council and departmental budget and procurement procedures</li> </ul>
4.11	<ul style="list-style-type: none"> <li>To develop and promote equal opportunities, both in terms of service delivery and in employment, in all aspect of the activities of the Service</li> </ul>
4.12	<ul style="list-style-type: none"> <li>To ensure compliance with the Council's Health &amp; Safety Policy and relevant statutory provisions</li> </ul>
4.13	<ul style="list-style-type: none"> <li>To keep abreast of professional best practice in policy and practice, monitoring performance regularly, together with methods and systems of working within the areas of service responsibility, to ensure that Council</li> </ul>

	policies and programmes are being met
4.14	<ul style="list-style-type: none"> <li>To provide a comprehensive legal service to the Council and its decision making structures and other bodies such as working parties, joint committees or other joint working arrangements with which the Council becomes involved or has responsibility</li> </ul>
4.15	<ul style="list-style-type: none"> <li>Acting on behalf of the Director of Corporate Governance and Chief Executive in the role of legal adviser to the Council, providing directly or otherwise ensuring that the Council and its constituent elements have access to legal advice on matters under consideration or potentially so; and ensuring that, where Council decisions require a legal service for their proper implementation, a prompt and professional service is provided</li> </ul>
4.16	<ul style="list-style-type: none"> <li>The postholder will be responsible for the management and provision of services to the Licensing Board and other Boards</li> </ul>
4.17	<ul style="list-style-type: none"> <li>As monitoring officer for the purpose of Section 5 of the Local Government (Scotland) Act 1973 advising the Director of Corporate Governance and the Chief Executive on a continuing basis for the purposes of these duties in order to ensure legality and propriety</li> </ul>
4.18	<ul style="list-style-type: none"> <li>To assist in the preparation of budgets and forward expenditure plans, monitoring expenditure and regularly accounting to the Director of Corporate Governance for the legal and democratic services functions</li> </ul>

The above is intended to provide a description of the **KEY TASKS** and **ACTIVITIES** of the job. Duties and responsibilities attached to jobs may change from time to time without changing the general character of the duties or the level of responsibility entailed.

<b>7. EXPECTED BEHAVIOURS</b>				
<b>Management Core Competencies</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	
Team Leadership			√	
Developing Others			√	
Empowering Others			√	
Best Value Focus			√	
<b>Core Competencies</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Level 4</b>
Working with Others				√

Acting with Integrity				√
Customer Focus				√
Achieving Results				√
Continuous Improvement				√
Being Accountable				√

Exempt information as described in paragraph(s) 8 of Schedule 7A of the Local Government (Scotland) Act 1973.

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