



Internal Audit Report

Compliance with Procurement Related Legislation and Financial Regulations

Issued to:

Angela Scott, Chief Executive
Richard Ellis, Director of Corporate Governance
Gayle Gorman, Director of Education & Children's Service
Pete Leonard, Director of Communities, Housing & Infrastructure
Judith Proctor, Chief Officer – Aberdeen City Health and Social Care Partnership
Craig Innes, Head of Procurement
Steven Whyte, Head of Finance
Anne MacDonald, Audit Scotland

EXECUTIVE SUMMARY

The objective of this audit was to review a sample of payments in excess of £5,000 made via the Creditors System to ensure that they had been made in full compliance with Legislation and Financial Regulations and that, where appropriate, Value for Money has been achieved by challenging management regarding the purchase. The audit also included a review of files of paid invoices to ensure compliance with Financial Regulations in respect of lower valued payments.

The Standing Orders relating to Contracts and Procurement require that a sufficient level of tendering must be carried out depending on the level of expenditure on a contract, and Committee approval must be sought in advance of seeking tenders in excess of £60,000. The regulations state that expenditure should be aggregated across the whole Council when determining if the threshold is met. The audit sought to ensure that the relevant level of tendering and quotation exercises had been carried out for 40 suppliers with which a substantial level of expenditure had been incurred by Services across the Council.

The requirements of the Standing Orders are not well understood by all Services. Committee approval has not been sought in advance for all relevant expenditure, and aggregate expenditure is not always being suitably coordinated to ensure appropriate procurement exercises are completed.

When challenged, management has offered interpretations of the Standing Orders, Financial Regulations, and Scheme of Delegated Powers, which do not align with the content and spirit of these documents as written, or the understanding of Internal Audit and Commercial and Procurement Services (C&PS).

Where Services have understood the Standing Orders, in many cases they have sought to have them set aside by Committee approval. Whilst due process has been followed in most cases it is not good practice to regularly seek to set aside fundamental internal controls.

The Standing Orders are being further developed, and C&PS has agreed to clarify and simplify the requirements to improve understanding and compliance.

Financial Regulations require advance authorisation of all expenditure on a Purchase Order. There are no exceptions to this requirement, though it may be appropriate for Finance and C&PS to consider developing a list where alternative arrangements apply. Orders are regularly set up for less than the planned expenditure amount, and revised retrospectively on receipt of invoices. Doing so means the amount is not pre-approved and means the budget is not appropriately committed in advance. Services have agreed to remind all staff of the correct process

1. INTRODUCTION

- 1.1 The objective of this audit was to review a sample of payments in excess of £5,000 made via the Creditors System to ensure that they had been made in full compliance with Legislation and Financial Regulations and that, where appropriate, Value for Money has been achieved by challenging management regarding the purchase. The audit also included a review of files of paid invoices to ensure compliance with Financial Regulations in respect of lower valued payments.
- 1.2 The Standing Orders relating to Contracts and Procurement require that a sufficient level of tendering must be carried out depending on the level of expenditure on a contract. The regulations state that expenditure should be aggregated across the whole Council when determining if the threshold is met. The audit sought to ensure that the relevant level of tendering and quotation exercises had been carried out for 40 suppliers with which a substantial level of expenditure had been incurred by Services across the Council.
- 1.3 In addition a sample of retrospectively authorised Purchase Orders and invoices without Purchase Orders were assessed to identify where Financial Regulations have been breached due to lack of authorisation, and checks were completed to identify potential duplicate payments.
- 1.4 All financial values in the report are recorded net of VAT. References to specific Financial Regulations are to the September 2014 version of the Regulations. All references to the Standing Orders relating to Contracts and Procurement refer to the March 2014 revision. Both of these are the regulations currently in force.
- 1.5 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with All Directors, Craig Innes, Head of Commercial & Procurement Services (C&PS), and Steve Whyte, Head of Finance.

2. FINDINGS AND RECOMMENDATIONS

2.1 Procedures and Regulations

- 2.1.1 In order to comply with EU Procurement Regulations, most categories of supply with an estimated value exceeding specified thresholds must be publicly tendered:

	SUPPLIES	SERVICES	WORKS
2016	£164,176	£164,176	£4,104,394
2014	£172,514	£172,514	£4,322,012

- 2.1.2 Section 3 of the Standing Orders Relating to Contracts and Procurement require EU compliant tender exercises to be completed in all instances where the estimated cost over the life of the contract is 10% less than these thresholds and above. Up to £60,000 (£75,000 for works) requires four competitive quotes, and between these values and 10% less than the EU threshold a non-EU tender exercise is required.
- 2.1.3 Section 3(2) requires that 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 2012 (EU) Regulations in the same way as if the requirement were procured through a single large contract. This means that the use of certain suppliers will require coordination at a corporate level to ensure appropriate tendering exercises have been completed in advance of their use.
- 2.1.4 Section 1(3) states that no tender shall be invited or contract entered into unless the total estimated expenditure has been previously approved by the Council. This requires specific full Council or 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.
- 2.1.5 The List of Delegated Powers permit Directors, in consultation with the relevant Conveners of Committees, to authorise spend up to £60,000 without the need to report to Council or Committee for approval, subject to the requirements of Standing Orders in relation to competitive quotes for supplies/services contracts below £60,000. This means that for spend up to £60,000 no Committee approval is necessary, but Directors have to consult with Conveners on each occasion. This is not general practice, and would be administratively burdensome to implement. If it is an error, it should be corrected. Officers have no further documented delegated authority to approve spend in excess of this value.
- 2.1.6 Listing the requirements and delegated powers separately, and by exception rather than rule, could make it more difficult for officers to identify and apply the correct procedure. It would aid understanding, and compliance, if procedures clearly stated that officers must seek specific Committee approval in advance of tendering or entering into contracts exceeding £60,000.

Recommendation

C&PS should clarify and combine relevant procedures to ensure procurement requirements are correct, and straightforward to understand and use.

Service Response / Action

Agreed. Internal Procurement Regulations and the Scheme of Delegation are being reviewed as part of the Governance Review, and ultimately both documents will form part of the Aberdeen City Council Constitution, therefore any inconsistencies will be

removed. The £60,000 threshold has recently been revised (subsequent to this audit) to £50,000, and processes are being revised accordingly.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
August 2016	Corporate Procurement Manager	Significant within audited area

- 2.1.7 Section 21(1) of the Standing Orders states that use of any specific external frameworks or contracts by the Council must be approved in writing by the Head of Procurement and the Head of Legal and Democratic Services prior to the Council entering into such frameworks/contracts. Therefore, even where Scotland Excel or other collaborative procurement options are available and known to Services, separate approval is required before they can be used for the purchase of goods and services.
- 2.1.8 Financial Regulation 5.12.1 notes additional requirements in respect of consultancy contracts. The appointment of consultants shall, wherever possible, be on the basis of four quotes for contracts with an estimated contract value of less than £60,000 and satisfy the regulations for the ordering of services as set out in Standing Order 6. The appointment of consultants with a total cost in excess of £60,000 will be approved by the appropriate Committee. It should be noted that where a contract is likely to extend beyond one financial year then the total value of the contract is determined by adding together the estimated value in each financial year of the estimated contract period.
- 2.1.9 Financial Regulations recognise that exceptional, emergency and specialist supplies may mean that four quotes cannot be obtained for all expenditure under £60,000. In such cases a quotation exemption form is required to be completed with reasons why quotations could not be obtained, and authorisation by a Line Manager or Head of Service.
- 2.1.10 Although it may be appropriate to have such an option for exceptional circumstances, this effectively allows management override of key controls in respect of procurement. Any Line Manager can authorise expenditure of up to £59,999.99 without having obtained competitive quotations to demonstrate that Best Value is being obtained. There is an increased risk of fraud, given that a Line Manager may have directed the requisitioning officer to make the purchase from a specific supplier, and then has responsibility for authorising dispensation from the requirement to obtain further quotes. There is also a risk of repeated use of this exception resulting in contracts which in aggregate exceed relevant Council and EU thresholds. It may be more appropriate to introduce independent approval, e.g. by Commercial and Procurement Services (C&PS), or ensuring some other method of demonstrating appropriate segregation of duties and authorisation at an appropriate level has been applied.

Recommendation

C&PS should review the approval process for Quotation Exemption Forms.

Service Response / Action

Agreed.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
August 2016	Corporate Procurement Manager	Significant within audited area

- 2.1.11 Financial Regulation 5.11.2 identifies a requirement that Orders must be issued for all work, goods or services, or such other expenditure as the Head of Finance may approve. It is therefore required that an official Purchase Order is raised prior to instructing works and services or requisitioning goods from suppliers. Proposals are

currently being considered by the Council in respect of a 'No Purchase Order – No Payment' policy which would reinforce this requirement.

- 2.1.12 There are no exceptions to this requirement documented within the Financial Regulations. There may however be circumstances where it might not be necessary, convenient or provide any additional control to raise a Purchase Order, for example in cases where this would simply be confirming payment of recurring or contractual obligations – e.g. rents, utility bills, and payments due under legal obligation. Unless there are documented exceptions within the Financial Regulations any failure to raise a Purchase Order would be considered to be a breach of the Regulations.

Recommendation

C&PS in conjunction with Finance should review Financial Regulations to clarify whether and what exceptions to the requirement to raise a Purchase Order are allowed.

Service Response / Action

Agreed. A list of exceptions will be included in the guidance notes to support the introduction of the approved No Purchase Order No Payment policy.

Implementation Date

June 2016

Responsible Officer

Financial Services
Manager, C&PS

Grading

Significant within audited
area

2.2 Communities, Housing and Infrastructure

- 2.2.1 22 suppliers to which the Service had made substantial payments over the four year period from November 2011 to October 2015 were selected for review. It was anticipated that Committee approval would have been sought for payments made to 18 of these suppliers, as expenditure of greater than £60,000 had been incurred. Committee approval was only obtained prior to the tendering/expenditure in 7 of the 18 cases.
- 2.2.2 One supplier (a hotel chain) have been used by the Service to provide temporary lodgings for homeless clients. In the last four years over £1.5 million has been spent with this supplier, around 96% of which relates to homelessness. The Service has stated that provision of temporary accommodation for the homeless is a statutory requirement, and this is one of very few providers who are willing to accommodate their homeless clients, and they offer competitive rates as demonstrated through soft market testing. However, no tendering exercise has been completed, no formal contract is in place, and the Service has not sought Committee approval in advance for this expenditure.
- 2.2.3 The Service has stated that this expenditure is demand led and therefore difficult to predict with certainty, and Committee has been informed on various occasions of the use of hotel rooms. A temporary accommodation strategy is moving forward to reduce the use of such accommodation where possible, and further options including development of a temporary accommodation framework are being taken forward.
- 2.2.4 In two cases (one contract for £1,093,000 with a plumbing contractor for Town House roof refurbishment, and another for £6,798,000 with a construction firm for repairs and over cladding to Cairncry multi-storey tower blocks) the Service considered that Committee approval had been obtained in the form of an authorised budget. However, Standing Orders Relating to Contracts and Procurement state that this is insufficient. The budgets referred to were: Non-Housing Capital Programme 2014/15 '294: Corporate Property Condition & Suitability' £8,767,000, and the Housing Capital Budget 2014/15

'2.1 Structural Repairs Multi Storey' £7,380,000. These budgets do not clearly specify the individual projects planned, or the anticipated costs of them. Specific projects need to be authorised in addition to the budget.

- 2.2.5 The Service subsequently (September 2015) sought approval from Finance, Policy and Resources Committee to set aside Standing Order 1(3) in respect of projects contained within its Condition and Suitability 3 Year Programme, which includes repairs to the Town House Clock Tower. This did not explicitly request retrospective approval of project expenditure to date, which included roof repairs amounting to £1,352,801, and the Service has been unable to evidence earlier Committee agreement to incur this level of expenditure in respect of the project. Although the Committee was also given details of the estimated costs of each project, which it could have been asked to approve at that point, setting aside Standing Order 1(3) means that the Service does not have to seek further approval in the event that the estimates vary.
- 2.2.6 Regarding the multi-storey cladding under the Housing Capital Budget, the Service has highlighted that in the Draft Housing Revenue Account (HRA) Budget and Housing Capital Budget 2014/15 to 2018/19 presented to the Finance, Policy & Resources Committee on 5 December 2013 it sought approval for the following items: *"h) In order for work to commence on the capital programme [the Committee] approves as estimated expenditure in terms of Standing Order 1(3) (of the Council's Standing Orders relating to Contracts and Procurement) the sums shown against each heading of the Housing Capital Expenditure budget set out in Appendix 1 to this report; and i) Authorises the Director of Housing and Environment to undertake or instruct appropriate procedures to procure the works referred to in Appendix 1 for the capital programme and award contracts relating thereto."* This item was deferred for Full Council approval, which was obtained on 18 December 2013.
- 2.2.7 The applicable Housing Capital Plan budget heading for the Cairncry over-cladding project was item 2.1.1 Primary Building Elements - Structural Repairs Multi Storey. The Service therefore considers that where the projects are to procure (Housing) contracts applicable to contract works against individual budget headings of the Housing Capital Budget then the estimated values against the budget headings are deemed to be the estimated cost for the project and the Director has delegated authority to accept the project to procure these works by awarding the contract.
- 2.2.8 Although this is what was asked for and agreed, Internal Audit considers that the budget headings are not specific enough to identify relevant projects which are to be tendered and contracted. There therefore remains a risk that contracts may be entered into by the Service which the Council could not have anticipated, and may not have approved had the full details been made available in advance.

Recommendation

C&PS in conjunction with Legal & Democratic Services should review whether and in what circumstances it is appropriate for blanket authorisation of expenditure to be sought by Services.

Service Response / Action

Agreed. New Procurement Regulations are being submitted for approval by Finance, Policy and Resources Committee in June 2016. Section 4.1 of these details the process to be followed to gain authority to incur expenditure.

Implementation Date

September 2016

Responsible Officer

Corporate Procurement
Manager

Grading

Significant within audited
area

- 2.2.9 The Service considered that a structural engineering consultant could be appointed on the authority of the Head of Service under delegated powers, following a compliant tendering process, however this is contrary to Financial Regulation 5.12.1 as noted in section 2.1 above (and paragraph 2.2.11 below). The total spend during the period was approximately £142,000.
- 2.2.10 The Service has stated that in the period examined a Term Consultancy contract was in operation, which had been let under an OJEU compliant tendering process, and therefore Best Value had been demonstrated. It has also stated that under the scheme of delegated powers, the Head of Land and Property Assets has the power to appoint external consultants as and when necessary in connection with projects (in consultation with the Head of Finance, and Head of IT, Customer Service and Performance) included in either the Non Housing Capital Plan or the Housing Capital Plan or financed from appropriate revenue budgets or in connection with proposals or developments instructed by the Council or any Committee of the Council. As a result, the Service does not consider that it is necessary to report in advance to committee regarding the planned expenditure on these supplies.
- 2.2.11 Although there is a delegated power, the Service's understanding is in contrast to the Standing Orders relating to Contracts and Procurement 1(3) which state that *"No tender shall be invited or contract entered into unless the total estimated expenditure has been previously approved by the Council. This requires specific full Council or 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."*
- 2.2.12 It is also in contrast to Financial Regulation 5.12.1 which includes a requirement that *"The appointment of consultants shall, wherever possible, be on the basis of four quotes for contracts with an estimated contract value of less than £60,000 and satisfy the regulations for the ordering of services as set out in Standing Order 6. The appointment of consultants with a total cost in excess of £60,000 will be approved by the appropriate committee. It should be noted that where a contract is likely to extend beyond one financial year then the total value of the contract is determined by adding together the estimated value in each financial year of the estimated contract period."*
- 2.2.13 Internal Audit considers, having consulted and taken advice from Commercial and Procurement Services, that while The Scheme of Delegated Powers provides the power for the referenced officer/s to engage in the activities set out, that power must be exercised within the rules set out in the Financial Regulations and Standing Orders relating to Contracts and Procurement. The Service may appoint consultants, but must ensure that quotations are obtained up to £60,000 or tenders completed and Committee approval obtained prior to incurring expenditure which in aggregate will exceed £60,000.

Recommendation

The Service should ensure Financial Regulations and Standing Orders relating to Contracts and Procurement are always adhered to, even where a delegated power also applies.

Service Response / Action

Agreed. The Service will continue to adhere to financial regulations and standing orders relating to contracts and procurement and act appropriately to ensure delivery of contracts. The Service will seek consultation with C&PS and Legal and Democratic Services to ensure that it complies with the revised scheme of delegation currently under review.

Implementation Date

Implemented

Responsible Officer

Team Leader: Quantity

Grading

Major at a Service Level

- 2.2.14 Although there are no exceptions to the Financial Regulations and Standing Orders relating to Contracts and Procurement in this respect, it could be made clearer in the Scheme of Delegated Powers that in exercising those powers officers must still adhere to the rules and standing orders of the Council.

Recommendation

Legal and Democratic Services should ensure that the Scheme of Delegated Powers explicitly references the requirement to adhere to Financial Regulations, Standing Orders relating to Contracts and Procurement and any other relevant Council procedures, whilst exercising delegated powers.

Service Response / Action

Agreed. The Scheme of Delegation is currently being reviewed. Proposed Procurement Regulations to replace the Standing Orders relating to Contracts and Procurement have been submitted for approval at Finance, Policy and Resources Committee on 7 June 2016. The report requests amendments to the current Scheme of Delegation to reflect changes, to be reported on at a later stage in the Governance Review.

Implementation Date

September 2016

Responsible Officer

Corporate Procurement
Manager

Grading

Important within audited
area

- 2.2.15 A solar energy installation contractor was engaged in 2012 to provide reduced price electricity through solar panels erected on Council buildings. Although erecting the panels was approved by Finance, Policy & Resources Committee in 2012, no expenditure commitment was noted or approved by the Committee – the financial implications of the project were intimated to be a saving of £100,000 per annum on energy bills and carbon emissions, and the supplier was to bear the costs of erecting and maintaining the equipment.
- 2.2.16 Following an incident in which health and safety, and insurance concerns were identified, the Service elected to temporarily disconnect a number of solar panel installations, and has as a result received claims for compensation for lost income from the supplier between 1 August 2013 and 1 May 2014. The Service considered that payment of compensation was due under the contract agreed with the supplier and has therefore paid a negotiated sum of £275,000 to date. It is not clear that the level of costs which would be incurred by taking action to disconnect the panels was calculated or considered in advance of that action being taken.
- 2.2.17 The scheme of delegated powers to officers provides that Chief Officers may “In respect of claims settled without recourse to litigation, if so advised, to authorise settlement or repudiation as the case may be, of any claim made against the Council, subject in the case of payment to there being sufficient budgetary provision in the relevant estimates.” No specific legal advice was taken prior to making this payment as the Service considered it a contractual obligation under contract.
- 2.2.18 Further, as outlined in section 2.1 above, officers cannot authorise expenditure of over £60,000 unless it has been pre-approved by Committee. No such authorisation was sought. Whilst it is acknowledged that the circumstances are exceptional, and decisions had to be taken promptly to ensure public safety was protected, there is still a requirement to report these circumstances to Committee. The Service has stated that this was not done primarily due to the ongoing negotiations and discussions around responsibilities for the works.

Recommendation

1. The Service should ensure that Legal Advice is taken prior to paying any compensation claims.
2. Finance, Policy & Resources Committee should be provided with details in respect of the circumstances surrounding compensation payments to the solar energy contractor.
3. The Service should ensure it can demonstrate Committee approval has been obtained for all expenditure over £60,000.
4. The Service should ensure that tendering is carried out in line with EU Regulations and the Standing Orders Relating to Contracts and Procurement.

Service Response / Action

1. Agreed. The Service will issue a reminder to staff to ensure that legal advice is sought prior to paying compensation claims. However, the Service would wish to reiterate the point that the payment in question was not the result of a compensation claim. The payment was made in accordance with a contractual agreement, and therefore is a contractual payment.
2. Not agreed. The Service does not consider it necessary to report this to Finance, Policy & Resources Committee, on the grounds that this was a contractual payment not a compensation payment. The payment was made within the terms of the contract agreed with the supplier and, as stated, the scheme of delegation permits the Head of Service to meet contractual obligations where sufficient budgetary provision is available.
3. The Service considers that it already seeks Committee approval where necessary and also demonstrates compliance with procurement regulations through the use of Standing Orders and Scheme of Delegated Powers.
4. Agreed. The Service will continue to comply with EU Regulations and the Standing Orders Relating to Contracts and Procurement

Implementation Date

July 2016

Responsible Officer

Head of Land and Property Assets

Grading

Major at a Service Level

- 2.2.19 A software supplier provides software which assists with processing parking appeals. This was purchased over three years ago, with an annual subscription fee of £19,250 which has to date been paid three times. The Service has noted that this fee is variable based on the number of parking Penalty Charge Notices issued. If this service continues at a similar level the expenditure will shortly exceed £60,000. The recommendation at 2.2.18 above applies. The Service has stated that this is considered to be the only provider of the system and a contract is in place until November 2016, but that work is currently ongoing to investigate replacement of the whole system, in conjunction with Procurement. The authorising signatory for these payments stated that a quotation exemption form would have been completed before the contract commenced, but no evidence of this had been retained by either the Service or C&PS.

Recommendation

The Service should ensure that quotation exemption forms are used appropriately and retained as evidence.

Service Response / Action

Agreed.

Implementation Date

July 2016

Responsible Officer

Roads Infrastructure
Manager

Grading

Significant within audited
area

- 2.2.20 In one instance, following the award of external funding, the Service had requested in September 2014 that the Enterprise, Strategic Planning and Infrastructure Committee approve a waiver of normal procurement procedures in respect of purchasing electric vehicles up to the value of £250,000. This was due to the highly specialised equipment and the time restriction imposed by the external funding offer to cover it. The Service stated in the report that there was currently only one company it was aware of which offered range extended hydrogen vans commercially and only this supplier offered hydrogen fuel cell passenger cars commercially. Vehicles were therefore purchased from the supplier in March 2015 at a cost of £90,000.
- 2.2.21 Standing Order 1(6)(a) of the Contracts and Procurement SOs states that *"Subject to compliance with the provisions of the 2012 Regulations or any other rule of law, any contract may be exempted from any or all of the provisions of Part A of these Standing Orders:- (a) by the Council or any competent Committee thereof provided the Council or Committee is satisfied that the exemption is justified by special circumstances. A record shall be kept of these circumstances."*
- 2.2.22 Whilst only £90,000 was actually spent, the Committee was asked for approval for £250,000, which is in excess of the EU threshold of £172,514 which applied in March 2015. The Committee was therefore asked to approve an act which was not compliant with the 2012 Regulations, or the Standing Orders relating to Contracts and Procurement. The Committee was advised of the risks in the report, however given the potential financial and legal implications of single sourcing these items without competition, such authority cannot be granted by a Committee, and should not have been sought in this way by the Service. The Standing Orders of the Council (38(vi)) explicitly preclude the delegation of *"Any proposal which might if adopted give rise to an allegation of illegality or maladministration."*

Recommendation

The Service should ensure Committees are not asked to approve illegal or regulatory non-compliant exceptions to the Standing Orders in relation to Contracts and Procurement.

Service Response / Action

The Service notes the findings of the audit and, while it took legal advice at the time the report was presented to Enterprise, Planning & infrastructure in 2014, the service has since adopted processes to obtain procurement advice to ensure compliance with the Council's Standing Orders.

Implementation Date

Implemented

Responsible Officer

Head of Economic
Development

Grading

Major at a Corporate Level

- 2.2.23 A sample of ten invoices paid by the Service which were not accompanied by a Purchase Order were examined to determine whether Financial Regulations were being

breached. Table 1 in Appendix 1 contains the key details of each purchase, including whether a Purchase Order would be expected.

- 2.2.24 Of these ten transactions, four should have been accompanied by a Purchase Order, as the requirement was discrete and could have been defined and authorised in advance. In the remaining six cases the recurring and / or contractual nature of the payments being made might be considered to change the requirement for a Purchase Order, however as noted above in section 2.1 there are no exceptions to the requirement documented in the Financial Regulations.

Recommendation

The Service should ensure that a complete Purchase Order for the correct item, quantity and price are in place prior to the receipt of goods and payment of invoices to ensure adequate authorisation.

Service Response / Action

Agreed.

Implementation Date

July 2016

Responsible Officer

CH&I Directorate Support
Manager

Grading

Significant within audited
area

2.3 Corporate Governance

- 2.3.1 Six suppliers to which the Service had made substantial payments over the four year period from November 2011 to October 2015 were selected for review.
- 2.3.2 It was anticipated that Committee approval would have been sought for payments made to all six of these suppliers, as expenditure of greater than £60,000 had been incurred.
- 2.3.3 In four of the six cases in which aggregate spend of over £60,000 had been incurred the Service had not sought Committee approval. These suppliers provide services including software, networking equipment and staff training. The Manager in each case has stated that they did not consider that Committee approval was necessary in these instances, as the projects comprising this spend were individually estimated to cost less than £60,000 each.

Recommendation

The Service should ensure it can demonstrate Committee approval has been obtained for all expenditure over £60,000, including aggregate spend on similar contracts.

Service Response / Action

Agreed. However individual managers do not always have sight of aggregated spend, as this is not widely available. IT & Transformation are working closely with colleagues in Commercial & Procurement Services to identify where this is happening to minimise this risk. As all Managers (across all Council Services) could be commissioning services, Business Support Managers will coordinate but all Managers would be expected to take responsibility.

Implementation Date

June 2016

Responsible Officer

Business Support
Managers

Grading

Significant within audited
area

- 2.3.4 A breach of tendering procedure was found, where the Service is also at risk of breaching EU Procurement Regulations. One software supplier provides the Council with various software packages and licensing including software from Adobe, Microsoft,

Symantec, among many others. In addition to many smaller individual software purchases £85,000 has been paid for a Microsoft Education Enrolment Subscription and £52,596 for Microsoft Corporate Licencing. The Service stated that a mini-competition was carried out for both of these individually through Crown Commercial Services.

- 2.3.5 Although the Service has records of software purchased, licensed and installed, it is not clear that this is currently being used to plan and group software purchases in order to ensure Best Value is obtained through procurement. Individual quotation exercises for smaller lots, as currently carried out, may not achieve this as effectively.

Recommendation

ICT should review and forecast its software, licensing and maintenance requirements.

Appropriate tendering exercises should be completed in line with the Standing Orders Relating to Contracts and Procurement.

Service Response / Action

Agreed. The IT & T Service continually do this, but as we also buy services on behalf of other Council Services, need other Services to keep us informed of their plans to feed into this. We work very closely with Commercial & Procurement Services to ensure we're using the most appropriate procurement routes for off-the-shelf software using Nationally agreed Government discounts.

Implementation Date

Implemented

Responsible Officer

IT Manager

Grading

Significant within audited area

- 2.3.6 An IT contractor provides specialist wireless equipment and support. In total £126,000 has been spent with this supplier over the 4 year period. No tendering exercises have been completed, and no competitive quotations were obtained for individual pieces of work: quotation exemption forms were completed and authorised instead. As noted at 2.3.4 above, aggregate spend needs to be taken into account when determining whether tendering is necessary.
- 2.3.7 The majority of the expenditure with this supplier relates to the completion of cabling works. This work was originally to be carried out by a different supplier with the IT contractor working as a sub-contractor. The original supplier could no longer deliver the service, and the Service awarded the contract to the sub-contractor directly without competition.
- 2.3.8 Although the use of the quotation exemption form is acceptable in lieu of quotations, it cannot be used to exempt Services from the requirement to tender for services over £60,000. There is a risk that regular use of these forms will result in services being purchased which in aggregate exceed this value. The recommendation at 2.3.5 above applies.
- 2.3.9 In three cases where an exemption form was used, although the form had been authorised the details of the item being purchased was left blank. This should be complete prior to the line manager signing the form, to ensure that they have all relevant information prior to agreeing not to seek further quotations.

Recommendation

The Service should ensure that where a Financial Regulations exemption form is used that it is completed in full before authorisation is given by the relevant line manager.

Service Response / Action

Agreed. As all Managers (across all Council Services) could be completing forms, Business Support Managers will coordinate but all Managers would be expected to take responsibility.

Implementation Date

June 2016

Responsible Officer

Business Support
Managers

Grading

Significant within audited
area

- 2.3.10 A sample of 2 invoices which were not accompanied by a Purchase Order were examined to ascertain if Financial Regulations were being breached. In both instances it would be expected that a Purchase Order should be in place. See Table 2 in Appendix 1 for more details of these breaches.

Recommendation

The Service should ensure that a complete Purchase Order for the correct item, quantity and price are in place prior to the receipt of goods and payment of invoices to ensure adequate authorisation.

Service Response / Action

Agreed. As all Managers (across all Council Services) could be completing orders, Business Support Managers will coordinate but all Managers would be expected to take responsibility.

Implementation Date

June 2016

Responsible Officer

Business Support
Managers

Grading

Significant within audited
area

2.4 Education and Children's Services

- 2.4.1 Six suppliers to which the Service had made substantial payments over the four year period from November 2011 to October 2015 were selected for review.
- 2.4.2 It was anticipated that Committee approval would have been sought for payments made to five of these suppliers, as expenditure of greater than £60,000 had been incurred. In four of these cases the Service did not seek Committee approval as it does not generally plan aggregate expenditure in these areas in advance including: catering equipment, coach hire, software, and school uniforms, ordered by multiple separate schools. Two of these examples are discussed further at 2.4.5 – 2.4.6 below.
- 2.4.3 In one instance Committee approval had been sought retrospectively. The order was for £125,000 of nursery school furniture which also requested an exception from the Standing Orders Relating to Contracts and Procurement in order to source the supply from a single company without completing a tendering exercise. Although this was approved it would be expected that this type and level of expenditure should be forecast sufficiently in advance to allow the standard procedures to be carried out. Retrospective reporting gives no opportunity for the Committee to consider the request, since it would not be possible for the funding to be retrieved after works had been carried out. Retrospective approval should only be sought under emergency circumstances.

Recommendation

The Service should plan all significant purchasing in advance to ensure Committee approval and tendering exercises can be completed.

Service Response / Action

Agreed. The Service will review the Commercial and Procurement Guidelines and issue the relevant instructions to all Service areas.

Implementation Date

June 2016

Responsible Officer

E&CS Head of Policy,
Performance & Resources

Grading

Significant within audited
area

- 2.4.4 In two instances the Service did not meet the requirement to tender, and in another the requirement to obtain quotations.
- 2.4.5 One supplier provides an electronic literacy tracking software solution for schools. Based on the coding of payments in the financial system, 11 schools appear to have been using this system in 2015, and just over £60,000 has been spent during the last four years. One of the schools using the software has been contacted, and confirmed that they were not aware of any tendering or other cooperative action between the schools in relation to purchasing this software. It is possible that other schools may have obtained quotations, however in line with the Standing Orders Relating to Contracts and Procurement the requirement should be aggregated over all schools and a full tender procedure carried out.
- 2.4.6 Another supplier provides several schools with pupil uniforms. In the four year period just over £60,000 had been spent across six schools and 81 invoices. Three schools were contacted to ascertain whether quotations had been obtained or tendering completed. Two out of the three schools stated that a quotation exercise had taken place, however neither provided substantive evidence.
- 2.4.7 A further supplier provides multiple schools with an electronic homework tracking tool. The school contacted stated that this software is not available from anywhere else, with no other software like it. Therefore no tender or quotation exercise had taken place. No quotation exemption form was available to provide further details. In the last 18 months over £20,144 has been spent with this supplier, across four schools; based on the current level of expenditure if an additional school takes up use of the software a formal tender procedure will be required. Unless this is planned in advance, the Service is at risk of breaching the Standing Orders in Relation to Contracts and Procurement.

Recommendation

The Service should ensure evidence of quotations, or authorised quotation exemption forms, is retained.

The Service should ensure that expenditure on supplies which are likely to be used by more than one establishment is forecast over a four year period and that Committee approval is sought and appropriate tendering exercises carried out in line with anticipated spend.

Service Response / Action

Agreed. Schools operate under the Devolved School Management scheme. This statutory guidance provides schools with flexibility in how they spend their financial allocations to best meet the needs of their school pupils. Recognising that each school is responsible for its own spending patterns, including choice of supplier, makes it difficult for the Service to provide a meaningful forecast over a four year period. A historical review of spending will be carried out over the last 4 financial

years to determine if there are on-going commitments with particular suppliers which will require Committee approval.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
September 2016	DSM Coordinator; ECS Finance Budget Partner	Significant within audited area

- 2.4.8 As noted at 2.1.7 above, the use of framework contracts needs to be approved in the first instance by the Heads of Procurement, and Legal and Democratic Services. The Service has obtained Learning and Development software from a supplier under a framework arranged by South Lanarkshire Council, but was unable to provide evidence to demonstrate that appropriate approvals had been obtained in advance.

Recommendation

The Service should ensure appropriate authorisation to use frameworks is obtained before contracting with framework suppliers.

Service Response / Action

Agreed. Appropriate approvals will be sought from the relevant Chief Officers.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
June 2016	E&CS Service Manager: Finance and Assets	Significant within audited area

- 2.4.9 A sample of six invoices which were not accompanied by a Purchase Order were examined to see if Financial Regulations had been breached. Table 3 in Appendix 1 presents the key details of each purchase. In all instances a Purchase Order should have been completed.

Recommendation

The Service should ensure that a complete Purchase Order for the correct item, quantity and price are in place prior to the receipt of goods and payment of invoices to ensure adequate authorisation.

Service Response / Action

Agreed. An instruction will be sent all Service Managers, Head of Establishments and Unit Managers confirming that a Purchase Order is raised prior to goods being received. This instruction will also include commentary on the process to be followed where a Purchase order is not necessary.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
June 2016	E&CS Head of Policy, Performance & Resources	Significant within audited area

2.5 Health and Social Care

- 2.5.1 Due to the nature of social care services, and differences in the Procurement Regulations which apply, there are specific sections within the Standing Orders relating to Contracts and Procurement which reference variations in practice. This includes an option for the Service to decide not to tender for social care services, subject to the approval of the Head of Legal and Democratic Services (section 30), and an ability to utilise the National Care Home Contract for residential care provision (section 28). The latter is required because individuals have the right to choose their care home under the Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993, therefore, in effect, Councils need to contract with every care home in their area.

- 2.5.2 Whilst the decision on tendering overrides other requirements, it is explicitly stated that all other sections of the Standing Orders apply to social care contracts (section 31). This means that expenditure on care provided under the National Care Home Contract is still subject to the requirement to obtain advance Committee approval. This is not being done. For example: one supplier provides the Service with care home services, which over the last four years cost approximately £1 million. The Service and C&PS consider that seeking Committee approval is not required under the Standing Orders, and have noted that it would be impractical to do so given service user self-selection: which means estimating the contract value for any given provider would be difficult.
- 2.5.3 If it is not a requirement to obtain this approval, the Standing Orders should be revised to more clearly state that this is an exception. A new set of Standing Orders is already being developed by C&PS as part of the PACE programme.

Recommendation

C&PS should review the Social Care sections of the Standing Orders relating to Contracts and Procurement to ensure the requirements and exceptions are clarified.

Service Response / Action

Agreed.

Implementation Date

June 2016

Responsible Officer

Social Care Procurement
Manager

Grading

Significant within audited
area

- 2.5.4 The Service and C&PS are aware of similar instances across the Service where contracts have continued or evolved beyond their original intended purposes and no recent Committee approval has been sought for them to continue in their current format.

Recommendation

C&PS should review the status of implied contracts, determine appropriate actions with the Service, and seek Committee approval.

Service Response / Action

Agreed. C&PS will compile a list of contracts, with the status of the approval, and in conjunction with the Service determine appropriate actions which may include tendering, renewal of contracts, and contract monitoring. The results will be reported to Committee for consideration.

Implementation Date

March 2017

Responsible Officer

Social Care Procurement
Manager

Grading

Significant within audited
area

- 2.5.5 Due to the majority of payments within Health and Social Care being processed through CareFirst, for which service agreements are recorded in lieu of Purchase Orders no purchases within this Service have been reviewed to determine compliance with Financial Regulations. Controls operating within the CareFirst system will be subject to a separate Internal Audit in 2016/17.

2.6 Retrospectively Authorised Payments (All Services)

- 2.6.1 Analysis of data obtained from the financial system identified 7,700 Purchase Orders out of 42,600 (18%) raised between April and October 2015 which appeared to have been raised after the invoice or supply had been received. From this number, 30 transactions were reviewed in further detail to confirm that the system record was correct and Orders had been raised retrospectively.
- 2.6.2 25 of the 30 Orders had been raised in advance in the first instance, but had been revised. Although revisions to a Purchase Order require further authorisation, if the order has changed substantially between the original authority being given, supplies being received, and the invoice being paid, this control is still being applied retrospectively and ineffectively.
- 2.6.3 Of the remainder, three related to software and support, and Purchase Orders had been raised retrospectively. Another was retrospective in that the Purchase Order was authorised after the invoice date, although the invoice and authorisation pre-dated delivery of the items.
- 2.6.4 The majority of revised Purchase Orders reviewed had been altered to align the Purchase Order with the invoice received. In 15 cases the Purchase Order had not been significantly altered, including: increasing clarity of the item description; negligible price adjustments; removal of un-invoiced items, and addition of delivery charges. As no substantial change has taken place, although the Purchase Order revision post-dates the invoice, the authorisation could not be considered retrospective. It is not clear that any value is being added by creating the additional Purchase Order and re-authorising minor adjustments.

Recommendation

C&PS in conjunction with Finance should review whether revision and re-authorisation of Purchase Orders is necessary for minor changes to content and value.

Service Response / Action

Agreed.

Implementation Date

June 2016

Responsible Officer

Financial Services
Manager, C&PS

Grading

Significant within audited
area

- 2.6.5 However, in the remaining ten cases, the Purchase Order had been altered to such a degree that the purchase was no longer the same as initially authorised. This included substantial changes to content, price and volume. For example one Purchase Order was initially raised at £0.01 for an agency worker which was then repeatedly revised upwards after elements of work were completed. In such cases the initial Purchase Order does not provide assurance that officers have considered the requirements of the Service, or obtained appropriate authorisation, in advance of contracting with the supplier.
- 2.6.6 Authorisation of payment through a retrospective or revised Purchase Order provides no opportunity for management to ensure Best Value is being obtained through appropriate procurement.

Recommendation

All Services should ensure that a complete Purchase Order for the correct item, quantity and price are in place prior to the receipt of goods and payment of invoices to ensure adequate authorisation.

Where Services consider that a Purchase Order is not necessary or appropriate, dispensations should be sought from the Head of Commercial & Procurement Services and Head of Finance. Where granted these should be documented centrally.

Service Response / Action

Communities, Housing & Infrastructure: Agreed. An instruction will be sent to all Service Managers confirming that a Purchase Order is raised prior to goods being received. This instruction will also include commentary on the process to be followed where a Purchase order is not necessary.

Corporate Governance: Agreed. There may however by ad-hoc business critical situations where the relevant Heads of Service may be unavailable, or cases where the scope of a service may change and Orders may have to be revised. Part payments are also currently restricted by the system, requiring Purchase Order amendments. IT&T are in discussion with Accounts Payable to review how recurring contracts and telephony charges are processed, and whether a Purchase Order is required in these circumstances.

Education and Children's Services: Agreed. An instruction will be sent to all Service Managers, Head of Establishments and Unit Managers confirming that a Purchase Order is raised prior to goods being received. This instruction will also include commentary on the process to be followed where a Purchase order is not necessary.

Health and Social Care: Agreed.

C&PS are implementing a 2 way match for orders raised for £500.00 and below, the guidance for which will clarify the raising of Purchase Orders and any exceptions.

<u>Implementation Date</u>	<u>Responsible Officer</u>	<u>Grading</u>
CH&I: June 2016	CH&I Directorate Support Manager	Significant within audited area
CG: June 2016	Business Support Managers	
E&CS: June 2016	E&CS Head of Policy, Performance & Resources	
H&SC: Implemented	Head of Joint Operations	
C&PS: June 2016	Financial Services Manager	

2.7 Duplicate Payments

2.7.1 Data obtained from the financial system was analysed to identify whether duplicate payments might be present.

2.7.2 The system has controls built in to avoid duplicate payments, including prohibition on the re-use of invoice numbers for the same supplier. Whilst this provides a simple and

effective control in most instances, there is still room for user error where manual entry may result in minor inaccuracies in the invoice number detail and format.

- 2.7.3 Four potential duplicate invoices from a postal services supplier were identified during Internal Audit's review. In these instances the alphabetic character "O" had been substituted with the numerical character "0" to allow the same invoice to be processed.
- 2.7.4 The Payments Team run 'AP Forensics' software on a daily basis to identify such duplicate payment requests. Duplicates are then credited prior to the payment run. The Payments Team advise processing staff of any errors found to attempt to reduce future instances. In the four cases identified above, this process had identified and corrected the errors before any payments were made.

AUDITORS: D Hughes
C Harvey
S Armstrong

Appendix 1 - Purchase Order Summary

Table 1 - Communities, Housing and Infrastructure

Item/Service	Invoice Total	PO Required	PO Present
Property Management Fee	£1,800	*1	No
Interpretation Service	£41	Yes	No
Security	£4,671	Yes	No
Household Repairs	£130	Yes	No
Environmental Consultancy	£8,682	*2	No
Pavement Cleaning	£27,447	Yes	No
Rent	£2,760	*3	No
Reimbursement for Household Repairs	£34	*4	No
Water Assessment	£186	*5	No
Tyre service	£12	*6	No

1. As a recurring fee under contract it may be appropriate to dispense with the need for a purchase order, however such a dispensation is not documented.
2. Environmental consultancy in support of a capital contract. Although there may be alternative ways of instructing this work there are no records of this being an exception.
3. As a recurring rental payment it may be appropriate to dispense with the need for a purchase order, however such a dispensation is not documented.
4. Reimbursement for repairs to a council flat where the entire building was not owned by the Council. As repairs were arranged by other owners it was not possible to use a Purchase Order. No dispensation from the requirement was sought.
5. Payment requested by a subcontractor for the AWPR. Unless there is a Purchase Order, or other contract direct with the subcontractor, payments of this type should be paid through the main contractor rather than direct.
6. As part of the fleet management service tyres are purchased from this supplier as they are identified as requiring replacement without a Purchase Order. There is no record of this being an exception.

Table 2 – Corporate Governance

Item/Service	Invoice Total	PO Required	PO Present
Hotel Accommodation	£1,633	*7	No
Bicycle (Salary Sacrifice)	£417	Yes	No

7. Travel applications are used to support hotel bookings for employees, which demonstrates management authorisation for the expenditure. However there is no record of this being an exception.

Table 3 – Education and Children's Services

Item/Service	Invoice Total	PO Required	PO Present
Hotel Accommodation	£4,545	Yes	No
Tutoring	£250	Yes	No
Pool Rental	£189	Yes	No
Motion Picture Licence	£90	*8	No
Refreshments	£275	Yes	No
Software	£86	Yes	No
Software	£186	Yes	Yes

8. As a recurring fee it may be appropriate to dispense with the need for a purchase order, however such a dispensation is not documented.

Appendix 2 – Grading of Recommendations

GRADE	DEFINITION
Major at a Corporate Level	The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the Council.
Major at a Service Level	<p>The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.</p> <p>Financial Regulations have been consistently breached.</p>
Significant within audited area	<p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p>
Important within audited area	Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control.