

COMMITTEE	COUNCIL
DATE	21 st June 2017
REPORT TITLE	Governance Review: integration of health and social care - delegation of powers and procurement
REPORT NUMBER	CG/17/075
LEAD OFFICER	Fraser Bell
REPORT AUTHORS	Jess Anderson and Alison Watson

1. PURPOSE OF REPORT:-

To set out and seek approval for revised governance arrangements in relation to powers delegated to the Chief Executive of Aberdeen City Council to authorise expenditure in respect of the delivery of adult social care services and the implementation of any Direction issued to the Council by the IJB.

2. RECOMMENDATION(S)

It is recommended that Council:-

- 2.1 approves the appointment of the Chief Officer of the Integrated Joint Board (IJB), in terms of section 64 of the Local Government (Scotland) Act 1973 (“the 1973 Act”), as an Officer of the Council for the purposes of exercising the powers as set out in the Aberdeen City Council Delegated Powers 2017.
- 2.2 approves the amendment of the Council’s Scheme of Delegation as set out in Appendix A; and
- 2.3 approves the amendment of the Aberdeen City Council Procurement Regulations as set out in Appendix B.

3.1 SCHEME OF DELEGATION

Background

- 3.1.1 The Council’s existing Scheme of Delegation (which is currently under review) states that a Chief Officer has a number of General Delegations. The Chief Officer of the IJB also has a number of specific statutory delegations in respect of their role and is the operational lead in respect of Adult Social Care Services. These specific delegations also extend to the Head of Adult Social Care Services (now known as the Head of Operations). The current Chief Officer is not an employee of Aberdeen City Council although they are

considered to be a member of the Corporate Management Team and is held to account by the Council's Chief Executive.

- 3.1.2 The delegation of social care functions by the Council to the IJB in 2016 has resulted in the IJB issuing binding Directions to the Council and the NHS respectfully to direct them to deliver services in pursuance of every function which has been delegated to the IJB. A Direction must set out how each integrated health and social care function is to be exercised and the budget associated with that. The Council is legally required to comply with a Direction. In April 2016, the IJB issued a general Direction to both the Council and NHS to continue to deliver services forthwith.
- 3.1.3 When the IJB issues a Direction to the Council, ACC governance arrangements apply in respect of implementing that Direction. In practical terms, this means that the Direction is sent to the Chief Executive as Head of Paid Service, who then directs the Chief Officer (CO) as the operational lead for Adult Social Care Services, to implement the Direction. At the Council meeting of 2 March 2016, Council approved a recommendation which authorised the CO to facilitate and implement any Direction issued to the Council by the IJB. This gives the CO delegated powers to act upon any Direction made to the Council.

Proposal

- 3.1.4 It is proposed that the Council formally appoints the CO of the IJB as an officer of the Council under the 1973 Act, so that the post-holder has powers afforded to a Director under the Council's Standing Orders and Scheme of Delegation. It is recommended that in terms of good governance, and with more detailed Directions anticipated from the IJB for the procurement of operational services, Council make such an appointment.

3.2. PROCUREMENT

Background

- 3.2.1 Operationally, the implementation of a Direction will likely result in a requirement on the CO to procure services on behalf of the Council. Where the Council needs to enter into a contract to implement a Direction from the IJB, that the CO must follow the Council's Procurement Regulations.
- 3.2.2 The Aberdeen City Council Procurement Regulations state at Regulation 5.4 that Directors (including the Chief Officer of the Integrated Health & Social Care Partnership) have responsibility to ensure staff in their directorate follow the ACC Procurement Regulations for all contracts let by their Directorate and are accountable to the Council for the performance of their duties in relation to contract management. Each Director must be able to evidence that the procurements are compliant with these Procurement Regulations and associated Procurement Guidance Notes.
- 3.2.3 Presently, where the contract or procurement value is below £50,000 (for supplies/services) or £250,000 (for works), the Regulations state that a

Delegated Procurer can approve the total estimated expenditure without the need for Committee approval. A Delegated Procurer is any officer holding Delegated Procurement Authority and authorised to carry out procurement activities. A Delegated Procurer is designated as such by the Head of Commercial and Procurement Services as holding the relevant Delegated Procurement Authority. Where the value of the contract is over £50,000 (for supplies/services) or over £250,000 (for works), the ACC Procurement Regulations state that approval of Committee is required prior to the procurement being undertaken.

- 3.2.4 There is no Adult Services Committee within the Council's committee structure and the Orders of Reference for the Finance, Policy and Resources Committee do not provide for approvals for contracts of Adult Social Care Services. At present, this means that approval of expenditure where the value of the contract is over the thresholds set out in section 3.2.3 would have to be given by Full Council prior to going out to tender, even though the IJB has already approved the estimated expenditure. In light of the nature and extent of Adult Social Care services, it is likely that the number of reports to Full Council seeking to implement Directions from the IJB will be frequent unless the proposed amendments are made to the Scheme of Delegation and Procurement Regulations. Additionally, Council is unable to determine the budget and type of service, as this will have been set by the IJB in the Direction which the Council must comply with. In order to avoid this duplication, alternative governance arrangements are proposed below.

Proposal

3.2.5 *Contracts or Procurements below the value of £50,000/£250,000*

Regulation 4.1.1.1 of the ACC Procurement Regulations enables a Head of Service to give authority to conduct any procurement where the estimated value of a contract is below £50,000 (supplies/services) or £250,000 (works) so long as it is carried out by a Delegated Procurer.

3.2.6 *Contracts or Procurements of or above the value of £50,000/£250,000*

It is proposed that, instead of seeking approval from Full Council as is required by ACC Procurement Regulations 4.1.1.2 and 4.1.1.3, the Chief Officer, either as a result of a Direction from the IJB to the Council and where appropriate, as provided for in the Direction, a Business Case, submits the relevant approval form to the Chief Executive, or a person nominated by her, who, subject to the approval of the Head of Finance and Head of Commercial and Procurement Services would be enabled to approve such expenditure. This would be done by way of the Chief Officer submitting an IJB Procurement Request form to the Chief Executive (see form at Appendix C) attaching a copy of the relevant Direction and/ or Business Case.

- 3.2.7 Officers consider that this proposal would permit a more effective and streamlined approach to service delivery whilst ensuring that there are adequate governance arrangements around the approval process similar to "special circumstances" set down in Regulation 3.10 of the ACC Procurement Regulations.

4. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

The recommendations contained within this report will enable better use of resources, avoid duplication of work and ultimately provide clear governance arrangements. It will enable the Council to implement Directions within a clear framework and ultimately timeously, reducing the impact on operational delivery.

6. MANAGEMENT OF RISK

Whilst the Council's new Scheme of Delegation is due to be tabled before Council in October 2017, officers recommend that Council puts in place this framework outlined in this report now. This mitigates the requirement on officers to invoke "special circumstances" under the ACC Procurement Regulations or taking procurement authorisations to Council when the IJB have set the strategic aim and scope for service delivery and assigned a budget for that service.

- Financial - A Direction requiring procurement over the threshold will only go ahead on the approval of the Chief Executive, the Head of Commercial and Procurement Services and the Head of Finance. If approval is not obtained, the matter may be referred to the Full Council for consideration.
- Employee - None
- Customer / citizen - Having to go to Full Council in such instances could impact on service delivery, by including a second "approval" process which can have an impact on the procedural timescales which are prescribed by the ACC Procurement Regulations, particularly when the budget for the delivery of operational services has been determined by the IJB.
- Environmental - None
- Technological - None
- Legal - All reports going to the IJB follow the same consultation process as the Council's committees. For example, they are subject to consultation with Head of Finance and Head of Legal and Democratic Services for regulatory compliance.
- Reputational - None

7. IMPACT SECTION

The proposals within this report promote and facilitate the “Working in Partnership” agenda within the [Aberdeen City Council Strategic Business Plan](#).

Economy

The proposals will improve the Council’s use of resources by making the process more streamlined and less cumbersome and ensure that decision making is clear and transparent. Additionally, the CO will ultimately be responsible for commissioning Adult Social Care Services. The budget for the delivery of operational services has already been determined by the IJB.

People

The proposals outlined in this report will result in the practicalities of implementing and progressing with the Integration agenda being more streamlined, thus allowing the Aberdeen City Health and Social Care Partnership to meet the objectives set by the IJB. Further, removing the need for additional approval by Committee will result in Directions being implemented more timeously, which will in turn, have a positive impact on the “client” end user.

There are no negative impacts on the people of Aberdeen arising from this report.

The proposal empowers the CO and her management team to implement IJB Directions and progress with the objectives of the Transformation project by delegating the appropriate powers to the appropriate people to enable effective operational delivery.

Place

The recommendations within this report will ensure that the decision making and framework is in place to support the Directions from the IJB in how services will be delivered within the City. Integral to that is the interaction between the CO and Aberdeen City Council in terms of the delivery of adult social care services. The Council is still accountable for service delivery and the impact of those services on the people and place of Aberdeen.

Technology

There is no direct impact on technology arising from this report.

8. BACKGROUND PAPERS

ACC Financial Regulations
ACC Procurement Regulations
ACC Delegated Powers

9. APPENDICES (if applicable)

Appendix A Amended Scheme of Delegation in so far as it relates to the power of the Chief Executive to approve expenditure.

Appendix B Amendment of ACC Procurement Regulations

Appendix C IJB Procurement Request

10. REPORT AUTHOR DETAILS

Jess Anderson,
Team Leader – Governance, Legal Services
JeAnderson@Aberdeencity.gov.uk
Tel: 01224 522553

Alison Watson,
Team Leader, Commercial and Procurement Services
alisonwatson@aberdeencity.gov.uk
Tel: 01224 665475

HEAD OF SERVICE DETAILS

Fraser Bell,
Head of Legal and Democratic Services
Fbell@aberdeencity.gov.uk
Tel: 01224 52 2084

APPENDIX A

Amendment to the Scheme of Delegation

Chief Executive

- 1) To approve (or a person nominated by them) any procurement or contract, as a result of a Direction from the Integrated Joint Board to the Council and/ or a relevant business case, where the estimated value of the contract is of or above £50,000 (supplies / services) or £250,000 (works) subject to the approval of the Head of Finance and the Head of Commercial and Procurement Services

APPENDIX B
AMENDMENT TO ABERDEEN CITY COUNCIL PROCUREMENT
REGULATIONS

4.1.1.5 *Expenditure of the Integrated Joint Board*

The Chief Executive of Aberdeen City Council, or a person nominated by them, may approve expenditure of, or more than, £50,000 (Goods and/or Services) or £250,000 (Works) in relation to any Direction and where appropriate, as provided for in the Direction, a Business Case issued to Aberdeen City Council by the Integrated Joint Board to undertake a tender process, without the need for the approval of Committee in accordance with Procurement Regulations 4.1.1.3 and 4.1.1.4 above, subject to the approval of the Head of the Commercial and Procurement Service and the Head of Finance

APPENDIX C
IJB PROCUREMENT REQUEST FORM

ATTACHED AS PAPER APART.