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# NORTH AYRSHIRE COUNCIL

18 May 2022

## North Ayrshire Council

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**Title:** Other Key Governance Documents

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**Purpose:** To approve other key governance documents regulating the operation of the Council, its Committees and Officers

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**Recommendation:** That the Council agrees:

- (a) to approve, with immediate effect:
  - (i) the Guidelines on Member/Officer Relations, attached at Appendix 1;
  - (ii) the Standing Orders for Contracts, attached at Appendix 2 and
  - (iii) the Financial Regulations, attached at Appendix 3

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## 1. Executive Summary

1.1 This report seeks approval by Council of the other key governance documents which regulate the operation of the Council, its Committees and Officers. These are as follows:

- Guidelines on Member/Officer Relations;
- Standing Orders for Contracts and
- Financial Regulations.

## 2. Background

2.1 Audit Scotland in their report “Roles and working Relationships – Are you Getting it Right?” stressed the importance of having governance arrangements that are fit for purpose and up-to-date. They note that such documents are critical in clarifying roles, responsibilities and expected behaviour and should be reviewed regularly. Good governance arrangements lead to sound decision-making. While the key governance documents detailed in Section 1.1 were all fully reviewed in the lifetime of the previous Council, the opportunity has been taken to bring them up to date.

## **Guidelines on Member/Officer Relations**

- 2.2 The Guidelines on Member/Officer Relations set out the way in which Members and Officers of the Council should behave towards one another. They define the roles and responsibilities of Members and Officers and incorporate the model Protocol for Relations between Councillors and Employees, which comprises Appendix A of the Councillors Code of Conduct. The previous Guidelines were found to be fit for purpose and no significant changes have been made to them.

## **Standing Orders Relating to Contracts**

- 2.3 The Council's procurement rules are set out in the Standing Orders relating to Contracts. The main revisals which have been made to the previous Contract Standing Orders are:
- Provision to permit acceptance of contracts of £500,000 or above in the Chief Executive's absence. Authorisation from the Chief Executive for such contracts is required prior to acceptance. It is proposed that subject to the agreement of the Portfolio Holder, the appropriate Chief Officer from the procuring Directorate, and the Senior Manager (Corporate Procurement), acceptance of the contract could be authorised in the Chief Executive's absence by an appropriate Executive Director (from out with the procuring Directorate) who must also consult with and gain approval of the Monitoring Officer or Chief Finance Officer.

## **Financial Regulations and Codes of Financial Practice**

- 2.4 The Financial Regulations and Codes of Financial Practice set out the expectations and responsibilities of Elected Members and Officers in relation to the proper administration of the Council's finances, as well as authorising the role of Internal Audit and its rights of access across the Council. They are supported by Codes of Financial Practice (COFP) which provide more detail on the requirements of the Council in relation to specific areas such as revenue and capital finance, treasurer management, risk and insurance and asset management.
- 2.5 In general, only minor revisions have been made to both documents relating to the deletion of the post of Head of Service (Recovery and Renewal) and updating the Code of Financial practice relating to salaries and wages to reflect the latest guidance on IR35 relating to off payroll working.

## **3. Proposals**

- 3.1 Council is invited (a) to approve with immediate effect:
- (i) the Guidelines on Member/Officer Relations, attached at Appendix 1
  - (ii) the Standing Orders for Contracts, attached at Appendix 2 and
  - (iii) the Financial Regulations, attached at Appendix 3 (comprising the Financial Regulations 2022 and Codes of Financial Practice 2022); and

#### **4. Implications/Socio-economic Duty**

##### **Financial**

- 4.1 Approval of the key governance documents is an essential component of the Council's financial governance arrangements.

##### **Human Resources**

- 4.2 None arising from the recommendations of this report.

##### **Legal**

- 4.3 Approval of the key governance documents is an essential component of the Council's legal and administrative arrangements.

##### **Equality/Socio-economic**

- 4.4 None arising from the recommendations of this report.

##### **Climate Change and Carbon**

- 4.5 None arising from the recommendations of this report.

##### **Key Priorities**

- 4.6 Clear, transparent governance arrangements promote good decision making. In turn, this supports the achievement of the Council's key priorities.

##### **Community Wealth Building**

- 4.7 None arising from the recommendations of this report.

#### **5. Consultation**

- 5.1 There has been consultation with political Groups and Independent Members on the key governance documents. Executive Directors and relevant Officers have also been consulted as required.

Craig Hatton  
Chief Executive

For further information please contact **Aileen Craig, Head of Democratic Services**, on **01294 324125**.

##### **Background Papers**

None

## **Guidelines for Member/Officer Relations**

(incorporating the Protocol on Member/Officer Relations from the  
Councillors' Code of Conduct)

**May 2022**

### **Why Have Guidelines?**

Guidelines are a positive tool to aid relations between Members and officers.

The key guiding principles are for officers and Members to:

- Work and communicate effectively with one another
- Act within the law and the Standing Orders of the Council
- Behave with mutual courtesy and respect
- Communicate effectively with one another
- Adopt a constructive approach to resolving differences and difficulties
- Work in the interests of North Ayrshire as a whole

The Guidelines also give advice on what to do when problems occur.

### **Contents**

1.	Introduction	Pg 4
2.	Who is affected?	Pg 4
3.	The Role of Elected Members	Pg 4
4.	The Role of Officers	Pg 5
5.	Personal Conduct	Pg 6
6.	Access to Information and Data Protection	Pg 8
7.	Access to Advice	Pg 11
8.	The Council as Employer	Pg 13
9.	Monitoring the Performance of Officers	Pg 15
10.	Support to Officers	Pg 17
11.	Support Services to Members and Party Groups	Pg 17
12.	Multi-Member Wards	Pg 18
13.	Meetings and Correspondence	Pg 19
14.	Media Relations	Pg 19
15.	Review of the Guidelines	Pg 20

## **1. INTRODUCTION**

- 1.1 These Guidelines set out the way in which Members and officers of the Council should behave towards one another. They define the roles and responsibilities of Members and officers. They cannot cover every eventuality, but set a framework for dealing with issues as they arise.
- 1.2 The Guidelines take account of the Ethical Standards in Public Life (Scotland) Act 2000, and the Councillors' Code of Conduct, (Standards Commission for Scotland – December 2021). Appendix A of the Councillors Code of Conduct contains a model Protocol for Relations between Councillors and Employees in Scottish Councils, breach of which contravenes the Councillors Code of Conduct. These Guidelines incorporate the provisions of the model Protocol in Appendix A. They should also be used in conjunction with other existing guidance such as the North Ayrshire Council Code of Conduct for Employees, the Acceptable Computer Use policy and the Council's Standing Orders.

## **2. WHO IS AFFECTED?**

- 2.1 The most frequent contacts are between Members and senior officers at Chief Executive, Executive Director or Head of Service level, and these Guidelines are largely about those contacts. There are also many contacts between Members and other officers in their daily business, and the principles of these Guidelines also apply to them. The particular position of officers who provide support services for Members is dealt with separately in paragraph 11.

## **3. THE ROLE OF ELECTED MEMBERS**

- 3.1 Within a Council, Members have a number of different roles:
  - Some are Chairs or Portfolio Holders for specific issues;
  - Many belong to political groups, with others forming Independent Groups;
  - Each has a local ward to represent along with other Elected Members, involving contact with local groups and providing surgeries for individual constituents;
  - Each may represent the Council in partnership arrangements and on outside organisations.
- 3.2 Collectively, Elected Members also:
  - Provide strategic leadership;
  - Determine policy aims and objectives;
  - Take decisions not delegated to officers and;
  - Review performance.

In all such roles, Councillors should act in accordance with the principles of the Code of Conduct for Councillors and these Guidelines.

### 3.3 ***The Council and Committees***

The main functions of the Council are to:

- Debate and agree policy proposals;
- Debate and agree budgets;
- Appoint the Members of regulatory and other committees;
- Make appointments to outside bodies and;
- Provide a forum for debating key issues.

Details of remits for the Council and committees are included in the Standing Orders and Scheme of Administration.

It should be noted that under the Local Government (Scotland) Act 1973, functions or decisions cannot be delegated to individual Councillors. Thus an individual Councillor can never have power to make decisions which bind the Council or its officers.

## **4. THE ROLE OF OFFICERS**

### 4.1 The role of officers is as follows:

- The Chief Executive and Executive Directors are responsible for assisting the Council in the development of its policies and the discharge of its responsibilities;
- The Chief Executive and Executive Directors have responsibility for ensuring policy implementation;
- The Chief Executive and Executive Directors are responsible for operational management of services;
- The Chief Executive has responsibility for providing advice and management and publishing decisions;
- The Executive Directors and Service Heads have managerial accountability for their service areas and act as the first point of contact for that service;
- Some officers have personal statutory powers and duties, for example the officer designated as Head of Paid Service (Chief Executive), the Monitoring Officer (Head of Democratic Services), the Section 95 Officer (Head of Finance) and the Chief Social Work Officer.

4.2 The following duties will apply to the position of Chief Executive:

- The Chief Executive is the statutory Head of Paid Service and as such will be “responsible for managing and securing the professional body of staff needed to deliver modern, well-focussed service effectively” (DETR, June 2000).
- The Chief Executive, as the most senior manager, is the main point of contact for Members when difficulties arise; however Members should generally raise any problem with the appropriate Executive Director or Head of Service in the first instance.
- The Chief Executive, as the Head of Paid Service, will work closely with the Leader of the Council in ensuring policy implementation but will work impartially with all groups and individual Members.

4.3 The organisational role of officers has two important dimensions. Some officers have professional skills relevant to a particular organisational task. Others have primarily a managerial responsibility. Many have elements of both in their jobs.

4.4 Officers also know that they must:

- Pursue lawful policies of the Council;
- Implement the decisions of Council, committees and sub-committees;
- Inform M e m b e r s immediately of any decision that cannot be fully implemented, (senior officers should undertake this task);
- Behave in a professional manner;
- Treat all Councillors fairly and openly in their role as local representatives;
- Serve all Members of the Council;
- Deal with Member enquiries efficiently and promptly;
- Strive continually to comply with the Council’s performance management processes
- Maintain political neutrality at all times

4.5 Council officers have an obligation to follow Council policies and to implement the decisions of the Council and its committees even if they have professional misgivings about proposed decisions. The role of officers in that situation is to advise Elected Members and to voice concerns in giving that advice. An officer will normally have a duty not to implement a Council decision if it is manifestly illegal. In such circumstances, the officer should seek the advice of the Monitoring Officer and the Chief Executive.

4.6 Officers’ delegated powers are outlined in the Council’s Scheme of Delegation which forms part of Standing Orders.

## 5. PERSONAL CONDUCT

5.1 **Courtesy** – in line with the Councillors’ Code of Conduct reference to “mutual trust and respect” – it is important that Members and officers should behave

courteously to one another. None should take unfair advantage of their position.

- 5.2 **Disagreements** – should be acknowledged and worked out in private rather than in public view.
- 5.3 **Close personal friendships** – personal friendships between individual Councillors and officers can also damage good relations and prove embarrassing to other Councillors and officers. Councillors and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.
- 5.4 **Constructive criticism** – Members have the right to make reasonable and constructive criticism of the work of officers. Members should remember that officers cannot respond to personal criticisms of themselves or other officers in the same way that politicians can and should make their comments accordingly. In accordance with the Code of Conduct for Councillors, Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to Councillors the respect and courtesy due to them in their various roles.
- 5.5 **Lines of accountability** – Members must be aware of the lines of accountability within Directorates. They must not apply pressure to an officer to act against the instructions of management.
- 5.6 **Decisions delegated to officers** – Members should not put pressure on an officer on matters which have been delegated for officer decision. Officers should be left to make decisions that are:
- Objective and can be accounted for;
  - Fair and consistent in their applications;
  - Accord with policy.
- See paragraph 4.6
- 5.7 **Undue influence** – Members should not bring undue influence to bear on an officer to take any action which is contrary to law or against the Council's approved procedures. This could include action which is:
- A breach of personnel procedures;
  - In conflict with Standing Orders/financial regulations;
  - In conflict with planning procedures and policies;
  - In conflict with Codes of Conduct.
- 5.8 **Declaring relationships with constituents** – Members must declare any relevant close personal relationships with constituents when dealing with council officers. Although Members are elected to represent the interests of their constituents, they should not seek special treatment for any individual.



## **6. ACCESS TO INFORMATION AND DATA PROTECTION**

- 6.1 Members are free to request council Directorates provide them with information, explanation and advice about that Directorate's functions, which they may reasonably need in order to help them carry out their roles as Members of the Council. Councillors should normally approach the Executive Director or a Head of Service. This can be for general information about aspects of the Directorate's activities or specific information on behalf of a constituent.
- 6.2 Members have certain statutory and common law rights to request and inspect Council documents. The common law rights are wider and more significant than those given by the Access to Information provisions of the Local Government (Scotland) Act 1973. For instance, papers which contain "exempt information" relating to the categories specified in the Access to Information legislation may fall within the rights of inspection given to Councillors by common law.
- 6.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or sub-committee meeting. This extends not only to reports which are to be submitted to the meeting but also to any relevant background papers. In relation to reports which are exempt under the Local Government (Scotland) Act 1973, Council practice has generally been to disclose these where possible, on request. It should however be appreciated that there are certain documents which cannot be disclosed particularly those which contain sensitive personal information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, social work and criminal justice cases. In other cases, such as an opinion of Counsel or documents relating to contract negotiations, disclosure may only be made if the Councillor signs an undertaking promising not to further disclose the document.

Members also have a right to get copies of documents under the Freedom of Information (Scotland) Act. Again, there are some exemptions.

- 6.4 The common law right is based on the principle that any Member has a right to inspect Council documents if access is reasonably necessary to enable the Member to perform his/her duties as a Member of the Council – commonly referred to as the "need to know" principle.
- 6.5 The exercise of this common law right depends upon the Member's ability to demonstrate that he/she has the necessary "need to know". This question will initially be determined by the Executive Director who holds the document in question. In the event of a dispute, the question should be referred to the Chief Executive (taking advice if necessary from the Monitoring Officer).
- 6.6 A "need to know", and therefore a right to inspect, will not exist in relation to:

- A document which forms part of the internal workings of another party group;
  - The working draft of an officer's report before it has been authorised for circulation to Council or other committee;
  - Personal information covered by the provisions of the Data Protection Act.
- 6.7 In some areas there are specific statutory codes which deal with the treatment of confidential information. This is especially true of Education and Social Work records. At all times, both Members and officers must recognise the need to operate within the overall legislative framework surrounding information.
- 6.8 There is no automatic right to confidentiality of any communication. Members and officers need to be aware that the Council is subject to the rigours of the Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations and Re-use of Public Sector Information Regulations which require the Council to provide, subject to exceptions, recorded information held by it.
- 6.9 Members and officers should be aware of the provisions of the Data Protection Act 2018 which incorporates the provisions of the General Data Protection Regulation. Anyone who holds personal information may require to be registered with the Information Commissioner's Office (ICO). Personal information obtained through the Council, such as committee reports or information provided by Officers is covered by the Council's registration and requires to be handled in accordance with the Council's procedures for processing such information. Information obtained through a political party of which you are a member is likely to be covered by that Party's registration. Similarly, it requires to be handled in accordance with the Party's procedures for processing such information. When holding personal information Members must abide by the following rules:-
- Members must have some legitimate basis for holding and using the information, usually because your constituent has provided their personal information to enable you to investigate their concern. As long as the information is used for this purpose, the constituent's consent is the basis on which you can share this information with others to investigate their concern. In other words, if a constituent or other member of the public asks you to resolve an issue you are allowed to contact officers to attempt to resolve the issue on behalf of your constituent.
  - Only use the information for the purposes for which it was given.
  - You should ensure that any personal information which you hold is stored securely, whether in electronic or paper format.
  - You should not keep the information any longer than you need to.

- Personal information held by the local authority should not be used for political purposes unless both the local authority and the individuals' concerned agree.
- Where sharing information with another ward councillor, the constituent must be made aware that this is going to take place and why it is necessary. Where they object to this information sharing cannot happen.
- Members requesting sensitive personal information on behalf of constituents from the Health and Social Care Partnership or other Directorates will only receive such information if they have a signed consent form from the constituent asking the Councillor to obtain such information.
- If you receive a Subject Access Request seeking information held by you, you will need to respond within the legislative timescales of 30 days. This is likely to relate to constituent enquiries, rather than information you obtained from the Council.

The ICO's website gives further information including the following briefing 'Advice for Elected and Prospective Councillors' which can be viewed at:-

<https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>

While this advice is still valid, it has been supplemented by the Information Commissioner's 'Guide to the General Data Protection Regulation' which can be viewed at:-

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

The Council's Data Protection Officer can also provide further support, and will ensure that your registration with the ICO is in accordance with the Data Protection (Charges and Information) Regulations 2018

- 6.10 Members should not put pressure on officers to provide them with documents to which they have no statutory or common law right or to withhold from other Councillors documents to which they have a statutory common law right of access. The advice of the Monitoring Officer and the Chief Executive should be sought promptly if there is doubt about whether access should be given.
- 6.11 If a Member is refused information by a Council employee they should be clearly advised as to why they are being refused.  
If a Member is not satisfied by the refusal he should initially raise the issue with the appropriate Executive Director. If a Member is not satisfied with the Executive Director's refusal of information the member can appeal this refusal to the Council's Chief Executive who may refer this to the Monitoring Officer to be dealt with as a Freedom of Information Review.

If the Chief Executive/Monitoring Officer refuses the request on the basis that it results in the disclosure of personal information under the Data Protection Act, or on the basis that disclosure would be illegal, the Member can appeal this refusal to the Scottish Information Commissioner who deals with Freedom of Information Appeals.

- 6.12 Both Members and officers have access to information which has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. Confidential information must never be disclosed or used for personal advantage or to the disadvantage or the discredit of the Council or anyone else. This is a breach of the Councillors' Code of Conduct.
- 6.13 In light of the above procedures, Members will not normally be expected to request information under the Freedom of Information arrangements.

## **7. ACCESS TO ADVICE**

- 7.1 Officers provide professional and managerial advice to Councillors in a number of settings.
- To the Council, committees, sub-committees and working groups in written reports;
  - To the political leadership;
  - To the party groups;
  - To individual Councillors with specific roles (Committee Chairs, Portfolio Holders);
  - To individual Councillors as local members.
- 7.2 Officers within a Directorate are accountable to their Executive Director and Heads of Service and should take this into account when giving advice to Elected Members.
- 7.3 In the spirit of informed and co-operative working the Chair of a committee will often be consulted on the preparation of reports. However the ultimate decision on whether and when to submit a report to Council or committee is one for officers. While employees will wish to listen to the views of Chairs or Portfolio Holders, the Executive Director will always have final responsibility for the contents of any report submitted in his/her name. The decision on whether to submit a motion to Council is one for an Elected Member, subject to the provision in Standing Orders which allows the Provost to rule on whether an illegal motion can be admitted. An Elected Member has the right to submit a motion to the Council which disagrees with the advice and recommendation of an officer.

### **7.4 Committee Chairs and Portfolio Holders**

Portfolio Holders are recognised as the legitimate spokespersons on their Directorate's area of responsibility.

Where authority is delegated to employees they may wish to consult the relevant Portfolio Holder about the action they propose to take but the responsibility for the final decision remains with the employee who is accountable for it. Portfolio Holders and Chairs should bear this in mind when discussing proposed action with employees.

- 7.4.1 Chairs and Portfolio Holders will have many dealings with employees. These employees should always seek to assist a Chair or Portfolio Holder but it must be remembered that they are ultimately responsible to their Executive Director.

## **7.5 Party or Independent Groups and Officers**

- 7.5.1 The Council operates through a system of groups of councillors, based on political affiliation and Independent Members. All employees must, in their dealings with Groups and Members, treat them in a fair and even-handed manner. Employees must at all times maintain political neutrality.
- 7.5.2 Officers may properly be called upon to support and contribute to deliberations by Groups on matters of Council business under consideration. This support can be provided in many forms, ranging from a briefing meeting with a Portfolio Holder to a presentation to a full party group meeting. Whilst in practice such support is likely to be in most demand from the Group or Groups in control of the Council, support is available to all Groups. The advice given by employees to different Groups and individual Members should be consistent.
- 7.5.3 If attendance at a Group meeting is required, the office bearers of the Group should contact the Chief Executive and outline the type of advice they are seeking. The Chief Executive will decide whether attendance at the meeting is appropriate, and which officer(s) should attend.
- 7.5.4 Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party or political business and are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.
- 7.5.5 Officers must respect the confidentiality of any Group discussions at which they are present. It is acknowledged however that factual information upon which any advice is based will, if requested, be available to all Groups.
- 7.5.6 Special care needs to be exercised if officers are involved in providing information and advice to a Group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Councillors' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons, officers may not be able to provide the same level of information and advice as they would to a meeting where those in attendance are bound by the provisions of the Code. Normally

an officer attending a Group meeting must request that non-Councillors be absent for the period of their attendance.

- 7.5.7 Officers must respect the confidentiality of any discussions at which they are present with Members. If officers receive information which, although confidential, they have a duty to disclose elsewhere, they must indicate that this is the case.
- 7.5.8 Conclusions reached at party group meeting are not Council decisions, and it is essential that they are not interpreted or acted upon as such.
- 7.5.9 Providing information and advice to a Group cannot act as a substitute for providing all necessary information and advice to Council or the relevant committee or sub-committee.
- 7.5.10 Elected Members should recognise that information and advice given by employees should be used to enhance discussion and debate at Council and committee meetings. If such information is used for political advantage, for example media briefings beforehand, then the process could become devalued and place employees in a difficult position in giving information and advice.
- 7.5.11 The Chair of a political group meeting attended by employees has a responsibility for ensuring that those attending are clear on the status of the meeting and the basis on which employees are attending.
- 7.5.12 Officers must never allow their own personal or political opinions to interfere with their professional advice. Officers should not take part and Members should not ask officers to take part in any activity which could be seen as influencing support for a party. Members should raise with the Chief Executive any concerns about the political neutrality of an officer.
- 7.5.13 Senior Officers, and other officers providing advice and support services to Elected Members, are subject to legal rules limiting their political activities outside work.
- 7.5.14 Should any difficulty of uncertainty arise in the area of employees' advice to party groups, this should be raised with the Chief Executive, who will discuss the matter with the group leader.

## **8. THE COUNCIL AS EMPLOYER**

- 8.1 Officers are employed by the Council and both they and the Council are governed by contracts of employment and the Council's personnel policies and procedures. The Council has a duty of care towards all of its employees and these Guidelines reflect this.
- 8.2 In making employment decisions, the key principles for Elected Members to follow are:

- Members involved in appointments of employees must act fairly and openly and judge candidates solely on merit;
  - Members should not gain financially or personally, nor should their families or friends;
  - Members have a duty to declare any private interest, and to protect the public interest;
  - Members should have no involvement in employment or recruitment decisions in which they have a personal interest;
  - In making public appointments or recommending people for rewards or benefits, Members must make choices on merit, using objective criteria;
  - Members should be open about, and are accountable for, the decisions they make in the role of employer. However, some employment matters should be dealt with in confidence;
  - Employment issues are usually dealt with by following written procedures, often agreed with the unions. Members should not do anything to undermine the following of proper procedures.
- 8.3 Members are collectively responsible when acting as employer and are bound by the complete framework of national and European employment law. However, it must be noted that an individual who commits an act of discrimination on the basis of race, gender or disability can be personally liable. The Council is an equal opportunity employer and Members should be guided by this principle in all their relationships with staff.
- 8.4 In addition, under the Code of Conduct:
- Members must not solicit a job with the Council for any person (but, in appropriate cases, may give them a written testimonial);
  - Members must not try to influence the recruitment process;
  - Members should know that canvassing support for a candidate for a job with the Council disqualifies the candidate from that job.
- 8.5 Members must not become involved in issues relating to individual employees' pay or terms and conditions of employment, except while serving on a committee delegated to deal with such matters. A Staffing and Recruitment Committee has been established for Chief Executive and Chief Officer appointments. An Appeals Committee has been established to hear appeals lodged by individual members of staff against certain decisions, such as dismissal. All other disciplinary, capability or grievance processes are decisions for officers.
- 8.6 Members must not get involved in the operational management or delivery of Council services; this is an officer role. Members are responsible for policy and strategy and officers are responsible for operational management of services. As a general rule, if a power is delegated to officers under the Council's Scheme of Delegation it is operational.

The Standards Commission for Scotland have published an 'Advice Note for Councillors on Distinguishing between their Strategic Role and any Operational Work' which provides further information and can be viewed at:- <http://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>

Nor must Members become involved in the management of Council employees or engage in activities which might undermine the management lines of responsibility or adherence to Council personnel procedures.

- 8.7 Members will frequently come into contact with representatives of the Joint Consultative Forum (JCF). The remit of the forum is:
- To provide a forum and procedure for Members and Trade Unions to meet on a regular and constructive basis to exchange information and resolve issues of mutual concern; and
  - To promote and develop good relations between the Council and their Trade Unions
- 8.8 This forum does not have a remit to become involved in matters affecting an individual employee's terms, conditions and pay and Members must observe this remit in their contacts with Trade Union Officials.
- 8.9 Members must, at all times, adopt a professional approach in their dealings with the Trades Unions and in particular must:
- Avoid giving unauthorised commitments;
  - Take a balanced view of information provided by the Trades Unions along with that of officers;
  - Not allow undue influence to be placed upon themselves.
- 8.10 Likewise, officers must not raise directly with Members any personal matter to do with their jobs, or relating to any potential appointment.
- 8.11 There are restrictions on former Elected Members' employment within the Council. A 12 month restriction for former Councillors being employed in politically restricted posts and for former Councillors who have been directly involved in the appointments process for Council Officers holding politically restricted posts, but the restriction is three months for all other posts.

## **9. MONITORING THE PERFORMANCE OF OFFICERS**

- 9.1 Members should set the parameters for Council work and then let officers undertake the work, whilst guaranteeing that strong monitoring and performance management systems are in place. Members should not be involved in the operational management of Council services; this is an officer role, as detailed in 8.6.



9.2 Members have a right to criticise reports or the actions taken by officers, but they should always:

- Avoid personal attacks on officers;
- Ensure that criticism is constructive and well founded;
- Avoid undermining respect for officers at committee meetings, in any public forum or through the media;
- Use the agreed grievance procedures (when resolution cannot be achieved through normal lines of communication).

9.3 The Chief Executive, as the statutory appointed Head of Paid Service, is the first point of contact for Members regarding organisational and staffing matters. Executive Directors and Heads of Service are the first point of contact in their respective service areas.

9.4 Complaints about officers or Council services should be made to the Executive Director or to the Chief Executive as appropriate. Members have a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort. These issues must, however, be raised through the proper channels.

9.5 As detailed in paragraph 5.1 and in line with the Councillors' Code of Conduct reference to "mutual trust and respect", it is important that Members and officers should behave courteously to one another. While Councillors' enjoy a right of free speech in terms of Article 10 of the European Convention of Human Rights (ECHR) it should be noted:-

- The right to freedom of expression is not absolute. Restrictions may be imposed to ensure that the conduct of public life at the local government level, including public debate, does not fall below a minimum level so as to endanger public confidence in democracy.
- This includes protecting officers from offensive and abusive verbal attacks. It is in the public interest that officers are not subjected to unwarranted comments that prevent them from performing their duties in conditions free from disturbance.
- Public servants are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are for elected politicians.

The recent Advice Note issued by the Standards Commission for Scotland on 'The Application of Article 10 of the ECHR and the Councillors' Code of Conduct' provides useful information on this.

9.6 The Monitoring Officer has power to report any proposal, decision or omission by the Council or its officers which causes or is likely to cause:

- A contravention of the law or any code of practice;

- A maladministration or injustice which could be investigated by the Scottish Public Services Ombudsman.

## **10. SUPPORT TO OFFICERS**

- 10.1 Just as Section 9 of this protocol provides Members with a mechanism for criticising the actions or decisions of officers, officers too must have some protection where they feel that Members' expectations are unreasonably demanding or in conflict with managerial instruction or Council policy or procedure.
- 10.2 Complaints or concerns should be raised with the appropriate Directorate's Executive Director, or with the Chief Executive. Officers have the right to make a complaint about a breach of the Councillors' Code of Conduct to the Standards Commission. While individual Councillors have the right to defend any such complaint, pressure must not be put on any officer by Council, its committees or councillors to withdraw or amend the complaint.

## **11. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 11.1 The Council can only lawfully provide support services to Members to assist them in discharging their role as Members of the Council – secretarial and typing support, policy support, stationery, printing, photocopying, transport and such like. Support services must be used only for Council business. They must never be used in connection with party political or campaigning activity or for private purposes. Members should never ask staff to provide improper support.
- 11.2 The protocols governing the duties of Members' support services staff are as follows:
- They are Council employees and subject to Council contracts of employment, Standing Orders, and staff instructions. As such they cannot be required to breach Council procedure, the terms of their contract of employment or the legal restrictions on them;
  - They are responsible to officers for the conduct of their duties. Any issues about conflicting priorities, conduct or performance must be referred to their line managers;
  - They cannot represent or stand in for Members;
  - The existence of Members' services support staff should not detract from normal Member/officer relationships.

## 12. MULTI-MEMBER WARDS

- 12.1 Members have a duty to be accessible to all the people of the multi-member ward they have been elected to and to serve their interests conscientiously. However Members also have a duty to act in the interests of the Council area as a whole and all the communities served by it, not just those of their own ward or town.
- 12.2 The introduction of multi-Member wards has implications for the co-ordination of constituents' enquiries. Individual constituents have the right to choose to approach any of the Elected Members representing their ward.
- 12.3 When constituents seek contact with local Elected Members, information should be provided in a consistent manner, leaving the constituent to choose which Elected Member they wish to contact. Elected Members' names and contact details should be provided in alphabetical order, by surname, along with their political affiliation.
- 12.4 Where a constituent has not identified a particular Councillor to deal with their concerns, officers should contact the constituent to clarify which Member they would like to deal with their enquiry.
- 12.5 If a constituent does not wish to specify a Member, the last resort should be to copy the query to all the ward Members, with the express permission of the constituent.
- 12.6 Members within a particular ward may agree among themselves on ways of allocating responsibilities, however the individual constituent has the right to approach the Elected Member of their choice.
- 12.7 The relationship between the Elected Member and constituents is of a confidential nature, therefore the consent of the constituent is required before any information about them or the nature of their query is passed between Elected Members.
- 12.8 An Elected Member may suggest to a constituent passing on their query to another Elected Member. Such a referral should only be made with the express approval of the constituent who may request that the enquiry be dealt with by the Member of their choice.
- 12.9 There is the possibility that constituents could raise their concerns with more than one Elected Member, without the Elected Members knowing this. This could lead to the situation where one officer is dealing with an enquiry without knowing that another officer is also dealing with the same enquiry. To avoid this potential duplication, Members should ensure that constituent complaints are recorded in the Lagan system.

### **13. MEETINGS AND CORRESPONDENCE**

- 13.1 Both Members and officers should take proper account of the time demands each is under when arranging meetings, particularly at short notice.
- 13.2 Officers should respond to requests for meetings with Members with priority but where these are requested at short notice, Members should accept that officers may have pre-arranged commitments.
- 13.3 There is no requirement for officials to invite other ward Members to, or notify them about, meetings organised by an individual Councillor with that official.
- 13.4 When Councillors initiate a meeting, officers should always ensure that the Councillors are given the opportunity to have other ward members attend.
- 13.5 Whenever a public meeting or consultative exercise on an issue local to one or more wards, is arranged by the Council, all ward Members should generally be invited to attend that meeting.
- 13.6 Officers should not divulge their discussions with individual Councillors to other Councillors, particularly Councillors of another political party, without the consent of the individual Councillor concerned. Correspondence between an individual Member and an officer should not be copied by an officer to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member at the time, or the consent of the original Member obtained. Officers are however entitled to divulge such discussions and correspondence to other officers, particularly Chief Officers where required. These other officers will also be bound not to disclose the discussions or correspondence to other Councillors, without the consent of the original Councillor.
- 13.7 When officers write to or meet with residents regarding matters of general concern in an area, all ward councillors should be sent copies or informed.

### **14. MEDIA RELATIONS**

- 14.1 The Chief Executive in consultation with the Council Leader where appropriate, and the Corporate Communications Manager, will issue press releases and similar information on behalf of the Council, deal with media enquiries and implement the Council's Communications Strategy. Officers are responsible for the decision whether to issue a press release on behalf of the Council, its timing and content. However if a Member is to be quoted in a press release that Member must first have agreed the terms of any such quote.
- 14.2 Individual Executive Directors when issuing press releases and dealing with media enquiries in relation to their own service will do so in consultation with the Corporate Communications Manager.

- 14.3 Where a response is required to circumstances which are corporate or “council wide”, the Chief Executive, in consultation with the Council’s Corporate Communications Manager, will express the views of the authority within the corporate policies agreed by the Council.

## **15. REVIEW OF THE GUIDELINES**

- 15.1 These Guidelines will be kept under review and may be amended by the Council from time to time. They will be kept up to date to take into account any future relevant legislation. Any amendments will be communicated to employees and Members.



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

## **Standing Orders Relating to Contracts and Contract Procedure Rules for North Ayrshire Council**

12 May 2022

# Contents

1. Introduction .....	4
2. Definitions .....	5
3. Extent and Application .....	7
4. Health and Social Care Services .....	8
5. Exempted Contracts .....	9
6. Disaggregation .....	12
7. Authority to Invite Tenders .....	13
8. Trading Activities .....	13
9. Collaborative Procurements including Joint Commissioning of Social Care .....	13
10. Delegation of Procurement Activity .....	14
11. Conflicts of Interest .....	15
12. Purchase of Supplies, Service or Works .....	15
13. Framework Agreements and Dynamic Purchasing Systems .....	16
14. Supported Businesses & Reserved Contracts .....	17
15. Procedures prior to Commencing Procurement Exercise .....	17
16. Advertising of Contracts .....	18
17. Tender Documents .....	18
18. Technical Specification .....	18
19. Standards .....	19
20. Intellectual Property Rights .....	19
21. Prevention of Collusion and Corrupt Illegal Practices .....	19
22. Equality .....	20
23. Public access to information .....	20
24. Sustainability .....	21
25. Community Benefits .....	22
26. Assignment/Novation .....	22
27. Health & Safety .....	23
28. Insurance .....	23
29. Performance Bonds and Parent Company Guarantees .....	24
30. Tendering Procedures .....	24
31. Electronic Tendering .....	31
32. Submission of Tenders .....	31
33. Late Tenders .....	32
34. Opening of Tenders .....	32

35.	Checking of Tenders.....	33
36.	Evaluation of Tenders.....	33
37.	Abnormally Low Bids .....	34
38.	Post Tender Clarifications.....	34
39.	Post Tender Negotiations.....	35
40.	Acceptance of Tender.....	36
41.	Form of Contract.....	37
42.	Nomination of Sub-Contractors .....	37
43.	Contract Register .....	37
44.	Modifications to Contract.....	38
45.	Termination of Contracts.....	38
46.	Post Contract Monitoring and Evaluation .....	39
47.	Interest of Members .....	39
48.	Interest of Officers .....	39
49.	Disposal of Surplus or Scrap Materials/Equipment.....	40
50.	Disposal of Interest in Land and Building.....	40
51.	Variation and Revocation .....	40
52.	Thresholds and VAT .....	41
53.	Commencement .....	41
	Annex A – Single Tender Action Request.....	42
	Annex B – Disposal of Property/Land .....	58
	Annex C – Health & Social Care Services .....	61
	Annex D – Request for Procurement Action.....	64
	ANNEX E – Conflict of Interest Declaration .....	81



## **1. Introduction**

**1.1** The Standing Orders Relating to Contracts (the Standing Orders) set out how the Council will invite tenders and let contracts for the supply of goods, works or services. The purpose of the Standing Orders which are made under Section 81 of the Local Government (Scotland) Act 1973, is to ensure that the Council:

- achieves social and economic value
- furthers its strategic aims
- purchases quality goods, services and works
- safeguards its reputation from any implication of fraud or corruption through a system of transparency, integrity, and accountability
- safeguards its employees and
- meets its legal obligations

**1.2** The Standing Orders also apply to the sale/lease of property and the disposal of surplus or scrap materials/equipment.

**1.3** Every contract authorised by Council Officers or other person engaged by the Council to which the power of entering into contracts has been delegated, shall comply with the Standing Orders and

- The Revenue or Capital Budgets as approved by the Council
- The Financial Regulations of the Council
- The Scheme of Delegation to Officers
- The Procurement Reform (Scotland) Act 2014
- The Public Contract (Scotland) Regulations 2015
- The Procurement (Scotland) Regulations 2016
- North Ayrshire Council's Procurement Strategy
- North Ayrshire Council's Procurement Manual
- Local Democracy, Economic Development and Construction Act 2009  
Commencement no. 2 (Scotland) Order 2011 for Construction contracts, other than those expressly excluded under the Construction Contracts Exclusion Order 1998.

**1.4** Due consideration should also be given to all Guidance and Policy Notes issued by the Scottish Government, Scottish Procurement Directorate in respect of procurement matters.

## **2. Definitions**

**2.1** In these Standing Orders the following words and phrases shall have the meaning hereinafter assigned to them, that is to say:

**2.1.1** “Best Value” means the legal duty to secure continuous improvement in the performance of the Council’s functions as set out in section 1 of the Local Government in Scotland Act 2003

**2.1.2** “Cabinet”, means the Cabinet of North Ayrshire Council

**2.1.3** “Chief Officer”, means the Chief Executive, Executive Director, or Head of Service of the Council

**2.1.4** “Community Benefit” means, benefits requested from suppliers within Procurement Exercises, which become contractual requirements. Community Benefits include employment, education and community support and support for SMEs and TSOs

**2.1.5** “Community Benefits Officer” means the Council Officer who manages and monitors the community benefit process

**2.1.6** “Corporate Procurement Unit” means the centralised procurement team of officers that progress Procurement Exercises for service teams for all procurements over the value of £10,000 for Supplies, Services and Works

**2.1.7** “Direct Award” means a call-off from an established approved Framework Agreement.

**2.1.8** “Designated Officer”, means any Officer authorised in writing by any Chief Officer for the purposes of these Standing Orders

**2.1.9** “Dynamic Purchasing System” means a procedure available for contracts for Supplies, Services and Works, it has similar aspect to a Framework Agreement but new Suppliers can join at any time.

**2.1.10** “Find a Tender (FTS)” means the portal for higher-value, public contract opportunities (tenders) within the UK. The portal is used by both public buyers and Suppliers. For public buyers, the use of the portal is in compliance with Public Contracts (Scotland) Regulations 2015

**2.1.11** “Framework Agreement” means an agreement between one or more contracting authorities and one or more economic operators, to establish the terms governing public contracts to be awarded during a given period

**2.1.12** “GPA” means the Agreement on Government Procurement which is a plurilateral agreement under the auspices of the World Trade Organization (WTO) which regulates the procurement of Goods, Services and Works by the public authorities of the parties to the agreement. Tenders over the GPA threshold will be published in the Find a Tender Service

**2.1.13** “Light Touch Regime” means specific set of procedural rules for Social and other Specific Services as more particularly set out in Regulations 74-76 of the 2015 Regulations

**2.1.14** “Mandatory contract standstill period”, means a period of not less than 10 calendar days following communication by electronic means of the award decision to all tenderers as provided for in The Public Contracts (Scotland) Regulations 2015

**2.1.15** “Mini -competition” means a call-off from an established approved framework, where all suppliers from the framework for the relevant lot are invited to bid

**2.1.16** “PCS”, means Public Contracts Scotland which is the national tender advertising portal

**2.1.17** “PCS-T” means Public Contract Scotland Tender which is the e-Tendering system used to progress procurement exercises

**2.1.18** “Post tender negotiations”, means any communication between a Chief or Designated Officer and a tenderer subsequent to the return date for the tender and the acceptance of any such tender

**2.1.19** “Procurement Exercise”, is a general term used to describe any appropriate procurement procedural route followed to obtain goods, services or works. This can include a Direct Award, Quick Quote, Mini-Competition, award without competition, Regulated Procurement, Non-Regulated Procurement or GPA tender

**2.1.20** “Procurement Officer” means the Council Officer who progresses allocated procurement exercises in compliance with legislative requirements and these standing orders

**2.1.21** “Quick Quote” is a facility available on the Public Contracts Scotland website to electronically request and receive quotations. The Corporate Procurement Unit use the Quick Quote facility where the estimated value is between £10,000 and £50,000 (Supplies and Services) and between £10,000 and £500,000 (Works).

**2.1.22** “Regulated Procurement” means a procedure to award a regulated contract being a public contract, which is equal to or greater than £50,000 (other than works or health or social care contracts) or £2 million for works contracts or as set out in the Procurement of Care and Support Services 2016 (Best Practice) Guidance for applicable social care contracts and “Regulated Procurement Thresholds” shall be construed accordingly “2015 Regulations” means the Public Contracts (Scotland) Regulations 2015 or successor legislation (as amended from time to time)

**2.1.23** “Request for Procurement Action (RPA)” means a document setting out as a minimum:

- the Council’s requirement for the goods, works or services and why we need it
- Selection and award criteria
- approval to proceed to procurement following a make or buy decision
- confirmation that a financial viability assessment has been carried out and there is sufficient budget to meet the whole life costs associated with the requirement

- 2.1.24** “Services”, means any service as defined by the Public Contracts (Scotland) Regulations 2015 and any subsequent amendments thereof
- 2.1.25** “Service Team Representative” means the Council Officer from the relevant service team (Roads, Facilities Management, Property Maintenance and Investment etc.) that is requesting a procurement exercise to be progressed
- 2.1.26** “SPD”, means the Single Procurement Document (pre-qualification questionnaire)
- 2.1.27** “Supplier” means a contractor, service provider or supplier that supplies Goods, Services or Works
- 2.1.28** “Supplies”, means any supplies as defined by the Public Contracts (Scotland) Regulations 2015 and any subsequent amendment thereof
- 2.1.29** “Tender” means any procurement exercise published on Public Contract Scotland with a value greater than £50,000 (Supplies and Services) and £500,000 (Works) or a bid submitted for a tender advertised on PCS
- 2.1.30** “the 1973 Act”, means the Local Government (Scotland) Act 1973
- 2.1.31** “the 2003 Act”, means the Local Government in Scotland Act 2003
- 2.1.32** “the 2015 Regulations”, means the Public Contracts (Scotland) Regulations 2015
- 2.1.33** “the 2016 Regulations”. Means the Procurement (Scotland) Regulations 2016
- 2.1.34** “the Reform Act”, means the Procurement Reform (Scotland) Act 2014
- 2.1.35** “the Scheme of Delegation”, means the Scheme of Delegation to Officers approved by the Council on 25 September 2019 or any subsequent amendment.
- 2.1.36** “the SDS 2013 Act”, means the Procurement and Social Care Self Directed Support (Scotland) Act 2013
- 2.1.37** “Trading Activities”, refers to when the Council bids for or is awarded contracts to deliver goods, service or works to other public sector bodies or private sector organisations
- 2.1.38** “Works” means any works defined in the Public Contracts (Scotland) Regulations 2015 and any subsequent amendment thereof

### **3. Extent and Application**

**3.1** These Standing Orders are made under Section 81 of the Local Government (Scotland) Act 1973 as amended and, subject to the provisions of Standing Order 5 (Exempted Contracts), shall apply to all contracts made by or on behalf of the Council for the provision of Supplies or Services and the execution of Works.

**3.2** The Standing Orders shall be applied having regard always to the key principles of:

- Transparency
- Equal Treatment
- Non-discrimination
- Proportionality

**3.3** The Standing Orders are subject to the over-riding provisions of the United Kingdom or Scottish legislation. They are also subject to any UK Government or Scottish Government guidance on public procurement that may be issued from time to time.

**3.4** All Council employees engaged in procurement on behalf of the Council must comply with the duty to secure best value in accordance with the 2003 Act.

**3.5** All Council employees shall comply with the terms of the Standing Orders and any failure to do so may result in disciplinary action.

**3.6** Any Council employee who is contract managing a third party or agent that is procuring on behalf of the Council must ensure that the third party complies with the terms of the Standing Orders and any failure to do so may result in disciplinary action.

**3.7** Other than alterations of a minor or technical nature or such as are required to be enacted immediately to ensure compliance with statutory obligations that do not have a policy impact (“minor changes”), the Standing Orders may only be varied or revoked by the Council and any motion to vary or revoke these Standing Orders shall conform to the requirements of Standing Order No. 22 of the Standing Orders Relating to Meetings and Proceedings of the Council. Any minor changes must be approved by the Cabinet and reported to the next meeting of the Council.

**3.8** It is the responsibility of each Chief Officer to ensure officers within their directorates who are involved in procurement comply with the Standing Orders.

**3.9** Any query regarding the application or interpretation of these Standing Orders must be referred in the first instance to the Head of Democratic Services.

## **4. Health and Social Care Services**

**4.1** These Standing Orders shall apply to contracts for all Health and Social Care Services subject to the special procedures set out in Annex C.

**4.2** All Health and Social Care procurement will be undertaken by the Corporate Procurement Unit with the agreement of the Senior Manager (Corporate Procurement).

## **5. Exempted Contracts**

**5.1** It must be noted that whilst certain categories of contract are exempt from the Standing Orders, they are not exempt from the application of the Reform Act and the 2015 and 2016 Regulations, where these apply and all stated exemptions from Standing Orders are subject to the proviso that such exemption is within the statutory powers of the Council and does not contravene any UK or Scottish legislation. Subject to the continued application of Standing Order 3.2 (key principles), and Standing Orders 5.2 to 5.5 (which apply in all cases), these Standing Orders shall not apply to:

**5.1.1** Any contract of employment; this exemption does not extend to any arrangements for the employment of staff on an agency basis.

**5.1.2** Any contract or type of contract which the Council or any Committee of the Council declare to be exempt, upon declaration that it is satisfied that the exemption is justified by special circumstances. Note: lack of forward procurement planning does not constitute special circumstances.

**5.1.3** Any contract with a value less than £1M which a Chief Officer in consultation with the relevant Portfolio Holder and after obtaining the agreement of the Chief Executive, considers may be exempted by virtue of any special circumstances. Special circumstances do not extend to lack of forward planning for the appropriate procurement exercise.

**5.1.4** Any contract for the supply of goods or materials or for the provision of Services or for the execution of Works which in the opinion of any Chief Officer, are urgently required for the prevention of damage to life or property.

**5.1.5** Any contract or Framework Agreement or Dynamic Purchasing System, that has been approved by the Senior Manager (Corporate Procurement) and entered on the Council's behalf by a consortium, partnership, company or similar body of which the Council is a member or user, where such body has invited bids for the provision of Supplies, Services or Works, including for example the Scottish Procurement and Property Directorate, Crown Commercial Services and Scotland Excel.

**5.1.6** Any individual Mini-Competition exercises undertaken by the Council against an approved Framework Agreement or Invitation to Tender exercise against a Dynamic Purchasing System. Where the contract award value is above £500K, the contract will be approved by the Chief Executive and a Chief Officer and where the contract is between £50K and £500,000 for Supplies and Services the contract will be approved by a Chief Officer.

**5.1.7** Any contracts entered into by Hub South West Scotland (Hub) on behalf of the Council. The Hub is a public–private partnership that enables design and construction of community facilities within southwest Scotland, the Council is one of seventeen participants of the Hub.

**5.1.8** Any contact for the purchase of a specific piece of land or a building where there is a unique owner and therefore not open to a competitive procurement process.

**5.1.9** Any contract relating to the disposal or lease of land and buildings where offers have been invited and a closing date set. Such offers relating to property shall be invited and accepted in accordance with the provisions as set out in the Procedure for Disposal of Surplus Land and Property Assets (set out in Annex B) to the Council's Policy for Property Acquisitions and Disposals.

**5.1.10** All contracts for the supply of goods or materials (including second-hand goods or materials) and the provision of Services including consultancy Services where the total estimated contract value does not exceed £50,000, subject always to the need to demonstrate value for money and probity when entering any such contracts, see Standing Order 5.2 below.

**5.1.11** All contracts for the execution of works where the total estimated contract value does not exceed £500,000, subject always to the need to demonstrate value for money and probity when entering any such contracts, see Standing Orders 5.2 below.

**5.1.12** Any contract or purchase urgently required to react to any unprecedented external factors, out with the control of the Council, deemed appropriate by the Senior Manager (Corporate Procurement) taking cognisance of procurement legislation and supply market forces.

**5.1.13** Subject to Council or Cabinet approval any contract where the appropriate Executive Director is satisfied:

- that the requirement is not readily obtained from more than one Supplier, and it can be demonstrated that no equivalent is available or
- the prices of the Supplies, Services or Works are wholly controlled by trade organisations or government order, and it can be demonstrated that no equivalent is available or
- the requirements are subject to intellectual property rights, and it can be demonstrated that either no suitable alternative is available or that exposure to competition of an item covered by copyright, patent or trademark would breach such rights

**5.2** Where a contract is exempt due to the value, in accordance with Standing Orders 5.1.10 and 5.1.11 above, the following will apply to ensure value for money is achieved:

<b><u>Type of Contract</u></b>	<b><u>Threshold (excluding VAT)</u></b>	<b><u>Procedure</u></b>
Supplies, Services & Works	< £2,000	Single quotation
Supplies, Services & Works	£2,000 - £9,999*	Minimum 3 written quotes
Supplies & Services	£10,000 - £49,999	Quick Quote via Corporate Procurement
Works	£10,000 - £499,999**	Quick Quote via Corporate Procurement



\*Works only – if during an on-site Works programme unforeseen requirement are identified that could cause delay, then in these instances the threshold for a single verbal quote can be raised to £5,000. Records should be kept supporting the use of the increased limit.

Where the contract is exempt under Standing Orders 5.1.2, 5.1.3, 5.1.4 and 5.1.13 justification for obtaining a single quote instead of 3 quotes must be recorded and kept for audit purposes.

\*\*Where transparency, non-discrimination and equal treatment are not compromised the Senior Manager Corporate Procurement retains sole discretion to increase the threshold for Works up to £2,000,000.

### **5.3 Trading Activities in accordance with Standing Order 8 below.**

**5.4** Where a contract is exempt under Standing Orders 5.1.2, 5.1.3, and 5.1.13 then a Single Tender Action Request form (see Annex A) is required to be authorised prior to any contractual commitment being made to a supplier. For urgent requirements Standing Order 5.1.4 a retrospective single tender action form is required. The Single Action Request form will be amended from time to time, the latest version is available on Connects.

### **5.5 Any contract exempted from these Standing Orders shall still:**

- Comply with the duty to achieve Best Value
- Comply with all legal procurement requirements

## **6. Disaggregation**

**6.1** Contracts must not be disaggregated, packaged, or split into separate smaller contracts or requirements to avoid the application of any provision of the Standing Orders or any other legislative provisions. The aggregate value of any single requirement for Works, Services or Supplies across the whole Council must be considered in determining whether it exceeds the threshold for application of the GPA, or the thresholds stated within the Standing Orders.

**6.2** Where specialist consultancy services are required, whether through an existing Framework Agreement or as a new tendering process, at the initial stage, costs must be obtained for all potential stages of the project to ensure that the award decision is based on total potential costs rather than the initial stage only.

## **7. Authority to Invite Tenders**

**7.1** Tenders for the provisions of Services, Supplies and Works may be invited by a Chief Officer or Designated Officer where:

- authority for the project to which the tender relates has been granted, either through delegated powers, the Capital Plan or Revenue Estimates or specific Committee authority
- they are satisfied, after proper project appraisal, that the cost of the contract can be met within the approved budget for the project.

## **8. Trading Activities**

**8.1** Notwithstanding anything to the contrary under these Standing Orders, it is recognised that the Council when carrying out its function in terms of Trading Activities recognised by the Council from time to time, will be entering into contractual relationships related to those trading activities (such as appointing sub-contractors, ordering materials or other supplies, etc.) and the following procedures shall apply:

- The Chief Officer or Designated Officer may invite, accept and/or negotiate offers from proposed Suppliers for the supply of goods or materials or for the execution of Works or for the provision of Services to third parties. In exercising powers under this paragraph, they must, unless satisfied that an exemption is justified by special circumstances, secure competition for contracts and regulate the manner in which tenders are invited by securing compliance as far as considered practicable with the terms of these Standing Orders
- In undertaking trading activities on behalf of the Council all employees are subject to the duty to secure Best Value in accordance with the 2003 Act

## **9. Collaborative Procurements including Joint Commissioning of Social Care**

**9.1** Where the relevant Chief Officer or Designated Officer considers it to be in the best interests of the Council and in accordance with Best Value to do so, he/she may seek to enter into a collaboration with one or more other public authorities in respect of the procurement of a requirement for Supplies, Services or Works, subject to the following provisions.

**9.2** Every collaborative Procurement Exercise shall require to be approved in advance by the Senior Manager (Corporate Procurement) and the procurement process shall be undertaken in conjunction with the Corporate Procurement Unit.

**9.3** Every Joint Commissioning exercise shall require to be approved in advance by the Executive Director (Social Services & Health) or their Designated Officer and the commissioning process shall be undertaken in conjunction with the Senior Manager (Corporate Procurement.)

**9.4** A business case shall be prepared in respect of every Collaboration/Joint Commissioning exercise to establish the justification for this and shall be approved in advance by the Senior Manager (Corporate Procurement.)

**9.5** Where it is proposed that the Council shall act as “Lead Authority” in a Collaborative procurement/Joint Commissioning exercise with one or more public authorities, the terms of these Standing Orders shall apply to the procurement process and the written agreement of the other parties to the Collaboration, in the form of a Memorandum of Understanding, shall be obtained to this effect.

**9.6** Where another authority acts as “Lead Authority” in a Collaborative procurement/Joint Commissioning exercise for a contract on behalf of two or more public bodies, including the Council, the procurement and award process shall be conducted in accordance with the Standing Orders of the “Lead Authority”. In every such case however, the appropriate Chief Officer or Designated Officer must first be satisfied that the procurement and award of any such contract ensures that the principles of Best Value are adhered to, and the best interests of the Council are served at all times in Collaboration/Joint Commissioning.

**9.7** Prior to commencing any Collaborative Procurement/Joint Commissioning exercise, the appropriate Chief Officer or Designated Officer shall agree the parameters for this with the appropriate officers in the public authorities and shall record this in writing. Appropriate monitoring arrangement shall be put in place by the appropriate Chief Officer or Designated Officer to ensure the agreed terms for the Collaboration/Joint Commissioning exercise are adhered to by all parties.

## **10. Delegation of Procurement Activity**

**10.1** Each Chief Officer may nominate, in writing, such other properly qualified officers as they consider appropriate to undertake any of the duties as set out in these Standing Orders who will then have delegated authority to act in lieu of them in respect of the prescribed duties.

**10.2** No officer may award a contract greater than £10,000 without written delegated purchasing authority from the relevant Chief Officer and only after consultation with the Corporate Procurement Unit to ensure that a robust procurement process has been undertaken.

**10.3** A note of all written nominations made in terms of Standing Order 10.2 shall be provided to the Senior Manager (Corporate Procurement) for retention.

## **11. Conflicts of Interest**

**11.1** No officer who has a potential conflict of interest or a direct or indirect pecuniary interest in any Procurement Exercise is permitted to be involved in the specification development, contract strategy development, evaluation, award of the contract or contract management process.

**11.2** If any officer has a conflict of interest in any aspect of the procurement process, they must declare this interest as soon as it arises. The interest must be declared to the line manager and the Senior Manager (Corporate Procurement) using the [conflict of interest declaration form](#) (Annex E) available on Connects.

**11.3** Examples of Conflicts of Interest include members of the evaluation panel or The Corporate Procurement Unit processing the Procurement Exercise, having a financial interest or having a relationship (spouse, partner, family member, close friend etc.) with someone in the bidder's organisation. Failure to declare a conflict of interest in advance of any involvement in a Procurement Exercise may result in disciplinary action.

## **12. Purchase of Supplies, Service or Works**

**12.1** Prior to purchasing any Supplies, Services or Works, Officers are required to check the contract register and consult with the Corporate Procurement Unit to establish whether any existing contract, Dynamic Purchasing System or Framework Agreement accessible to the Council might fulfil their requirement.

**12.2** If a contract exists for the specific Supplies, Services and Works required, officers should check with the Corporate Procurement Unit, that they are able to utilise the contract. If agreed, officers then must then use the existing contract. If not agreed, an alternative contract will be procured. To utilise an existing contract, a purchase order should be raised in advance of making any commitment to Suppliers. The purchase order should refer to the contract reference number being used to ensure that the Council received the agreed contractual terms and conditions.

**12.3** If no contract exists and the value is below £10K then Standing Order 5.2 must be followed.

**12.4** The use of retrospective orders is not good practice and should only be used when an extreme emergency arises.

**12.5** The Council is working towards a “No PO – No Pay” this means that any invoice received from a Supplier without a valid purchase order will be returned to the Supplier. Officers are therefore responsible for ensuring that Suppliers are given a valid purchase order to quote on their invoices to ensure that Suppliers are paid on time.

### **13. Framework Agreements and Dynamic Purchasing Systems**

**13.1** The powers set out in this Standing Order 13 shall be exercised by Chief Officers or Designated Officer through the Corporate procurement Unit.

**13.2** Where there is likely to be a repeated requirement for particular Supplies Services or Works, a Chief Officer or Designated Officer may seek to establish or participate in a Framework Agreement or Dynamic Purchasing System in line with Standing Orders 13.3 or 13.4, after establishing this is the best value route after completing a contract strategy with the Procurement Officer.

**13.3** The Chief Officer or Designated Officer may elect to establish a Framework Agreement or Dynamic Purchasing System to provide for agreement on the terms for future call-off contracts (whether through Direct Award, in the case of a Framework Agreement only, or by the acceptance of a Tender following an Invitation to Tender/Mini-Competition) where permitted in accordance with the terms of that Framework Agreement or Dynamic Purchasing System. Standing Order 5.1.6 will apply to call-off Contracts awarded in such circumstances.

**13.4** The Chief Officer or Designated Officer may elect to participate in an existing Framework Agreement or Dynamic Purchasing System that has been properly constituted by Scotland Excel, the Scottish Procurement and Property Directorate, another local authority, the Crown Commercial Service or any other public sector procurement agencies and may enter into call-off Contracts (whether through Direct award, in the case of a Framework Agreement only, or by the acceptance of a Tender following an Invitation to Tender/Mini Competition) where permitted in accordance with the terms of that Framework Agreement or Dynamic Purchasing System. Standing Order 5.1.6 will apply to call-off Contracts awarded in such circumstances.

**13.5** Where, in order to participate in an existing Framework Agreement or Dynamic Purchasing System of the type described in Standing Order 13.4, the Council is required to enter into a participation agreement or other similar agreement regulating the use of the Framework Agreement or Dynamic Purchasing System by the Council, the Senior Manager (Corporate procurement) shall have the authority to enter into that agreement on behalf of the Council.

**13.6** Any Mini-Competition run by the Council shall be conducted by means of electronic tendering for the purposes of Standing Order 18 and shall run in accordance with the procedures set out therein, unless contrary to any provisions set out in the relevant Framework Agreement or DPS (in which case, the terms of the Framework Agreement or DPS will have precedence).

## **14. Supported Businesses & Reserved Contracts**

**14.1** The Council may restrict participation in a Regulated Procurement irrespective of its duties under Section 8 of the Act except where this is expressly prohibited by relevant legislation.

**14.2** The Council may reserve the right to participate in a tendering procedure to providers operating a Supported Business. Where this right is exercised by the Council the contract award procedures provided by the Regulations and Act shall be followed.

**14.3** Where the Council decides to restrict participation in a procurement to Supported Businesses it must state that fact in the contract notice.

## **15. Procedures prior to Commencing Procurement Exercise**

**15.1** No Tender shall be invited, or any contract negotiations commenced, unless:

- The estimated expenditure thereon is within the budgetary provision previously approved by the Council and in compliance with the Council's Financial Regulations. The Officer shall be responsible for ensuring that sufficient funds are available prior to the commencement of any Procurement Exercise.
- A Request for Procurement Action (RPA) (see Annex D) has been completed and authorised by the requesting service team's budget holder and authorised by Financial Management prior to being submitted to the Corporate Procurement Unit.
- The RPA document will be amended from time to time, the latest document is available on Connects.
- A contract strategy has been prepared by the Procurement Officer in consultation with the Service Team Representative.
- In cases of Collaborative Procurement, the terms of Standing Order 9 have been complied with.

## **16. Advertising of Contracts**

**16.1** In terms of the Reform Act and 2015 Regulations, the Council has a duty to ensure that contracts are procured in accordance with the principles of non-discrimination on grounds of nationality, equal treatment and transparency.

**16.2** Contract opportunities that are subject to the requirements of the Reform Act or the 2015 Regulations must comply with the provisions relating to advertising of contracts set out in that legislation.

**16.3** All contract opportunities shall be advertised using Public Contracts Scotland, Scotland, unless a decision has been reached by reason of either Standing Order 5 or Standing Order 30 that the contract opportunity is to be awarded without advertising.

## **17. Tender Documents**

**17.1** The tender documents shall clearly set out the proposed method of evaluation as well as the scope, timing, quality and quantity of the Works, Services and Supplies required by the Council.

**17.2** Standard terms & conditions for Supplies and Services, and approved industry model form contracts for Works, shall be used in all contracts to which these Standing Orders apply, where the Council is the lead procurer.

## **18. Technical Specification**

**18.1** Formal specifications or statements of requirement shall be developed, in compliance with Regulation 43 of the 2015 Regulations for Regulated Procurements above the GPA Threshold and Regulations 11 and 12 of the 2016 Regulations for Regulated Procurements below the GPA Threshold, by the relevant Service Team Representative with support from the Procurement Officer for all tendered or quoted requirements for Supplies, Services or Works, which will fully define what the Supplier is to provide.

**18.2** Specifications shall not be accepted as final until the Procurement Officer and/or Service Team Representative, where appropriate, are satisfied as to their affordability.

**18.3** The Service Team Representative must ensure that technical specifications for Regulated Procurements give equal access to all interested parties and do not create



unjustified obstacles to the opening up of public procurement to competition or encouraging innovation. The Service Team Representative shall specify requirements for award criterion in generic, technical or performance terms. Technical specifications must not refer to materials or goods of a specific make or source or to a particular process or trademark, patent, type, origin or means of production which has the effect of favouring or eliminating particular suppliers.

**18.4** The requirement may only be dispensed with in exceptional circumstances, where the subject of the contract cannot otherwise be described by reference to technical specifications which are sufficiently precise and intelligible to all suppliers. However, where this exception applies, any such references in the technical specification must be accompanied by the words “or equivalent”. Where a technical specification does make such a reference, a written justification shall be provided as part of the contract notice or invitation to participate or quote, including an explanation as to why it was not possible to describe the product by reference to technical or performance characteristics.

**18.5** The Service Team Representative may include references in specifications to mandatory technical rules which go beyond the relevant legislative standards, provided these are non-discriminatory and without prejudice to any relevant national or international standards or specifications.

## **19. Standards**

**19.1** Where an appropriate and recognised international or European Standard or British Standards Specification or British Standard Code of Practice is current at the date of the Invitation to Tender, every contract shall require that, all goods and materials used or supplied and all workmanship shall at least meet the requirements of that Standard, unless otherwise approved by the appropriate Chief Officer or Designated Officer. In the absence of any such recognised standards, the Tender document shall require an appropriate equivalent standard be used.

## **20. Intellectual Property Rights**

**20.1** The Chief Officer or Designated Officer shall, in so far as practicable, ensure that in contracts for procuring reports, guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models and designs developed by the Supplier, on behalf of the Council, shall vest in the Council absolutely.

## **21. Prevention of Collusion and Corrupt Illegal Practices**

**21.1** Every contract shall contain a clause entitling the Council to cancel the contract and to recover from the Supplier the amount of any loss resulting from such cancellation if the Supplier or his representative (whether with or without the knowledge of the Supplier) shall have practised collusion in tendering for the contract or any other contract with the Council or shall have employed any corrupt



or illegal practices either in the obtaining or execution of the contract or any other contract with the Council, or have been convicted of an offence under Section 1 of the Bribery Act 2010.

**21.2** North Ayrshire Council supports the Scottish Governments policy on ensuring that public contracts are awarded to legitimate businesses and has signed up to an Information Sharing Protocol with Police Scotland to share information about organisations who bid for public contracts.

## **22. Equality**

**22.1** Every contract shall contain an Equality clause to provide assurance that, the Supplier has complied with all statutory requirements in respect of ensuring equal opportunity in employment; and that it is not unlawfully discriminating within the meaning and scope of the provisions of the Equality Act 2010 (or any statutory modification or re-enactment thereof) including but not limited to discrimination on grounds of gender, marital or civil partnership status, race, disability, gender reassignment, religion or belief, sexual orientation, age, pregnancy or maternity leave.

## **23. Public access to information**

**23.1** The Freedom of Information (Scotland) Act 2002 came into force on 1st January 2005. The Act gives a statutory right of access to all information held by Scottish Public Authorities, except where an exemption can be applied. All terms and conditions and invitations to tender/bid, give notice of this.

**23.2** On occasions, parties with whom the Council contracts will seek to incorporate stipulations that all or some information is provided in confidence. No such provision should be accepted without the prior approval of the Head of Democratic Services.

**23.3** In all cases other than those specifically approved by the Head of Democratic Services all contract conditions should include the following provision:

- All information submitted to the Council may need to be disclosed and/or published by the Council in compliance with the Freedom of Information (Scotland) Act 2002 and/or the Environmental Information (Scotland) Regulations 2004, (the decisions of the Council in the interpretation thereof shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms), any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure.

**23.4** Further, the Council may also disclose all information submitted by the tenderer to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish or the United Kingdom Parliament it is recognised and agreed by both parties that the Council shall disclose such information but are unable to impose any restrictions upon the information that they provide to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.

**23.5** Accordingly, if tenderers consider that any of the information included in their tender is commercially confidential, please identify it and explain (in broad terms) what harm might result from disclosure and/or publication. It should be remembered though, that, even where tenderers have indicated that information is commercially sensitive, the Council may disclose this information. Receipt by the Council of any material marked "confidential" or equivalent should not be taken to mean that the Council accept any duty of confidence by virtue of that marking.

**23.6** The Council will publish, on the Public Contracts Scotland website, the names and contact details of successful tenderers for contracts over £50,000 for Supplies and Services and £500,000 for Works.

## **24. Sustainability**

**24.1** Sustainable procurement incorporates environmental, economic, and social considerations. The Council is legally bound by the Sustainable Procurement duty in the Reform Act to consider sustainability and procure responsibly and in a way that delivers community well-being, minimises use of resources and prevents environmental degradation. Where relevant to the subject matter of the contract, consideration should be given to:

- Limiting energy and water consumption during delivery of the requirement
- The use of non-toxic substances and renewable materials
- Disposal, reuse and recycling options at the end of life
- Incorporation of recycled or part recycled goods and energy efficient products
- Encouraging local recruitment and training of staff employed in the delivery of the contract
- Involving Small and Medium Enterprises (SME's), Third Sector Bodies and Supported Businesses

- Promoting innovation – Innovation in design and delivery of public services, procurement of innovative goods and services and use of innovative procurement processes
- Ensuring every contract shall not provide Goods or Services
  - which may endanger the health of any person
  - cause significant damage to the environment during manufacture,
  - where use or disposal, consumes a disproportionate amount of energy during manufacture,
  - where use or disposal, causes unnecessary waste, or contains materials derived from threatened species or environments.

## **25. Community Benefits**

**25.1** A Community Benefit clause must be considered as a contractual requirement for any procurement of which the estimated value is equal to or greater than £50,000 for Supplies and Services and over £100,000 for works. For contracts up to the value of £499,999 the Community Benefits are voluntary and for contracts £500,000 or over Community Benefits are mandatory.

**25.2** The Procurement Officer in consultation with the Community Benefit Officer will determine if there is an opportunity to deliver community benefits and include details of the Community Benefits required in the contract notice. If there is no community benefit requested, the notice must give reasons why.

**25.3** The Council must ensure the requirements are in line with the relevant procurement legislation and the Council must ensure that the Community Benefit clause does not amount to direct or indirect discrimination.

**25.4** The Community Benefits Officer must ensure that robust arrangements are in place to monitor Community Benefits and the outcomes delivered are recorded and reported.

## **26. Assignment/Novation**

**26.1** In every contract, there shall be included a provision whereby:

- The Supplier shall be prohibited from transferring, assigning or sub-contracting a contract or any part thereof without the prior written consent of the Council
- The Supplier shall be prohibited from changing any sub-contractors from those noted in the Suppliers response documents without the prior written consent of the Council

**26.2** In every contract, there shall be included a provision whereby:

- If a Supplier's name changes, but their company registration remains the same, they will provide the Council with a copy of their "Certificate of Incorporation on Change of Name"
- If a Supplier's company registration number changes, the Council have the right to terminate the contract or continue the contract, providing, pre-qualification and quality criteria applied to the original contract are met and a Deed of Novation is signed confirming they accept all contractual obligations and liabilities within the contract.

## **27. Health & Safety**

**27.1** Every Supplier appointed by or on behalf of the Council shall be required to comply with current Health and Safety legislation and approved Codes of Practice, as may be applicable to the contract. The Chief Officer or Designated Officer will have the ultimate decision as to whether a Supplier's Health and Safety qualification is equal to that required by the Council or in an approved form.

**27.2** In the case of contracts for construction type works, in addition to the aforementioned, Suppliers appointed by or on behalf of the Council shall be required to submit evidence (prior to entering a contract) of a UKAS (or equivalent) accredited independent third-party certificate of compliance in accordance with ISO 45001 (or equivalent) or have, within the last 12 months, successfully met the assessment requirements of a construction-related scheme in registered membership of the Safety Schemes in Procurement (SSIP) forum, or they must have a regularly reviewed and documented policy for Health and Safety management

## **28. Insurance**

**28.1** Every contract shall contain a clause which requires the Supplier to take out and maintain, for the duration of the contract, such insurance cover for such amounts as the Chief Officer or Designated Officer and the Insurance Team may deem relevant to the contract, including, if appropriate, but not restricted to:

- Employers Liability Insurance

- Public (Third Party) Liability Insurance
- Product Liability Insurance
- Professional Indemnity Insurance, which shall remain in force for a period of six years beyond the end of the contract
- Third Party Motor Vehicle Insurance
- Other such specialist classes of insurance as advised by the Senior Manager (Internal Audit, Fraud, Safety & Insurance)

## 29. Performance Bonds and Parent Company Guarantees

**29.1** Where considered necessary by the Chief Officer or Designated Officer, the Council shall require the Supplier to take out a bond, obtain and deliver a formal parent company guarantee or provide other sufficient security for the due performance of the contract.

## 30. Tendering Procedures

**30.1** Subject to the provisions of Standing Order 5.2, where the total contract value exceeds £50,000 (Supplies and Services) and £500,000 (Works) formal tenders will be obtained by one of the following methods:

Type of Contract	Threshold*	Procedure
Supplies & Services	Over £50k	<ul style="list-style-type: none"> <li>• Open Tender</li> <li>• Restricted Tender</li> </ul>
Works	Over £500k	<ul style="list-style-type: none"> <li>• Open Tender</li> <li>• Restricted Tender</li> </ul>
Supplies, Services & Works	>GPA	<ul style="list-style-type: none"> <li>• Negotiated Procedure without Prior Publication of a Notice</li> <li>• Competitive Procedure with Negotiation</li> <li>• Competitive Dialogue Procedure</li> <li>• Innovation Partnerships</li> </ul>

\*Wherever VAT may be payable under a contract, the Council must ensure that an allowance for VAT is included in the calculation of the estimated value of the contract for the purposes of determining whether the contract equals or exceeds the GPA threshold.

**30.2** The relevant Chief Officer or Designated Officer in consultation with the Procurement Officer will determine through market research which procedure will be used to maximise competition.

**30.3** For all procedures apart from Standing Orders 30.6, the relevant Designated Officer shall seek tenders from any organisations registered on Public Contracts Scotland and Public Contract Scotland Tender.

#### **30.4 Open Tender**

This procedure shall apply when after consultation the Procurement Officer, Service Team Representative and the Chief Officer or Designated Officer decide that tenders for a contract shall be obtained by open competition. The Procurement Officer shall publish a contract notice on Public Contracts Scotland. The notice shall:

- Specify the nature and purpose of the contract
- Detail selection criteria
- Detail award criteria
- Detail a tender return deadline

A minimum of 21 days must be allowed for below GPA threshold procurement and 25 days for above GPA threshold procurements, between the notice published date and the tender return deadline, or at least 10 days if a Prior Information Notice (not a call for competition) has been published within 35 days and 12 months from date of contract notice.

#### **30.5 Restricted Tender**

This procedure shall apply when after consultation the Procurement Officer, Service Team Representative and the Chief Officer or Designated Officer decide to use a shortlisting process which limits invitations to tender to the applicants responding to a notice. Before inviting tenders, the Procurement Officer shall publish a notice on Public Contracts Scotland. The notice shall:

- Specify the nature and purpose of the contract
- Detail selection criteria
- Detail the SPD return deadline

A minimum of 14 days should be allowed for below GPA threshold procurements and 25 days for above GPA threshold procurements between the notice published date and the SPD return deadline (unless otherwise agreed with the Senior Manager (Corporate Procurement) or Designated Officer).

After the SPD return deadline an Invitation to Tender document shall be issued by the Procurement Officer via Public Contracts Scotland Tender to a minimum of five providers, where possible. Where less than five SPD returns are received from providers advice/approval must be sought from the Senior Manager (Corporate Procurement) or Designated Officer before proceeding.

As soon as practical after deciding to exclude applicants from the Tender list unsuccessful applicants must be given a notice of:

- The names of the applicants proceeding to the second stage
- The criteria used to exclude the applicant
- The applicants scoring against the maximum scoring available and the winning bidder(s) score.

The Invitation to Tender document shall:

- Specify the nature and purpose of the contract
- Contain all tender documentation (including award criteria)
- Include the tender return deadline

A minimum of 21 days for below GPA threshold procurements and 25 days for above GPA threshold procurements should be allowed between the notice publish date and the tender return deadline or at least 10 days if a Prior Information Notice (not a call for competition) has been published within 35 days and 12 months from date of contract notice.

### **30.6 Negotiated Procedure without Prior Publication of a Notice (Above GPA)**

Negotiated Procedure without Prior Publication should only be used in very exceptional circumstances. These exceptions should be limited to cases, where publishing a call for competition is not possible such as situations:

- Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted for a previous Open or Restricted tender exercise, provided that the initial conditions of the contract are not substantially altered. A Tender shall be considered not to be suitable where it is irrelevant to the contract, being manifestly incapable, without substantial changes, of meeting the organisation's needs and requirements as specified in the procurement documents. A request to participate shall be considered not to be suitable where the bidder has been or would have been excluded or where it does not meet the selection criteria.
- Where the supplies or services can be supplied only by a particular supplier for any of the following reasons:

- The aim of the procurement is the creation or acquisition of a unique work of art or artistic performance
- Competition is absent for technical reasons (only if it is not caused by artificial narrowing down of the parameters of the procurement and no reasonable alternative or substitute exists)
- The protection of exclusive rights, including intellectual property rights (only if it is not caused by artificial narrowing down of the parameters of the procurement and no reasonable alternative or substitute exists)
- Where it is strictly necessary for reasons of extreme urgency (where the time limits for the Open or Restricted Procedure or Competitive Procedure with Negotiation cannot be complied with) brought about by events unforeseeable and not attributable to the Organisation, such as emergency situations affecting the public e.g., flooding.

#### Negotiated Procedure without Prior Publication in case of **Goods**:

- Where the products involved are manufactured purely for the purpose of research, experimentation, study, or development, but not including quantity production to establish commercial viability or to recover research and development costs. Note this should not be abused to allow a single supplier to be approached to design an item which must subsequently be purchased as a result of proprietary rights
- Where a change in supplier(s) would mean that the Organisation would have compatibility issues or disproportionate technical difficulties; this procedure can be used to acquire additional deliveries from the original supplier when needed to replace or increase supplies or installations. In this case, the contract or recurrent contract length must not exceed three years, other than in exceptional circumstances
- For supplies quoted and purchased on a commodity market
- For the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.

#### Negotiated Procedure without Prior Publication in case of **Services**:

- Where the contract concerned follows a design contest organised in accordance with the 2015 Regulations and where the contract concerned is to be awarded as part of the design contest to the winner or winners. Where there is more than one winner of the design contest, all of them must be invited to participate in the negotiation
- In instances when all the following apply:



- Where it is for new services consisting of the repetition of similar services performed by the supplier to which the Organisation awarded an original contract, provided that such services are in conformity with the basic project for which the original contract was awarded, and the award indicated the extent of possible additional services and the conditions under which they would be awarded
- The possible use of this procedure was disclosed in the procurement documents and the total estimated cost of subsequent services was taken into consideration by the organisation when applying the thresholds in relation to the original contract
- Not more than three years have elapsed following the conclusion of the original contract.

As with all aspects of the Procurement Journey, the activities at this stage must be carried out in a carefully managed manner that supports the principles of procurement. As a minimum the processes must be carried out in a transparent way that ensures there is no distortion of the marketplace, the outcome cannot be a procurement that unduly favours or disadvantages a particular Supplier, and it is the responsibility of the organisation to make sure that these requirements are met.

Use of this procedure must be justified; it can only be used in situations which have not been created by the Council. Reasons why there are no reasonable alternatives or substitutes such as using alternative distribution channels including outside the UK or considering functionally comparable Supplies and Services. Where the situation of exclusivity is due to technical reasons, they should be rigorously defined and justified on a case-by-case basis. Technical reasons may also derive from specific interoperability requirements which must be fulfilled in order to ensure the functioning of the Works, Supplies or Services to be procured. When fixing any time limits the Council must take account of the complexity of the contract.

A Contract Notice will not be published in this procedure. The only procurement documents which may be published would be a Voluntary Ex- Ante Transparency (VEAT) Notice which an Organisation can use to protect itself by sending a VEAT Notice to GPA prior to entering the contract. It is still mandatory to publish a Contract Award Notice with this procedure.

### **30.7 Competitive Procedure with Negotiation (above GPA)**

The Competitive Procedure with Negotiation lets you clarify bids after their submission of fully formed initial tenders. This procedure may be used:

- If you unable to define how to meet your needs technically and/or you cannot specify the legal or financial requirements of your contract
- For procuring Services or Goods that require adaptation or design inputs

- In cases of complex purchases, such as sophisticated products, intellectual services or major information and communication technology tools

Under this procedure:

- The contract notice will make it clear that the competitive procedure with negotiation is being used
- Any Supplier may make a request to participate
- The request to participate must be accompanied by an SPD
- Following assessment of the submitted SPDs, the buyer will invite suppliers that meet the selection criteria to the initial tender phase
- You may have to start a dialogue with bidders to guarantee a satisfactory outcome of the procurement process
- This may result in a new or revised tender being issued
- Finally, leading to a contract award

A record of clear reasons for selecting this approach is required and commercial confidentiality is of key importance in employing this procedure.

### **30.8 Competitive Dialogue Procedure (above GPA)**

Competitive Dialogue can be used:

- Greater flexibility is needed e.g., highly complex and risky projects
- you are procuring innovative projects
- you are unable to specify your requirements e.g., your technical, financial or legal solutions. Therefore, bidders may have a major role in defining the solution
- You cannot assess without in-depth dialogue on what the market can offer or
- The Open or Restricted Procedures may not deliver the expected outcomes.

Under this procedure:

- The contract notice will make it clear that the competitive dialogue procedure is being used and will also set out the award criteria which the public body will apply during the dialogue stage
- Any Supplier may make a request to participate
- The request to participate must be accompanied by an SPD
- Following assessment of the submitted SPDs, the buyer will conduct a dialogue with the Suppliers which meet the selection criteria. The aim of the dialogue will

be to develop one or more suitable alternative solutions capable of meeting the requirements

- Based on this dialogue the buyer will select Suppliers to invite to tender.

A record of clear reasons for selecting this approach is required and commercial confidentiality is of key importance in employing this procedure.

### **30.9 Innovation Partnerships (above GPA)**

Innovation Partnerships can be used where there is a need to develop an innovative product or Service and there is no existing product or solution currently available on the market. Under this procedure:

- The contract notice will make it clear that the innovation partnership procedure is being used
- Any Supplier may make a request to participate
- The request to participate must be accompanied by an SPD
- Following assessment of the submitted SPDs, the buyer will use a negotiated approach to invite Suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market
- The public body is allowed to award partnerships to more than one supplier

A record of clear reasons for selecting this approach is required and commercial confidentiality is of key importance in employing this procedure.

### **30.10 Public Social Partnerships (PSP)**

A PSP is a strategic partnering arrangement which involves the third sector earlier and more deeply in the design and commissioning of public services.

The third sector is often best placed to interact closely with communities and its involvement can mean that people have more choice and control over what services are delivered locally. A PSP differs from other commissioning approaches in that it starts with the need to be addressed, not the services available.

A PSP typically comprises 3 stages:

- Third sector organisations work with the public sector purchasers to design a service
- A short-term pilot may be run to help refine the service delivery parameters
- The Service is further developed to maximise community benefit before being competitively tendered, typically within three-four years

The Senior Manager (Corporate Procurement) or Designated Officer must be consulted and agree that a PSP is the correct approach.

## **31. Electronic Tendering**

**31.1** All tenders must be advertised by electronic means through Public Contracts Scotland and the tender process will be progressed through the Public Contracts Scotland Tender e-tendering system. All Quick Quotes, Dynamic Purchasing Systems Invitations to tender and Mini Competitions will be invited, and submissions accepted via Public Contracts Scotland Tender.

## **32. Submission of Tenders**

**32.1** The Invitation to Tender shall state that a Tender will not be considered unless it is received electronically by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this clause shall be considered.

**32.2** All invitations to tender shall include the following: -

- A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers
- A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any party (except where such a disclosure is made in confidence for a necessary purpose)
- A requirement for tenderers to complete fully and sign all relevant tender documents including a form of tender
- Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense
- A description of the award procedure and evaluation criteria (including quality/price ratio, weighted quality criteria and price scoring model). The award

procedure and evaluation criteria must remain unchanged throughout the tender process

- The method by which any arithmetical errors discovered in the submitted tender is to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

**32.3** All Invitations to Tender must specify the Supplies, Services or Works that are required, together with the terms and conditions of contract that will apply.

**32.4** The Invitation to Tender must state that the Council is not bound to accept any tender or accept any part of any tender.

**32.5** All candidates invited to tender must be issued with the same information at the same time and subject to the same conditions through Public Contracts Scotland or Public Contract Scotland Tender. Any supplementary information must be provided on the same basis.

**32.6** Candidates invited to respond must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the urgency of the contract requirement. Normally at least 3 weeks should be allowed for submission of tenders. For all tenders that exceed the GPA threshold, the GPA timescales will apply.

## **33. Late Tenders**

**33.1** No tenders received after the closing date and time for submission shall be considered. Where a tender is late due to a failure or lack of availability of the electronic tendering platform, and which is not attributable to the tenderer or as the case may be their agent, the express approval of the Senior Manager (Corporate Procurement) shall be required to admit the tender for consideration.

## **34. Opening of Tenders**

**34.1** Due to the system controls in place all Tenders shall be opened by an authorised user, using the parallel opening functionality on Public Contracts Scotland or Public Contract Scotland Tender as soon as it is practical to do so.

**34.2** The Senior Manager (Corporate Procurement) or Designated Officer shall ensure that for each e-tendering project, the system shall keep and, if required, produce a record showing the date and time when Tenders were opened.

## **35. Checking of Tenders**

**35.1** All Tenders shall be subject to checking for completeness and errors by an appropriate officer nominated by the Chief Officer of the service concerned. Any arithmetical errors that result in a change to the pricing submitted must be documented.

**35.2** Tenders for construction works shall be checked in accordance with current industry best practice and relevant practice notes, such as JCT Tendering 2017 Practice Note, where deemed appropriate to do so.

## **36. Evaluation of Tenders**

**36.1** Apart from the notification required or permitted by Standing Order 36.3:

- Confidentiality of qualification, quality and commercial responses, and the identity of bidders must be preserved at all times, including during the Procurement Exercise process and after the contract is awarded
- Information about one candidate's response must not be given to another candidate

**36.2** During the evaluation process, Officers will be given access to information about the Tender responses or the identity of tenderers. This information must be kept confidential as it could be commercially sensitive, or subject to a non-disclosure agreement. This information must not be shared out with those involved in the evaluation or decision approval process. The only information that will be disclosed publicly after the award of the contract will be the awarded Supplier's company name and bid value. Unsuccessful bidders will be provided with the costs and quality score of the winning bid and their own cost and quality score.

**36.3** Contracts must be evaluated and awarded in accordance with the Award Criteria stated in the contract notice or tender documents and in compliance with Standing Order 32.2.

**36.4** Where genuine pricing errors are found, they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the individual figures in the Tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended Tender price may be requested to accord with the figures given by the tenderer.

**36.5** Chief Officers or Designated Officer shall ensure that submitted Tender prices are compared with any pre-tender estimates/budgets and that any discrepancies are examined and resolved satisfactorily.

**36.6** Where changes to the Tender are reasonable by the tenderer, and where such change is viewed to be reasonable by Council staff, erroneous figures shall be adjusted, and the Tender recalculated arithmetically. Changes to the Tender figure should be signed by the tenderer. A letter or email from the tenderer, confirming and agreeing to the changes in erroneous figures shall also be appended to the Tender response documents.

**36.7** The original Tender form shall be amended to reflect the outcome of any new Tender offer and the changes shall be signed by the tenderer.

**36.8** At the end of the evaluation process, Tender evaluation summary sheets shall be endorsed by the Evaluation Panel.

**36.9** The evaluation panel must be made up a panel of at least 2 for Tenders over the value of 50K for Supplies and Services and £100K for works.

**36.10** Tenders received in respect of proposed contracts should only be accepted where they have been sought and evaluated fully in accordance with these Standing Orders.

## **37. Abnormally Low Bids**

**37.1** Investigating abnormally low bids is a mandatory obligation. Any Tender considered to be an abnormally low bid in relation to either the proposals or the anticipated contract value must be investigated and clarified.

**37.2** Any such proposal should be excluded from any further consideration in the event that investigation and clarification fail to resolve identified issues. The Procurement Officer must consult with the Senior Manager (Corporate Procurement) before any final decision is taken.

## **38. Post Tender Clarifications**

**38.1** Between the last date and time for the receipt of Tenders and the date on which a decision is taken as to which, if any, tender is to be accepted, the Senior Manager (Corporate Procurement) or any Procurement Officer designated by them may

contact a tenderer in respect of any tender submitted in order to seek clarification on the terms of the Tender.

**38.2** Where any factor giving rise to post tender clarifications is not specific to one tenderer, all tenderers must be invited to participate in such clarification communications. There must be no material change to the specification(s) and/or criteria on which Tenders are to be evaluated. If it becomes apparent that a material change is required, the tendering process must be recommenced with a revised specification or award criteria.

**38.3** A full written record shall be kept of all such clarifications and shall be retained with the original Tender.

**38.4** This provision shall not be used in any way to permit any tenderer to amend their bid in a manner that allows them to improve their offer, nor to put other tenderers at a disadvantage nor to distort competition. All tenderers must be treated at all times equally and in an open, transparent and fair manner.

**38.5** For all GPA tenders a mandatory standstill period must be observed before a contract can be awarded, see Standing Order 40.5.

## **39. Post Tender Negotiations**

**39.1** Once the evaluation of tenders has been completed in accordance with Standing Order 36, the Chief Officer may request the Senior Manager (Corporate Procurement), or any Procurement Officer designated by them to enter into post Tender negotiations. Such negotiations shall take place with the tenderer who has submitted the Most Economically Advantageous Tender for a contract; and where there is scope for improvement in the Tender received and that such negotiations will be in the best interests of securing Best Value and improved terms and conditions for the Council.

**39.2** Where it is considered possible that post tender negotiations might apply, a clear indication will be given to prospective Suppliers in the instructions to tenderers that post tender negotiations might be considered.

**39.3** A full record (which shall include copies of all written communications) shall be kept by the Corporate Procurement Unit of all contracts where post tender negotiations have been used and the written record will be retained with the original Tender. The written record will include the justification for authorising post Tender



negotiations, the nature of the negotiations undertaken, the outcome of such negotiations and shall detail any additional terms agreed by the Council.

**39.4** This Standing Order 39 shall not be used in any way to put any tenderer at a disadvantage or to distort competition, and it shall not be used to make any change to the specification(s) and/or criteria on which the identified Tender is to be assessed.

## **40. Acceptance of Tender**

**40.1** Every Tender issued shall state the award criteria as the Most Economically Advantageous Tender. Lowest price is no longer legally compliant for procurements over £50K for Supplies and Services and over £500K for Works. The evaluation of all bids received shall take place in accordance with the criteria specified in the tender documentation.

**40.2** No Tender shall be accepted unless:

- The appropriate Chief Officer or Designated Officer is satisfied that the selection criteria stated within the tender have been met
- The appropriate Chief Officer or Designated Officer is satisfied, in accordance with the award criteria, that the tender is the Most Economically Advantageous Tender and technically compliant proposal for the Council.

**40.3** Tenders for contracts where the total contract value (including optional extensions and collaborative partners spend) does not exceed £500,000 shall be accepted upon written approval of the appropriate Chief Officer and Designated Officers. For Procurement Exercises over £50,000 for Supplies and Services and over £100,000 for Works a tender outcome report will be prepared setting out details of the bids received. Subject to the procedures of Standing Orders 40.2 being adhered to, the contract acceptance and award letter will be issued by the Senior Manager (Corporate Procurement) or Designated Officer.

**40.4** Where the value of the contract is more than £500,000 (including optional extensions and collaborative partners spend), a tender outcome report will be prepared setting out the details of the tenders received. A tender shall be accepted upon the written approval of the Chief Executive, Chief Officer and Senior Manager (Corporate Procurement). In the absence of the Chief Executive, such tenders shall be accepted on the written approval of an appropriate Executive Director (from out with the Procuring Directorate) in consultation with the Monitoring Officer/Chief Finance Officer, the appropriate Chief Officer (from the procuring Service and Senior Manager (Corporate Procurement). Subject to the procedures of Standing Order

40.2 being adhered to, the contract acceptance and award letter will be issued by the Senior Manager (Corporate Procurement) or Designated Officer

**40.5** For all tenders over the GPA threshold a Mandatory Standstill Period must be observed prior to the award of contract. The Mandatory Standstill Period must be for a period of at 10 calendar days.

## **41. Form of Contract**

**41.1** Except where otherwise agreed by the Chief Executive or Designated Officer and the Head of Democratic Services every contract shall be in writing, shall be signed by the appropriate Chief Officer, Designated Officer or other officer specifically authorised by him/her for this purpose and shall be subject to the laws of Scotland and the jurisdiction of the Scottish Courts.

## **42. Nomination of Sub-Contractors**

**42.1** Where the Council nominates a sub-contractor or supplier to a main contractor, in the absence of any statutory requirements setting out different procedures, all tenders must be invited by the Council in accordance with the relevant tendering procedures laid down in these Standing Orders.

**42.2** The terms of the invitation will require an undertaking by the tenderer that, if selected, they will be willing to enter into a contract with the main contractor in terms which may indemnify the main contractor against their own obligations under the main contractor for the work goods or services included in the sub-contract.

## **43. Contract Register**

**43.1** The Reform Act requires the Council to publish an external Corporate Contract Register. The Corporate Procurement Unit shall be responsible for updating the Council's Contracts Register. The contract register must include the:

- Contract name and description
- Contract reference number
- Contract value
- Supplier name and address details
- Commencement date for contract
- Termination date for contract

- Any optional extension dates

**43.2** It is the responsibility of Chief Officers or their Designated Officer to regularly review the contract register to ensure that the register accurately reflects all known contracts. Chief Officers or Designated Officer should notify the Corporate Procurement Unit of any new contracts or required amendments in order that the Council can meet the legal requirement of publishing an accurate complete Corporate Contract Register.

## **44. Modifications to Contract**

**44.1** Consideration must be taken of the value, type and scope of the modification relevant to the original contract. Modifications cannot be considered if the terms and conditions of the contract do not allow for this or if the value and/or scope of the modification are significantly different from the original contract.

**44.2** Any modifications to the scope, duration, terms and conditions or value, should not be agreed without the prior approval of the Senior Manager (Corporate Procurement) or Designated Officer and without having necessary budget provision. If the modification to contract is approved, the Corporate Procurement Unit will issue contract modification letters.

**44.3** For Taxis or other Services, with a high frequency/quantity of modifications, details of all modifications to contract must be held in writing by the relevant Service Team Officer. Modifications not issued by the Corporate Procurement Unit must be agreed with the Senior Manager (Corporate Procurement).

## **45. Termination of Contracts**

**45.1** Every contract shall contain a provision allowing for the contract to be terminated.

**45.2** The Chief Officer or Designated Officer may request to terminate any contract or the Council's participation in a framework agreement, subject to consultation with the Head of Democratic Services and the Senior Manager (Corporate Procurement.)

**45.3** Any termination shall be subject to the Head of Democratic Services and the Senior Manager (Corporate Procurement) being satisfied that it is reasonable and in the interests of the Council to exercise that power.

**45.4** Details of all terminations to contract must be held in writing and copies retained by the Corporate Procurement Unit.

## **46. Post Contract Monitoring and Evaluation**

**46.1** During the life of the Contract the Contract and Supplier Management Policy contained within the Procurement Manual will apply.

## **47. Interest of Members**

**47.1** A member of the Council with a personal interest in a matter who attends the meeting of the Council at which the matter is considered must disclose to that meeting the existence and nature of that interest at the beginning of that meeting or when the interest becomes apparent, in compliance with the Councillor's Code of Conduct in terms of Section 1 of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

**47.2** A member with a personal interest in a matter also has a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the member's discussion or decision making in their role as a Councillor. A member with a prejudicial interest in any matter must:

- Withdraw from the room where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting; and
- Not seek improperly to influence a decision about that matter

## **48. Interest of Officers**

**48.1** In addition to his or her duty under Section 81 of the 1973 Act and the requirements of the 2003 Act, if any officer of the Council finds that he or she has a disclosable financial interest in any contract which has been or is proposed to be entered into by the Council or in some other matter which is to be considered by the Council or any of its Committees or Sub-Committees other than:

- A contract of employment under which he or she serves the authority or
- The tenancy of a dwelling provided by the Authority

He or she must as soon as practicable give notice of the fact in writing to the Chief Executive.

**48.2** For the purpose of this section, a disclosable financial interest is an interest that, if the officer were a member of the Council and if the contract or other matter were to be considered at a meeting of the Council at which he or she were present, he or she would have to disclose under the provision of the Councillor's Code of Conduct referred to in Standing Order 47.1.

**48.3** The Chief Executive shall record in a register to be kept for the purpose, particulars of any notice of a financial interest given by an officer under Section 81 of the 1973 Act or under paragraph 87.1 of the Standing Orders.

## **49. Disposal of Surplus or Scrap Materials/Equipment**

**49.1** These standing orders also apply for the disposal of surplus of scrap materials and equipment. The Chief Executive may authorise the adoption of an appropriate method of doing so following a recommendation from the Chief Officer of the Service concerned. This method should be adopted in line with the provisions contained within these standing orders and where more than one offer is received, the highest satisfactory offer will be accepted.

## **50. Disposal of Interest in Land and Building**

**50.1** The Policy for Property Acquisition and Disposal as set out in Annex B shall apply to the making of contracts for the disposal by the Council of its interest in land or buildings (including the disposal by lease thereof, other than leases by the Council for periods not exceeding 5 years) where the interest has been declared surplus to the Council's requirements. Except in cases of community transfers (in accordance with the Council's policy for the Transfer of Assets to the Community), or otherwise in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010 where more than one offer is received the highest satisfactory offer shall be accepted. Any disposal for less than the recorded value must fulfil the requirements of the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

## **51. Variation and Revocation**

**51.1** These Standing Orders may be varied or revoked by the Council and any motion to vary or revoke these Standing Orders (which motion shall conform to the requirements of Standing Order 22 of the Standing Orders Relating to Meetings and

Proceedings of the Council and Committees) shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **52. Thresholds and VAT**

**52.1** All monetary thresholds contained within the Standing Orders are exclusive of VAT, unless otherwise stated.

## **53. Commencement**

**53.1** These Standing Orders Relating to Contracts shall apply and have effect from 19 May 2022. These Orders supersede the Standing Orders approved by the Council on 23 September 2020.

## Annex A – Single Tender Action Request



### SINGLE TENDER ACTION REQUEST (“STAR”) OVER 5K

Please complete the relevant sections and return the form by email to:  
[procurement@north-ayrshire.gov.uk](mailto:procurement@north-ayrshire.gov.uk)

#### SECTION 1 – SERVICE DETAILS

<b>Service details</b> Please provide the service details below.
Service:
Service officer name:
Telephone number:
Date of request:
Contract Administrator’s Name:

#### SECTION 2 – BACKGROUND

<b>2.1 Working title</b> Please provide a short specific title e.g. Supply and Delivery of Office Furniture to St Matthew’s Academy.
<b>2.2 Description</b>

Please provide a comprehensive description of the requirement.

### 2.3 Recurring

Please select if this is a one-off requirement or a recurring requirement.

One-off requirement ☐

Recurring requirement ☐

## SECTION 3 – JUSTIFICATION

### 3.1 Suppliers/Contractors/Service Providers details

Please provide the suppliers/contractors/service providers details below.

Name:

Street:

Town:

Postcode:

Telephone number:

Email address:

### 3.2 Quote

Please confirm you have a valid quote from the supplier/contractor/service provider.

Yes ☐ No ☐

If yes, a copy must be attached.



### 3.3 Reason for requesting a STAR

Please confirm the reason for requesting a STAR and provide justification to demonstrate why a competitive quote / tender is not possible.

### 3.4 Value for money

Please confirm how you have evidenced value for money in the absence of competition.

### 3.5 Exemption reason

Please select the exemption reason(s) below from the [Procurement \(Scotland\) Regulations 2016](#) by selecting the relevant tick box below (other options must not be deleted).

Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to the publication of a contract notice, provided that the initial conditions of the contract are not substantially altered ☐

Where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

(i) the aim of the contract is the creation or acquisition of a unique work of art or artistic performance ☐

(ii) competition is absent for technical reasons ☐

(iii) the protection of exclusive rights, including intellectual property rights ☐

but only, in the case of paragraphs (ii) and (iii), where no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement

Where (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the authority considers it must proceed to award a contract without delay ☐

Where the products involved are manufactured purely for the purpose of research, experimentation, study or development, but a contract awarded under this sub paragraph shall not include quantity production to establish commercial viability or to recover research and development costs ☐

For additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the duration of such a contract, as well as that of recurrent contracts must not, save in exceptional circumstances, exceed three years ☐

For supplies quoted and purchased on a commodity market ☐

For the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations ☐

## SECTION 4 – INSURANCE

It is the services responsibility to ensure that the insurances required reflects the risk in the contract, and should consider:

- level of risk in the contract
- worst-case scenario and the likelihood of this occurring given the contract controls
- high value/high risk contracts, the standard levels may not be sufficient and specialist input from the Council's broker advisory service might be required

If you are unsure, please email insurance at [insurance@north-ayrshire.gov.uk](mailto:insurance@north-ayrshire.gov.uk)

<b>Insurance type</b> Please complete the level of insurance required for the types of insurances relevant to this contract. If certain insurance types are not required, please leave blank.	<b>Level required</b>
<b>Public liability insurance</b> which covers injury, death or damage to property to a member of the public.	£1million <input type="checkbox"/> £5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Products liability insurance</b> which covers injury, death or damage to property to a member of the public as a result of defective products.	£1million <input type="checkbox"/> £2million <input type="checkbox"/> £5million <input type="checkbox"/>
<b>Employer's liability insurance</b> which covers injury or death of an employer's employee. The statutory minimum determined by law is 5 million.	£5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Professional indemnity insurance</b> which covers inadequate advice, professional services or designs that cause loss to the Council.  Professional indemnity may require to be held for a 'run-off' period. The Council's standard period is 6 years following completion of the contract or earlier termination, or up to 12 years for complex construction contracts.	£1million <input type="checkbox"/> £2million <input type="checkbox"/> £5million <input type="checkbox"/> Period -
<b>Third-party motor vehicle insurance</b> which covers damage to property or injury to a member of the public. If a vehicle is	Yes <input type="checkbox"/> No <input type="checkbox"/>

likely to be used during the delivery of a contract it is reasonable to request this.	
<b>Contractors' all risks insurance ("CAR")</b> which is a non-standard insurance policy that provides coverage for property damage and third-party injury or damage claims, the two primary types of risks on construction contracts. CAR insurance not only covers those associated risks, but also bridges these two types of risks into a common policy designed to cover the gap between exclusions that would otherwise exist if using separate policies.	£
<p><b>Medical professional liability insurance</b> (also referred to as medical malpractice insurance) which covers healthcare professionals for carrying out wrongful practices which result in bodily injury, medical expenses, mental anguish or property damage.</p> <p>Medical professional liability insurance may require to be held for a 'run-off' period. This is to ensure continuous cover is in place for any claims which may arise. The insurance should be held at the required level for a stipulated period (determined by the contract requirements) following completion of the whole of the services or earlier termination.</p>	£  Period -
<p><b>Cyber liability insurance</b> which covers loss or damage to information within IT systems and networks, including cover from hackers causing damage or disruption to cyber information.</p> <p>Cyber liability insurance may be required within contracts which require suppliers/contractors/service providers to host the Council's sensitive data or systems.</p>	£

## SECTION 5 – INFORMATION GOVERNANCE & ICT SECURITY

### 5.1 Information governance

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no information governance implications.

If you answer yes to any of the questions, there are information governance implications and you must complete the information governance procurement framework ("IGPF") to ensure you have identified all relevant requirements to include in the STAR.

Please proceed to [Connects](#) to complete the IGPF checklist and the remaining IGPF steps.

You must not proceed with the STAR until you have completed the IGPF.

No	Question	Yes/No
1	Will the service or product include the sharing and/or processing of personal information? <i>i.e. data that relates to a living individual or can identify an individual (see the <a href="#">Data Protection Policy</a> for full definition).</i>	
2	Will the service or product include the sharing and/or processing of business sensitive information? <i>i.e. where unauthorised disclosure would cause harm to the interests or security of the Council.</i>	
3	Will the successful supplier/contractor/service provider create and/or manage Council records as part of delivering a Council function? <i>i.e. recorded information, digital or paper, create or received in the transaction of business and kept as evidence of such activity.</i>	

## 5.2 ICT security

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no ICT security implications.

If you answer yes to any of the questions, you must include the [IT, Cyber and Information Security Schedule](#) within your procurement exercise.

No	Question	Yes/No
1	Will the service or product being procured include any IT related services or data hosting solutions?	

	<p>A 'request for service' must be logged with the IT service desk at <a href="mailto:EHD-itservicedesk@north-ayrshire.gov.uk">EHD-itservicedesk@north-ayrshire.gov.uk</a> or (01294) 324290.</p> <p>Please give as much detail as possible to enable the request to be sent to the relevant person.</p>	
2	<p>Will the service or product being procured include a requirement for remote network access to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">remote network access for suppliers/vendors/3rd parties</a> in the STAR.</p>	
3	<p>Will the service or product being procured include a requirement for non-Council owned equipment to be connected to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">transfer of equipment control</a> in the STAR.</p>	

## SECTION 6 – DISCLOSURE CLEARANCE

### 6.1 Disclosure checks

Please provide a yes or no reply to each question.

Please indicate what level of disclosure check is required for this STAR. Please note, it is an offence to ask someone to apply to join the PVG Scheme or make a disclosure application in relation to work which is not regulated work under the PVG Act.

If you are unsure, please contact Disclosure Scotland on 0300 020 0040 or email [info@disclosurescotland.gov.scot](mailto:info@disclosurescotland.gov.scot) detailing the nature and scope of the contract, and they will advise if a disclosure check is appropriate and if so, what level.

Type	Description	Yes/No
<b>Basic disclosure</b>	Anyone can <a href="#">apply for a basic disclosure</a> certificate, which can be used for any purpose and is often used by employers for roles not exempt from the Rehabilitation of Offenders Act. It includes information on any 'unspent' convictions the person has.	

	Disclosure Scotland basic disclosure certificates is considered up to date upon completion of the relevant checks.	
<b>Standard &amp; enhanced disclosure</b>	<p>Standard and enhanced disclosures involve <a href="#">higher level checks</a>. They are for people doing certain prescribed types of work or looking to adopt and are applied for by the Council or a <a href="#">registered body</a> representing the organisation the individual is working for.</p> <p><a href="#">standard disclosure</a> is for specific prescribed roles such as solicitors, accountants or providing a care service.</p> <p><a href="#">enhanced disclosure</a> applies to specific prescribed roles or circumstances such as checking people are suitable for adoption or applying for certain gaming or lottery licences.</p>	
<b>Protecting Vulnerable Groups (PVG) Scheme</b>	<p>The <a href="#">PVG Scheme</a> is for people doing '<a href="#">regulated work</a>' with children and/or protected adults.</p> <p>A PVG certificate contains all unspent and certain spent <a href="#">conviction information</a>. It also contains any other non-conviction information that the police or other government bodies think is relevant.</p> <p>Disclosure Scotland continually monitor PVG scheme members' records for vetting information (or for any other reason) including criminal convictions that may affect their suitability to work with vulnerable groups.</p> <p>Disclosure Scotland only notify organisations if an individual comes under consideration for listing or listed. If new information does not affect their PVG membership status organisations are not notified.</p>	

## SECTION 7 – CONDITIONS OF CONTRACT/MODEL FORM CONTRACT

### 7.1 Conditions of contract

Please select which conditions of contract will apply to this contract.

The Council's standard conditions of contract can be found on [Connects](#).

If you wish to use alternative conditions of contracts, **these must be approved by Legal.**

Conditions of contract for the purchase of services ☐

Conditions of contract for the purchase of goods ☐

Conditions of contract for consultancy services (other than work consultancies) ☐

Conditions of contract for the purchase of goods (and any related services) ☐

### **7.2 Model form contract**

Please provide the name of the model form contract you wish to use e.g. SBCC Minor Works Building Contract for use in Scotland 2016 Edition.

New Engineering Contract (NEC):

Scottish Building Contract Committee (SBCC):

### **7.3 Other conditions of contract**

Please detail the conditions of contract you wish to use, if not using the Council's standard or the model forms listed above.

If you wish to use alternative conditions of contract, **these must be approved by Legal.**

Please confirm these have been approved by Legal.

Yes ☐ No ☐

Please detail the conditions you wish to use:

## **SECTION 8 – TIMETABLE**

### **8.1 Minimum timescales**

Please see minimum timescales noted below.

These timescales may change depending on the complexity and value of the contract.



Stage	Timescale (under 50K Supplies and Services and 100K Works)	Timescale (over 50K Supplies and Services and 100K Works)
From receipt of RPA to issue	Up to 1 week	Up to 1 week
From issue to supplier response	Up to 1 week	Up to 2 weeks
From supplier response to award (including clarifications)	Up to 1 week	Up to 2 weeks
Total	Up to 3 weeks	Up to 5 weeks

## 8.2 Timetable

Please provide the start, end and maximum extension date below, when setting these dates you should consider the timescales noted in the previous section.

Stage	Date
Contract start	
Contract end	
Maximum extension date	

## SECTION 9 – CONFLICTS OF INTEREST

### 9.1 Conflict of interest

Please confirm if there is a conflict of interest below.

Any officer who has a potential conflict of interest or a direct or indirect pecuniary interest in any aspect of the STAR process is not permitted to be involved in the STAR process and must declare this interest as soon as it arises to the Senior Corporate Procurement Manager.

Examples of a conflict of interest include having a financial interest or having a relationship (spouse, partner, family member etc) with someone in the organisation.

Are there any conflicts of interest?

Yes ☐ No ☐

If yes, please confirm you have completed the [conflict of interest declaration](#) form and notified the Senior Corporate Procurement Manager.

Yes ☐ No ☐

## SECTION 10 – OFF PAYROLL WORKING

### 10.1 Off Payroll Working

Off payroll working may apply if the contract/framework place is awarded to a personal services company either directly or indirectly via a recruitment agency or to an individual who is self-employed. Please check if off payroll working is applicable by using the link below or further guidance is available [here](#).

[Check employment status for tax - GOV.UK \(www.gov.uk\)](#)

Please confirm that you have considered if off payroll working is applicable to this procurement:

Yes ☐ No ☐

Please confirm if off payroll working is applicable.

Yes ☐ No ☐

If yes, please provide details:

## SECTION 11 – BUDGET DETAILS

### 11.1 Budget details

Please complete the budget details in the section below.

To comply with internal audit requirements, only a wet signature or electronic signature will be accepted.

Budget allocated for this contract (excluding VAT) <i>(including any extension(s))</i>	£
Breakdown of value by financial year:	2020/21 £ 2021/22 £ 2022/23 £ 2023/24 £ 2024/25 £ 2024/26 £
Type of expenditure:	Capital <input type="checkbox"/> Revenue <input type="checkbox"/> Housing Revenue Account <input type="checkbox"/>
GL code:	
If the budget is from the change fund, please provide the name of the approved project:	

### 11.2 Budget holder approval

Please complete the budget holders' details below and obtain budget holder signature.

Name of budget holder (block capitals):

Signature of budget holder:
Date:
<b>11.3 Finance manager approval</b> Please complete the finance managers' details below and obtain finance manager signature.
Name of finance manager (block capitals):
Signature of finance manager:
Date:

## SECTION 12 – APPROVALS

<b>12.1 Chief Officer approval (any value)</b> Please complete the Chief Officers' details below and obtain Chief Officer signature.
Name of Chief Officer (block capitals):

Signature of Chief Officer:
Date:
<p>If the requirement is above 50K for Supplies and Services or 100K for Works, please confirm the Chief Officer has consulted with the Portfolio Holder, Chair of Cabinet and Chief Executive:</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p><b>12.2 Chief Executive or Designated Officer approval (over 500K Supplies, Services and Works)</b></p> <p>Please complete the Chief Executives' or Designated Officers' details below and obtain Chief Executives' or Designated Officers' signature.</p>
Name of Chief Executive or Designated Officer (block capitals):
Signature of Chief Executive or Designated Officer:
Date:

## SECTION 13 – CPU DECISION (CPU USE ONLY)

<b>13.1 Decision</b>
Approved with no conditions <input type="checkbox"/>
Approved subject to conditions <input type="checkbox"/>

Condition details:

Rejected ☐

Reason for rejection:

Name of Corporate Procurement Manager:

Signature of Corporate Procurement Manager:

Date:

### 13.2 Allocated to

Name:

Date:

## Annex B – Disposal of Property/Land

Disposal of Property / Land
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### **PROCEDURES FOR INVITING AND OPENING OFFERS RELATING TO THE SALE/LEASE OF PROPERTY WHERE A CLOSING DATE HAS BEEN FIXED.**

#### **1. Introduction**

- 1.1 In all cases where offers for the sale or lease of Council property have been invited following appropriate authorisation from the relevant Committee or the Chief Executive in terms of the Scheme of Delegation to Officers, and a closing date has been fixed, the procedures set out below must be followed.
- 1.2 Prior to carrying out the sale or lease of the property, the Executive Director of Place or Designated Officer shall obtain from the relevant Planning Officers, a report on the planning history of the property, including a development brief document, where appropriate, which information where relevant, will be incorporated into any marketing material which shall be used as part of the evaluation process of offers.
- 1.3 No proposal for the development of or investment in land, property or building fabric shall be made to the Council or Cabinet without prior approval of the Executive Director of Place or an officer designated by them.

#### **2. Invitation to Submit Offers**

- 2.1 When inviting offers it is important that uniform instructions are given, and the following information must therefore be included in all instructions:
  - 2.1.1 Interested parties shall be notified by the Executive Director of Place or Designated Officer that a closing date, including the date and time for submission has been fixed.
- 2.1.2 Interested parties must be informed that it is their responsibility to have the offer, in Scottish legal form emailed to the specified email address, on the instructions by 12 noon on the designated day. Under no circumstances will

a late offer be considered, and any offer arriving after the specified time will not be accepted. The principal offer should also be sent to the Council but this will not need to be received by the deadline for email submission. No contract will be concluded until the principal offer is received.



### 3. Offer Return and Notification Record

- 3.1 The Executive Director of Place or Designated Officer must prepare an offer return form for every sale or lease.

### 4. Procedure for Considering Offers

- 4.1 The Senior Manager, Legal Services or Designated Officer will collate offers received in the email inbox by the deadline for submission. Any offers arriving after the specified time will be highlighted as late offer.
- 4.2 The Senior Manager, Legal Services or Designated Officer will, as soon as possible after the closing of offers, collate the offers received, complete the offer return form and circulate all offers received to the Head of Service (Finance) or their nominee who along with the Senior Manager, Legal Services or their nominee shall verify the validity of the offers.

### 5. Acceptance of Offers

- 5.1 Offers received and verified as provided for above, shall be evaluated jointly by representatives of the Executive Director (Place) and the Head of Democratic Services prior to any further action being taken. In the event that it is determined to proceed to accept an offer received, it will then be accepted in the following manner:
  - 5.1.1 Where the value of the offer to purchase or the annual rental does not exceed £300,000 or £120,000 respectively, acceptance of the offer may be authorised by the Executive Director (Place) in terms of the Scheme of Delegation to Officers.
  - 5.1.2 Where the value of the offer to purchase or lease exceeds the respective limits set in 5.1.1 above, a report shall be submitted to the Cabinet for authorisation to accept the offer.
- 5.2 All formal legal documentation in respect of offers relating to the sale or lease of property shall be undertaken by the Head of Democratic Services or his nominee.
- 5.3 Unsuccessful parties will be notified that their offer has not been successful.

## **Annex C – Health & Social Care Services**

<b>Health and Social Care Services</b>
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### **Procedures for Commissioning of Health and Social Care Services**

#### **1. Introduction**

**1.1** In accordance with Standing Order 4, the Contract Standing Orders shall apply to the procurement of contracts for Health and Social Care Services subject to the special procedures set out in this Annex.

**1.2** These procedures are intended to accord with and reflect the principles set down in the Statutory Guidance issued by Scottish Ministers in terms of the Procurement Reform (Scotland) Act 2014 as well as the Best Practice Guidance on the Procurement of Care and Support Services 2016 issued in terms of the Procurement Reform (Scotland) Act.

**1.3** All Health and Social Care Services procurement will be undertaken by the Corporate Procurement Unit.

**1.4** The Director of Health and Social Care Partnership or designated Officer must satisfy themselves that all procurement has been undertaken and authorised by the Corporate Procurement Unit in terms of these standing orders.

#### **2. Governing Bodies (Care Inspectorate)**

**2.1** Any tenderers wishing to provide Health and Social Care Services to the Council must be registered with Care Inspectorate (or its statutory successor(s)) or any other relevant regulatory bodies that are a mandatory requirement to the service provision, where required in terms of the contract.

#### **3. Procedures for Procuring Contracts for Health and Social Care Services**

**3.1** In accordance with Standing Order 13, a contract for Health and Social Care Services that has an estimated value in excess of the GPA Threshold for Social and Other Specific Services must be procured by following a procedure that satisfies the Council's duties set out in the 2015 Regulations. If the Light Touch Regime is to be used, this must be set out in the contract notice.

**3.2** In cases of procuring a contract for Health and Social Care Services that has an estimated value below the GPA Threshold for Social and Other Specific Services, the Director - Health and Social Care Partnership in conjunction with the Senior Manager (Corporate Procurement) shall be responsible for deciding whether the particular contract is one which may be awarded without advertisement and competition, in accordance with section 12 of the Reform Act.

**3.3** In determining whether a contract for Health and Social Care Services may be awarded without advertisement and competition in terms of paragraph 3.2, the Director - Health and Social Care Partnership shall take account of the individual circumstances of the contract, including the subject matter and estimated value of the contract, the specifics of the service sector concerned and the geographic location of the place of performance of the contract to firstly identify whether there is likely to be a cross-border interest in the contract. The Director - Health and Social Care Partnership, following consultation with the Senior Manager (Corporate Procurement), may determine that there is no cross-border interest in the contract where:

- The service is of such a specialised nature that no cross-border market of suitable service providers exists
- Advertising the contract would result in the loss of a linked service
- The service is one that in accordance with the SDS 2013 Act the individual service user has a choice in selecting the provider

**3.4** Where the Director - Health and Social Care Partnership decides under paragraphs 3.2 and 3.3 above that a contract is likely to attract a cross-border interest, it should be procured by way of a competitive process and it will be advertised in accordance with Standing Order 14 unless the Director - Health and Social Care Partnership with the agreement of the Senior Manager (Corporate Procurement) decides that there are special circumstances justifying a departure from that requirement. Such decisions will be taken on a case-by-case basis and advertising may not be required where, for example:

- The needs of the service user(s) concerned would be best met by a particular service provider

- The existing service provider(s) are the only service provider(s) capable of delivering the service to meet the needs of the individual(s) concerned
- The nature of the service is such that it should not or cannot be adequately specified in advance because of the nature of the social care needs of the service user(s) concerned
- There are special circumstances such as ownership of land or property, geographic locations or particular skills or experience of service providers of social care which limit the choice to one service provider
- There are reasons of extreme urgency, brought about by unforeseen events which are not attributable to the Council.

**3.5** Where the Director - Health and Social Care Partnership decides under paragraphs 3.2 and 3.3 above that EU Treaty Principles do not apply to a contract for Health and Social Care Services, he/ she may also decide with the agreement of the Senior Manager (Corporate Procurement) that Standing Order 14 shall not apply to that contract.

**3.6** The Director - Health and Social Care shall be required to maintain a list of all proposed contracts which he/ she decides do not require to be advertised on the basis of the determinations made under paragraphs 3.2, 3.3, 3.4 or 3.5 above. He/ she shall provide a copy of that list to the elected members on an annual basis. Any decisions taken under paragraphs 3.2, 3.3, 3.4 or 3.5, that neither advertising nor competition will be required for a particular contract shall be subject to review by the Director - Health and Social Care Partnership at regular intervals (and at least annually).

**3.7** The decisions (and subsequent review of those decisions) taken by the Director - Health and Social Care Partnership under this Annex will all be fully documented. Any reasons for deciding that a proposed contract will not be advertised must be recorded and included on the list which is to go to the elected members under paragraph 3.6.

**3.8** In addition to demonstrating how Best Value will have been achieved, the contracting service will be responsible for evidencing the reasons referred to under paragraph 3.6.

## Annex D – Request for Procurement Action



### REQUEST FOR PROCUREMENT ACTION (“RPA”)

Please complete the relevant sections and return the form by email to:  
[procurement@north-ayrshire.gov.uk](mailto:procurement@north-ayrshire.gov.uk)

#### SECTION 1 – SERVICE DETAILS

<b>Service details</b> Please provide the service details below.
Service:
Service officer name:
Telephone number:
Date of request:

#### SECTION 2 – INTRODUCTION

<b>2.1 Working title</b> Please provide a short specific title e.g. Supply and Delivery of Office Furniture to St Matthew’s Academy.
<b>2.2 Type of procurement</b> Please select the appropriate type of procurement exercise.

**Tender** ☐

For contracts above £50,000 for supplies and services and £500,000 for works.

**Quick Quote** ☐

For contracts between £10,000 and £49,999 for supplies and services and £10,000 and £499,999 for works.

**Mini Competition** ☐

For contracts against an establishment framework. Please state the name of the framework you wish to use:

**2.3 Recurring**

Please select if this is a one-off contract or a recurring contract.

One-off contract ☐

Recurring contract ☐

**2.4 Introduction**

Please enter an overview of what is required, the volume required, when it is required and where it will be delivered etc.

**2.5 Background**

Please provide enough information to ensure the bidder understands why this contract is required i.e. changes to legislation, budget has become available, statutory duty etc.

**SECTION 3 – OBJECTIVES**

**3.1 Scope**

Please provide full details of the requirement including what is required, the volume required, when it is required and where it will be delivered **or refer to specification/bill of quantities/work schedule/activity schedule or advise to follow.**

### 3.2 Outputs & milestones

Please provide an outline project plan, detailing the timescales for the contract including (where applicable):

- Scheduled meetings, including the venue for meetings
- What presentations and reports are required
- Detail the format of draft and final reports and state the number of reports
- Outline final deliverables expected within this contract
- Delivery locations and deadlines
- You may wish to specify anticipated outcomes of what you expect to be able to do as a result of this contract
- **Or refer to specification/bill of quantities/work schedule/activity schedule or advise to follow.**

### 3.3 Additional documents

Please advise if there are any additional documents e.g. drawings, photographs, specifications, bills, schedules etc.

Please advise if there are additional documents?

Yes ☐ No ☐

If yes, please list the documents below, and provide a copy.

### 3.4 Minimum requirements

Please provide details of any minimum requirements bidders must hold to deliver the contract.

This may include professional body memberships and any other minimum requirements for example:

- ISO 18001 or 45001 health and safety management system
- ISO 9001 quality management system

- ISO 14001 environmental management system
- Qualifications, membership of professional or trade bodies

## SECTION 4 – INSURANCE

It is the services responsibility to ensure that the insurances required reflects the risk in the contract, and should consider:

- level of risk in the contract
- worst-case scenario and the likelihood of this occurring given the contract controls
- setting levels too high may stifle competition and prevent small and medium sized enterprises bidding
- high value/high risk contracts, the standard levels may not be sufficient and specialist input from the Council's broker advisory service might be required

If you are unsure, please email insurance at [insurance@north-ayrshire.gov.uk](mailto:insurance@north-ayrshire.gov.uk)

### Mini competitions only

Do you wish to use the original framework insurance levels?

Yes ☐ No ☐

If no, please detail the levels of insurance required below.

<b>Insurance type</b> Please complete the level of insurance required for the types of insurances relevant to this contract. If certain insurance types are not required, please leave blank.	<b>Level required</b>
<b>Public liability insurance</b> which covers injury, death or damage to property to a member of the public.	£1million <input type="checkbox"/> £5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Products liability insurance</b> which covers injury, death or damage to property to a member of the public as a result of defective products.	£1million <input type="checkbox"/> £2million <input type="checkbox"/>



	£5million <input type="checkbox"/>
<b>Employer's liability insurance</b> which covers injury or death of an employer's employee. The statutory minimum determined by law is 5 million.	£5million <input type="checkbox"/> £10million <input type="checkbox"/>
<b>Professional indemnity insurance</b> which covers inadequate advice, professional services or designs that cause loss to the Council.  Professional indemnity may require to be held for a 'run-off' period. The Council's standard period is 6 years following completion of the contract or earlier termination, or up to 12 years for complex construction contracts.	£1million <input type="checkbox"/> £2million <input type="checkbox"/> £5million <input type="checkbox"/> Period -
<b>Third-party motor vehicle insurance</b> which covers damage to property or injury to a member of the public. If a vehicle is likely to be used during the delivery of a contract it is reasonable to request this.	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Contractors' all risks insurance ("CAR")</b> which is a non-standard insurance policy that provides coverage for property damage and third-party injury or damage claims, the two primary types of risks on construction contracts. CAR insurance not only covers those associated risks, but also bridges these two types of risks into a common policy designed to cover the gap between exclusions that would otherwise exist if using separate policies.	£
<b>Medical professional liability insurance</b> (also referred to as medical malpractice insurance) which covers healthcare professionals for carrying out wrongful practices which result in bodily injury, medical expenses, mental anguish or property damage.  Medical professional liability insurance may require to be held for a 'run-off' period. This is to ensure continuous cover is in place for any claims which may arise. The insurance should be held at the required level for a stipulated period (determined by the contract requirements) following completion of the whole of the services or earlier termination.	£  Period -
<b>Cyber liability insurance</b> which covers loss or damage to information within IT systems and networks, including cover from hackers causing damage or disruption to cyber information.	£

Cyber liability insurance may be required within contracts which require suppliers/contractors/service providers to host the Council's sensitive data or systems.	
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## SECTION 5 – INFORMATION GOVERNANCE & ICT SECURITY

### 5.1 Information governance

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no information governance implications.

If you answer yes to any of the questions, there are information governance implications and you must complete the information governance procurement framework ("IGPF") to ensure you have identified all relevant requirements to include in the procurement exercise.

Please proceed to [Connects](#) to complete the IGPF checklist and the remaining IGPF steps.

You must not proceed with the procurement until you have completed the IGPF.

No	Question	Yes/No
1	Will the service or product include the sharing and/or processing of personal information? <i>i.e. data that relates to a living individual or can identify an individual (see the <a href="#">Data Protection Policy</a> for full definition).</i>	
2	Will the service or product include the sharing and/or processing of business sensitive information? <i>i.e. where unauthorised disclosure would cause harm to the interests or security of the Council.</i>	
3	Will the successful supplier/contractor/service provider create and/or manage Council records as part of delivering a Council function? <i>i.e. recorded information, digital or paper, create or received in the transaction of business and kept as evidence of such activity.</i>	

## 5.2 ICT security

Please provide a yes or no reply to each question.

If you answer no to all questions, there are no ICT security implications.

If you answer yes to any of the questions, you must include the [IT, cyber and information security schedule](#) within your procurement exercise.

No	Question	Yes/No
1	<p>Will the service or product being procured include any IT related services or data hosting solutions?</p> <p>A 'request for service' must be logged with the IT service desk at <a href="mailto:EHD-itservicedesk@north-ayrshire.gov.uk">EHD-itservicedesk@north-ayrshire.gov.uk</a> or (01294) 324290.</p> <p>Please give as much detail as possible to enable the request to be sent to the relevant person.</p>	
2	<p>Will the service or product being procured include a requirement for remote network access to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">remote network access for suppliers/vendors/3rd parties</a> in the procurement exercise.</p>	
3	<p>Will the service or product being procured include a requirement for non-Council owned equipment to be connected to the Council's PSN accredited network?</p> <p>If yes, you must include the form <a href="#">transfer of equipment control</a> in the procurement exercise.</p>	

## SECTION 6 – DISCLOSURE CLEARANCE

### 6.1 Disclosure checks

Please provide a yes or no reply to each question.

Please indicate what level of disclosure check is required for this procurement exercise. Please note, it is an offence to ask someone to apply to join the PVG Scheme or make a disclosure application in relation to work which is not regulated work under the PVG Act.

If you are unsure, please contact Disclosure Scotland on 0300 020 0040 or email [info@disclosurescotland.gov.scot](mailto:info@disclosurescotland.gov.scot) detailing the nature and scope of the contract, and they will advise if a disclosure check is appropriate and if so, what level.

Type	Description	Yes/No
<b>Basic disclosure</b>	<p>Anyone can <a href="#">apply for a basic disclosure</a> certificate, which can be used for any purpose and is often used by employers for roles not exempt from the Rehabilitation of Offenders Act. It includes information on any 'unspent' convictions the person has.</p> <p>Disclosure Scotland basic disclosure certificates is considered up to date upon completion of the relevant checks.</p>	
<b>Standard &amp; enhanced disclosure</b>	<p>Standard and enhanced disclosures involve <a href="#">higher level checks</a>. They are for people doing certain prescribed types of work or looking to adopt and are applied for by the Council or a <a href="#">registered body</a> representing the organisation the individual is working for.</p> <p><a href="#">standard disclosure</a> is for specific prescribed roles such as solicitors, accountants or providing a care service.</p> <p><a href="#">enhanced disclosure</a> applies to specific prescribed roles or circumstances such as checking people are suitable for adoption or applying for certain gaming or lottery licences.</p>	
<b>Protecting Vulnerable Groups (PVG) Scheme</b>	<p>The <a href="#">PVG Scheme</a> is for people doing '<a href="#">regulated work</a>' with children and/or protected adults.</p> <p>A PVG certificate contains all unspent and certain spent <a href="#">conviction information</a>. It also contains any other non-conviction information that the police or other government bodies think is relevant.</p> <p>Disclosure Scotland continually monitor PVG scheme members' records for vetting information (or for any other reason) including criminal convictions that may affect their suitability to work with vulnerable groups.</p>	

	Disclosure Scotland only notify organisations if an individual comes under consideration for listing or listed. If new information does not affect their PVG membership status organisations are not notified.	
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## SECTION 7 – EVALUATION

### 7.1 Evaluation of quotes

Please specify the weightings required below.

The Council's default for cost/quality is a minimum of 60% cost and 40% quality however, this may not always be suitable depending on the nature of your contract.

If you wish to increase the quality above 40%, this must be approved by the Senior Corporate Procurement Manager.

#### Weightings

##### Mini competitions only

Do you wish to carry forward the original framework quality scores, if the framework permits?

Please contact the Corporate Procurement Unit ("CPU") to confirm.

Yes ☐ No ☐

If no, please detail your requirement below.

##### Tenders and quick quotes (and mini competitions if applicable)

Cost 60%/quality 40% ☐

Cost 70%/quality 30% ☐

Cost 80%/quality 20% ☐

Cost 90%/quality 10% ☐

Cost 100% ☐

If you wish to increase the quality ratio above 40%, please provide justification below:

## 7.2 Quality evaluation

Please detail the quality criteria questions and how you wish these to be weighted in line with the ratio stated above.

**This is not required for 100% quick quotes or for mini competitions where framework scores are carried forward.**

The following are examples which you may wish to include. However, services are encouraged to select their own quality criteria relative to the nature of the contract and include any fundamental areas which are required to be scored.

- Please provide a detailed methodology for delivering the service and proposed approach (X%)
- Please detail the specific expertise proposed for the service e.g. staffing arrangements and relevant experience offered including CV's of staff involved in the delivery of the contract (X%)
- Please provide a detailed project plan including key milestones and delivery dates for each stage (X%)
- Please provide detailed reports for the past year demonstrating (e.g. response times, first time fix, uptime etc) (X%)

## SECTION 8 – PRICING

### 8.1 Pricing

Please select which pricing option will be used for this contract or complete the template included at section 8.2 below.

Pricing Schedule ☐

Bill of Quantities ☐

Work Schedule ☐

Activity Schedule ☐

### 8.2 Template cost table

Please complete the template below if you don't have one of the above.

Heading	Quantity	Comments
E.g. materials, labour, delivery, product type	E.g. 145	E.g. estimated quantity based on last 3 years

## SECTION 9 – CONDITIONS OF CONTRACT/MODEL FORM CONTRACT

### 9.1 Conditions of contract

Please select which conditions of contract will apply to this contract.

The Council's standard conditions of contract can be found on [Connects](#).

If you wish to use alternative conditions of contracts, **these must be approved by Legal.**

#### Mini competitions only

The terms and conditions of the framework will be used.

Yes ☐ No ☐

#### Tenders and quick quotes

Conditions of contract for the purchase of services ☐

Conditions of contract for the purchase of goods ☐

Conditions of contract for consultancy services (other than work consultancies) ☐

Conditions of contract for the purchase of goods (and any related services) ☐

### 9.2 Model form contract

Please provide the name of the model form contract you wish to use e.g. SBCC Minor Works Building Contract for use in Scotland 2016 Edition.

New Engineering Contract (NEC) –

Scottish Building Contract Committee (SBCC) –

### 9.3 Other conditions of contract

Please detail the conditions of contract you wish to use, if not using the Council's standard or a recognised model form contract.

If you wish to use alternative conditions of contracts, **these must be approved by Legal.**

Please confirm these have been approved by Legal.

Yes ☐ No ☐

Please detail the conditions you wish to use:

## SECTION 10 – TIMETABLE

### 10.1 Minimum timescales

Please see minimum timescales noted below.

These timescales may change depending on the complexity and value of the contract.

Stage	Quick quote	Mini competition (low value)	Mini competition (high value)	Tender
Receipt of RPA to publish	7 working days	1 week	4-8 weeks	4-8 weeks
Published on PCS-T	2 weeks	2 weeks	4-8 weeks	4-8 weeks
Evaluation to contract award	2 weeks	2 weeks	4-6 weeks	4-6 weeks



Total	5 weeks	5 weeks	12-22 weeks	12-22 weeks
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## 10.2 Timetable

Please provide the key dates for the main stages of the process and contract.

Stage	Date
Project issue date	
Deadline for questions via PCS-T	
Deadline for responses via PCS-T	
Contract award	
Contract start	
Contract end	
Maximum extension date	

## 10.3 Questions and answers

Please provide the contact name(s) of the person(s) who will answer questions relating to this procurement exercise.

The question and answer contact **must** be available from the issue date to the response deadline date.

--

## SECTION 11 – CONFLICTS OF INTEREST

### 11.1 Conflict of interest

Please confirm if there is a conflict of interest below.

Any officer who has a potential conflict of interest or a direct or indirect pecuniary interest in any aspect of the procurement process is not permitted to be involved in the procurement process and must declare this interest as soon as it arises to the Senior Corporate Procurement Manager.

Examples of a conflict of interest include members of the evaluation panel having a financial interest or having a relationship (spouse, partner, family member etc) with someone in the bidder's organisation.

Are there any conflicts of interest?

Yes ☐ No ☐

If yes, please confirm you have completed the [conflict of interest declaration](#) form and notified the Senior Corporate Procurement Manager.

Yes ☐ No ☐

## SECTION 12 – INVITED SUPPLIERS (QUICK QUOTE ONLY)

### 12.1 Invited suppliers for quick quotes only

Please list a minimum of 4 suppliers/contractors/service providers you wish to invite to submit a bid.

CPU encourage the selection of local suppliers/contractors/service providers (North Ayrshire), so please include as many local suppliers/contractors/service providers as possible.

CPU will share all contract details for quick quotes with Business Growth, who reserve the right to include additional companies to increase competition and support the Council's ambitions of Community Wealth Building.

Company Name	Contact Name	Address	Email Address	Telephone Number

## SECTION 13 – BUDGET DETAILS

### 13.1 Budget details

Please complete the budget details in the section below.

To comply with internal audit requirements, only a wet signature or electronic signature will be accepted.

Budget allocated for this contract (excluding VAT) <i>(including any extension(s))</i>	£
Breakdown of value by financial year:	2020/21 £ 2021/22 £ 2022/23 £ 2023/24 £ 2024/25 £ 2024/26 £
Type of expenditure:	Capital <input type="checkbox"/> Revenue <input type="checkbox"/> Housing Revenue Account <input type="checkbox"/>
GL code:	
If the budget is from the change fund, please provide the name of the approved project:	

### 13.2 Budget holder approval

Please complete the budget holders' details below and obtain budget holder signature.

Name of budget holder (block capitals):

Signature of budget holder:
Date:
<b>13.3 Finance manager approval</b>
Please complete the finance managers' details below and obtain finance manager signature.
Name of finance manager (block capitals):
Signature of finance manager:
Date:

#### SECTION 14 – CPU (USE ONLY)

<b>14.1 Approved by</b>
Name of Team Manager (Corporate Procurement):
Signature of Team Manager (Corporate Procurement):
Date:
<b>14.2 Allocated to</b>
Name:
Date:

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## **ANNEX E – Conflict of Interest Declaration**



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

### **CORPORATE PROCUREMENT UNIT (CPU)**

### **CONFLICT OF INTEREST DECLARATION**

#### **Section 1 – Individuals Details**

**Service:**

**Name (Block Capitals):**

**Telephone Number:**

**Date of Declaration:**

#### **Section 2- Conflict of Interest Details**

**Description of the conflict of interest: E.g. In a relationship with one of the supplier's members of staff (married, personal relationship, close friend, family member etc.), have a financial interest in the supplier's organisation etc.**

--

### **Section 3- Procurement Activity Details**

***Procurement Title:***

***Procurement Reference No:***

***Procurement activity undertaking: E.g. Developing specification, market engagement, evaluating bids etc.***

### **Section 4- Line Manager Notification**

***Name of Officer (Block Capitals):***

***Details of possible risk mitigation:***

***\*Signature:***

***Date:***

### **Section 5- Approvals**

**Senior Manager (Corporate Procurement)**

***Name of Officer (Block Capitals):***

***Accepted*** ☐ Yes ☐ No

***Rejected*** ☐ Yes ☐ No

***Provide details:***

***\*Signature:***

***Date:***

**\* Internal Audit requirement – original signature required, type signed is not acceptable**

**On completion the Conflict of interest declaration should be sent to CPU at:  
[Procurement@north-ayrshire.gov.uk](mailto:Procurement@north-ayrshire.gov.uk)**





## FINANCIAL REGULATIONS – MAY 2022

### 1 Scope and Observance

- 1.1 Section 95 of the Local Government (Scotland) Act 1973 states that:  
“....every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that the proper officer of the authority has responsibility for the administration of those affairs.”
- 1.2 These Financial Regulations fulfil this requirement by providing a mandatory framework for the financial administration of North Ayrshire Council and will apply to every financial transaction and to every employee throughout the Council.
- 1.3 It is the duty of Heads of Service to ensure that all relevant employees are familiar with these Regulations and other relevant documents detailed at Section 10 below and that they are adhered to.
- 1.4 Failure to observe these Financial Regulations may be regarded as a breach of trust and may lead to disciplinary action.

### 2 Principals of Financial Administration

- 2.1 The financial affairs of the Council will at all times be conducted in accordance with the seven principles of public life as set out by the Nolan Committee on Standards in Public Life:

**Selflessness:** Employees will not take decisions which will result in any financial or other benefit to themselves, their family or friends. Decisions will be based solely on the Council's best interests.

**Integrity:** Employees will not place themselves under any financial or other obligation to an individual which might influence them in their work with the Council.

**Objectivity:** Any decisions which employees make in the course of their work with the Council will be based solely on merit.

**Accountability:** Employees are accountable to the Council as their employer and, in turn, to the public.

**Openness:** Employees will be as open as possible in all the decisions and actions that they take.

**Honesty:** Employees have a duty to declare any private interests which might affect their work with the Council.

**Leadership:** Management will promote and support the above principles by leadership and example.

- 2.2 In order to comply with these principles of public life, no employee must be in a position where they experience a conflict of interest between their personal life and their employment with North Ayrshire Council.

Examples of conflicts of interest will include:

**Procurement:** purchasing goods or services from a supplier with whom the employee is either directly involved or with whom the employee has a family relationship or close friendship. Further guidance is contained within the Standing Orders Relating to Procurement.

**Systems:** an employee must not access or update records which relate either to themselves or family or close friends.

**Service Delivery:** an employee must not make decisions on service provision which could result in a favourable outcome for themselves or family or close friends.

Where an employee perceives a possible conflict of interest in relation to these or any other transactions of the Council, this must be declared to their line manager and steps put in place to prevent this materialising. Failure to do so may lead to disciplinary action.

- 2.3 No financial transactions will take place unless they fall within the legal powers of the Council. In cases of doubt, Heads of Service must consult with the Head of Democratic Services to obtain clarification as to legality before any liability or expenditure is incurred. Expenditure on new service developments, initial contributions to other organisations and responses to new emergency situations which require expenditure must be clarified as to legality prior to being incurred.
- 2.4 The Local Government in Scotland Act 2003 places the duty on local authorities to make arrangements that secure 'Best Value'. 'Best Value' is defined in the Act as 'continuous improvement in the performance of the authority's functions'.

### 3 Role of the Council

- 3.1 The full Council is responsible for setting the Council's annual budgets, housing rent and Council Tax levels. The Council is also responsible for approving the Annual Treasury Management and Investment Strategy.

### 4 Role of the Cabinet

- 4.1 The Cabinet is responsible for monitoring the use of the Council's resources throughout the financial year.

### 5 Role of Audit and Scrutiny Committee

- 5.1 The Audit and Scrutiny Committee will monitor the effectiveness of controls maintained by Heads of Service within their Service.

### 6 Role of Head of Finance

- 6.1 The Head of Finance is the proper officer of the Council under Section 95 of the Local Government (Scotland) Act 1973 for the administration of the financial affairs of the Council.

- 6.2 All accounting procedures and records of the Council will be determined by the Head of Finance and all accounts and accounting records of the Council will be compiled by or under the direction of the Head of Finance.
- 6.3 The Head of Finance will act as financial adviser to the Council, the Cabinet and all its Committees and will monitor and report on the financial performance and position of the Council.
- 6.4 The Head of Finance will be entitled to:
- access to any information and to be given such explanations as are considered necessary;
  - issue, and require compliance with, any instructions on any aspect of financial administration;
  - examine administration and control systems within any Service of the Council and secure any improvements which are considered necessary.

## 7 Responsibilities of Chief Executive, Executive Directors and Heads of Service

- 7.1 The Chief Executive, Executive Directors and Heads of Service are accountable for the financial performance of their Services within the budgets allocated.
- 7.2 They will ensure at all times that they and their employees endeavour to secure the best value for expenditure incurred by them when pursuing the objective of achieving the policies of the Council.
- 7.3 The Chief Executive, Executive Directors and Heads of Service are responsible for the maintenance of effective controls within the financial procedures operated by their Services.

## 8 Accounting and Internal Control

### Internal Control

- 8.1 The following principles will be observed in the allocation of duties:
- There must be an effective **separation of duties** so that the different stages of financial transactions are progressed by different people;
  - Financial transactions will be subject to **internal check** to reduce the likelihood of fraud and errors.
- 8.2 Procedures for calculating, checking and recording sums due to or by the Council should be arranged in such a way whereby the work of one person is proven independently or is complementary to the work of another and these operations will be separated from the duty of collecting or disbursing such sums.
- 8.3 There will be regular **management review** by service managers of financial transactions, other than budget monitoring, to ensure the accuracy and completeness of financial records.

## Authorisation

- 8.4** Authorisation of financial transactions indicates acceptance of responsibility for them.
- 8.5** Heads of Service are responsible for determining the numbers and distribution of authorising officers to meet the needs of their Service.
- 8.6** An officer must not authorise a transaction in which they have a personal interest.
- 8.7** A register of all authorised signatories will be maintained by the appropriate section and kept up-to-date. Entries on this register will be authorised by Heads of Service and will detail the following:
- Names, designations and locations of authorised signatories;
  - The financial authorisation limits placed upon individual officers;
  - Sample signatures of authorising officers.

## Monthly Financial Performance

- 8.8** Each Head of Service or nominated senior manager will monitor expenditure and income against approved budgets and provide information to Finance to support projections and on actions being taken to address potential overspends or income shortfalls.

## Annual Statement of Accounts

- 8.9** Each Head of Service will, at dates to be specified by the Head of Finance, submit to the Head of Finance such information as is required in order that the Council's annual accounts can be closed.

## **9 Internal Audit**

- 9.1** Internal Audit will carry out independent reviews of financial and other systems of the Council to ensure that the interests of the Council are protected.
- 9.2** The objective of Internal Audit is to assist Elected Members and Council officers in the effective discharge of their responsibilities by reviewing and evaluating:
- the completeness, reliability and integrity of financial and other management information;
  - the systems established to ensure compliance with corporate and departmental policies and procedures and legislative requirements;
  - the means of safeguarding assets;
  - the economy, efficiency and effectiveness with which resources are employed;
  - the extent to which operations are being carried out as planned and objectives are being met.
- 9.3** The Senior Manager (Audit, Fraud, Safety and Insurance) reports to the Head of Finance. In addition, the Senior Manager has the right of direct access to the Chief Executive and the Chair of the Audit and Scrutiny Committee on any audit matter.

- 9.4** In relation to Internal Audit work being carried out, the Senior Manager (Audit, Fraud, Safety and Insurance) and any member of the Internal Audit section has the authority to:
- Enter at all reasonable times and without notice any premises or land of the Council, provided that where such premises or land are leased to a third party the terms of the lease are observed;
  - Have access to, and remove, all records (both paper and electronic), documents and correspondence within the possession or control of any officer of the Council, relating to any transactions of the Council;
  - Be provided with a separate log-in to any computer system within the Council and have full access to any system, network, personal computer or other device in the ownership of the Council;
  - Require and receive explanations concerning any matter under examination from any employee, including Chief Officers, and request such explanations from any Elected Member;
  - Require any employee of the Council to produce cash, stores or any other Council assets under their control.

## **10 Associated Procedures and Codes of Practice**

The following is a list of other documents which should be read in conjunction with these financial regulations:

### **10.1 Codes of Financial Practice**

Although not contained within the body of these financial regulations, Codes of Financial Practice will be issued under their authority and will have the same status as if they were included therein.

The Codes of Financial Practice are maintained by the Head of Finance.

### **10.2 Corporate Procurement Strategy**

This document sets out the recommended activities and procedures required when purchasing all externally provided goods, services and works.

The strategy is maintained by the Head of Finance.

### **10.3 Standing Orders Relating to Contracts**

The Standing Orders Relating to Contracts set out how the Council will invite tenders and let contracts for the supply of goods, services and works.

This document is maintained by the Head of Democratic Services.

### **10.4 Scheme of Delegation to Officers**

The Scheme of Delegation to Officers contains details of those functions both statutory and non-statutory which the Council has chosen to delegate to officers.

The Scheme of Delegation is maintained by the Head of Democratic Services.

## **10.5** Risk Management Strategy

The Risk Management Strategy sets out the Council's approach to dealing with risk and explains how risk management should be integrated throughout the Council. The document also defines the roles and responsibilities of Elected Members and officers in dealing with risk.

The Strategy is maintained by the Head of Finance.

## **10.6** Code of Corporate Governance

The Council's local Code of Corporate Governance demonstrates how the Council complies with the seven core principles of good corporate governance which are outlined in the CIPFA/SOLACE framework 'Delivering Good Governance in Local Government'.

The local Code of Corporate Governance is maintained by the Head of Democratic Services.

## **10.7** Annual Treasury Management and Investment Strategy

The Annual Treasury Management and Investment Strategy sets out the Council's strategy for borrowing and managing investments.

The strategy is maintained by the Head of Finance.

## **11** Irregularities

**11.1** Any evidence or reasonable suspicion of an irregularity relating to any property of the Council must be reported immediately in accordance with the Council's Defalcation Procedures or "Whistleblowing" Procedure, whichever is appropriate.

**11.2** All reported irregularities will be investigated in accordance with the appropriate procedure and the Council's Counter Fraud and Corruption Strategy.

**11.3** Any contact with Police Scotland or the Procurator Fiscal will be made only by the Chief Executive or by another officer acting with the prior approval of the Chief Executive.

## **12** Review of Financial Regulations

**12.1** These Regulations may be varied or revoked subject to a report by the Head of Finance on any variations and revocations being approved by the Council.

**Mark Boyd**  
**Head of Finance**  
**May 2022**

# **CODES OF FINANCIAL PRACTICE 2022**

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<b>Author:</b>	Laura Miller
<b>Classification:</b>	Public



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath



## Index

Code		Page
1	<a href="#">Capital Finance</a>	3
2	<a href="#">Revenue Finance</a>	5
3	<a href="#">Control of Income</a>	7
4a	<a href="#">Treasury Management</a>	9
4b	<a href="#">Banking</a>	11
5	<a href="#">Imprests</a>	12
6	<a href="#">Tax Management</a>	14
7	<a href="#">Insurance and Risk Management</a>	15
8	<a href="#">Salaries and Wages</a>	17
9	<a href="#">Expenses</a>	19
10	<a href="#">Procurement of Goods and Services and Payment of Accounts</a>	21
11	<a href="#">Contracts for Supplies, Services and Works</a>	24
12	<a href="#">Assets</a>	26
13	<a href="#">Stores and Inventories</a>	27
App 1	<a href="#">Definition of Subjective and Objective Expenditure and Income Heads</a>	28

Codes of Financial Practice are issued under the authority of the Council's Financial Regulations. They shall be read in conjunction with, and have the same status as, the Financial Regulations.

It shall be the duty of each Head of Service to ensure that the requirements of the Codes of Financial Practice are made known to the appropriate staff within their Service and that they are adhered to.

Failure to comply with Codes of Financial Practice may be regarded as a breach of trust and may lead to disciplinary action.

## **Code of Financial Practice 1**

### **Capital Finance**

#### Financial Plans and Capital Estimates

Finance will prepare a financial plan for capital expenditure which covers more than one financial year.

The annual Capital Estimates will correspond to the first year of the financial plan, subject to funds being available, and will detail the committed capital projects and new capital projects on which the Council intends to incur expenditure.

The detailed form of the financial plan and Capital Estimates will be determined by the Head of Finance

All Executive Directors will provide such information as may be required by the Head of Finance for the purpose of preparing the financial plan and Capital Estimates.

The financial plan and Capital Estimates, along with reports by the appropriate officers, will be considered by the Council for approval.

Prior to submission to the Council, all new projects or requests for a change in expenditure profile must be forwarded to the Capital Programme and Assets Group (CPAG) for consideration. CPAG will ensure that accurate costings are agreed and that appropriate option appraisals have been carried out.

For any new projects a business case should be completed detailing the need for Investment or change in service delivery and the options that have been considered. This should be forwarded to the Capital Programme and Assets Group (CPAG) for consideration. CPAG will ensure that accurate costings are agreed and that appropriate option appraisals have been carried out.

Any requests for a change in expenditure profile should be included in the capital financial report to be considered by CPAG.

The approval of the financial plan by the Council will permit Heads of Service to:

- incur preliminary expenses and design costs in respect of projects included in the approved Financial Plan, and;
- in conjunction with the Head of Democratic Services, take the necessary steps to acquire land associated with specified projects included in years one to five of the Plan.

The approval of the Capital Estimates by the Council will permit Heads of Service to proceed with projects within the Capital Estimates unless:

- the actual tender price of the project or the revised estimate of the project exceeds the provision in the Capital Estimates, or
- the nature of the capital project has changed substantially from that envisaged when the Capital Estimates were approved.

In these cases, fresh approval will be sought from the Cabinet before the project proceeds, which approval will be given only if the capital expenditure can be contained within the overall capital allocation or if additional funding is identified.

### Control of Capital Expenditure

No expenditure will be incurred without the approval of the Cabinet except as authorised by the Council's Scheme of Delegation to Officers and the Standing Orders Relating to Contracts.

No capital expenditure chargeable to the Capital Account will be incurred unless the expenditure is provided for in the Capital Estimates and meets the definition of capital expenditure in the CIPFA Code of Practice, which states that "the expenditure results in the acquisition, construction, or enhancement of fixed assets (tangible and intangible) in accordance with proper practices". Scottish Ministers may also issue guidance that it would be proper practice to capitalise specified expenditure. The Capital Programme and Assets Group (CPAG) will ensure that projects comply with the definition of capital expenditure.

The approval of the Cabinet will be required before a new capital project outwith the financial plan is introduced into the Capital Estimates. Such approval will be given only if the expenditure can be contained within the capital allocation for that year or if additional funding is identified.

If it becomes apparent after the start of a capital project that it will be considerably over or under spent, or if the phased expenditure for the current year is likely to vary significantly, it will be the duty of the appropriate Head of Service to report such variation immediately to the Capital Programme and Assets Group (CPAG). CPAG is responsible for ensuring that the capital programme is delivered on time and for considering where projects may be advanced within the plan. Thereafter, a report on the action taken will be submitted to the Cabinet.

It will be the duty of the Head of Finance to report regularly and timeously to the Cabinet with statements comparing actual financial performance with the respective Capital Estimates.

It will be the duty of the appropriate Head of Service to ensure that any required legal or statutory approvals have been obtained before the commencement of a capital project.

## **Code of Financial Practice 2**

### **Revenue Finance**

#### **Revenue Estimates**

Finance will determine the procedure for the preparation of the Revenue Estimates and will report to the Cabinet on the financial guidelines to be considered for the Revenue Estimates.

Each Head of Service will, in conjunction with the Head of Finance, prepare Revenue Estimates in respect of their Service in accordance with a timetable set by the Head of Finance.

The Revenue Estimates will be submitted to the Council for approval with a recommendation as to:-

- the proposed expenditure and income for the financial year ahead;
- the Council Tax to be levied and the level of bad debt provision to be applied;
- the council house rent level to be applied.

#### **Control of Revenue Expenditure**

No expenditure will be incurred without the approval of the Cabinet except as authorised by the approved Revenue Estimates, Scheme of Delegation to Officers and the Standing Orders relating to Contracts.

No expenditure chargeable to a revenue account will be incurred unless it has been included in the Revenue Estimates, except:-

- where a supplementary estimate has been approved by the Cabinet;
- in emergency situations in terms of the Scheme of Delegation to Officers;
- as provided for by the rules on Virement below.

It will be the duty of the Head of Finance to furnish regularly and timeously to all Heads of Service budgetary control statements on the Revenue Account comparing actual performance with the respective Estimates.

It will be the duty of the Head of Service concerned to ensure that items of expenditure in the Revenue Estimates of their Service are not overspent and that the income and expenditure of their Service conform to the requirements of this Code of Practice and their delegated powers under the Scheme of Delegation to Officers.

Heads of Service will also provide the Head of Finance with whatever assistance and information considered necessary in order to ensure the effectiveness of the budgetary control system.

It will be the duty of the Head of Finance to provide reports to Cabinet on the current financial position of the Council in accordance with the agreed reporting schedule, or more frequently if it is considered appropriate.

## Virement

Virement will be permitted only in the following circumstances:-

- A deficit under those subjective headings of expenditure and income and objective headings as defined in Appendix 1 may be balanced by a transfer from another head of expenditure or income on which there is a surplus where the deficit has arisen due to circumstances which could not have been foreseen and the transfer would not involve a change of policy of the Council. Where a net saving could be achieved by overspending under one head of expenditure without changing the policy of the Council, a transfer may be made from a head of expenditure or income which is in surplus.
- Virement will not create an additional overall budget liability. One-off savings or additional income should not be used to support recurring expenditure or to create future commitments including full-year effects of decisions made part way through a year.
- All transfers will be authorised by the appropriate Chief Officer concerned and Financial Services. Where the amount transferred from a budget heading is over £100,000 (either as a single transfer or the sum of transfers within a financial year) or where the transfer of any amount would affect the execution of existing Council policy the approval of the Cabinet will be required. Lower amounts will be authorised within Finance as follows:
  - Finance Manager up to £20,000
  - Senior Manager (Financial Services) £20,001 to £50,000
  - Head of Finance £50,001 to £100,000

Where it appears that the actual amount of any item of income or expenditure may vary significantly from that appearing in the Revenue Estimates, it will be the duty of the Executive Director concerned, in conjunction with the Head of Finance, to report the details of the variance and any remedial action required to the Cabinet as soon as possible after the variance has become apparent.

All reports presented to Cabinet by Executive Directors must specifically identify the extent of any financial implications, having firstly consulted with the Head of Finance on these financial implications. Any such implications must be clearly stated in the reports to Cabinet, identifying the following:

- costs and income in the current and future financial years;
- the impact on capital and revenue spending;
- the extent of budget provision and, if none, how and from where it is proposed that such financial resources be obtained.

The rules concerning budget virement within those areas of the Communities Directorate that fall within the Council's Devolved School Management (DSM) scheme (see Appendix 1) are separately defined by the DSM policy.

## **Code of Financial Practice 3**

### **Control of Income**

#### **Determination of Charges**

Each Head of Service will review not less than annually the charges for goods and services provided by their Service and, except where the charge is fixed externally, or unless otherwise provided for in the Scheme of Delegation to Officers, will submit proposals thereof for the consideration of the Council.

In order to preserve the real value of such income, increases recommended to Council should have regard to the cost of providing the service, the current rate of inflation and the impact of any change in the rate of value added tax.

#### **Accounting Arrangements**

The Head of Finance will make adequate financial and accounting arrangements to ensure the proper recording and collection of all monies due to the Council.

All official forms and books for the expenditure and collection of monies will be in a form approved by the Head of Finance and will be ordered, controlled and issued to Services by the Head of Finance or under arrangements approved by the Head of Finance.

#### **Notification of Income to Finance**

All debtors' accounts for income due to the Council will be rendered by, or under arrangements approved by, the Head of Finance.

#### **Treatment of Monies Collected**

All monies received on behalf of the Council in any Service will be recorded and deposited with the Head of Finance or the Council's Bankers in accordance with arrangements made with the Head of Finance.

Receipts will be issued for all monies collected and the receipt should indicate the method of payment, i.e. cash, cheque, credit or debit card. All **cash** receipts exceeding £3,000 must be accompanied by adequate personal identification which confirms the identity of the person making the payment and should be notified to the Senior Manager (Audit, Fraud, Safety and Insurance) in accordance with the Council's policy in relation to money laundering.

Heads of Service will be responsible for ensuring adequate custody and control of all cash held within their Service. Cash held should not exceed the maximum limits for cash holdings agreed with the Head of Finance.

Where a service identifies any cash shortage of more than £50 between transactions recorded and physical cash banked, contact must be made with the Internal Audit section in accordance with the Council's Defalcation Procedures.

No deduction will be made from such monies unless specifically authorised by the Head of Finance (e.g. income refunds, library refunds).

Cash discount will not be offered to any debtor.

### Personal Cheques

Personal cheques will not be cashed from monies collected on behalf of the Council.

### Transfers of Cash, Cheques and other Cash equivalents

All transfers of responsibility for cash, cheques or other cash equivalents from one member of staff to another will be evidenced in the records of the Services concerned by the signature of the receiving officer.

Where the monetary amount transferred is not physically verified upon transfer, staff must ensure that the reason for non-verification is recorded (e.g. sealed bank bag with serial number noted, locked cash box, signed cheque or bank withdrawal slip).

### Write-offs

Sums due to the Council will not be written-off without the prior written approval of the Head of Finance. The Debt Recovery team, Sheriff Officers and Legal Services will, after all recovery action has been exhausted, recommend a debt is written off to the Head of Finance on an annual basis.

Services will be notified of the amounts written off and a full list of accounts will be available upon request.

Sums written-off will be written back to the service account to which the income was originally credited when the invoice was raised.

### Grant Income

The Head of Finance will be advised timeously of all relevant information so that applications for grants due to the Council may be submitted or certified. All applications for grant funding will require to be notified to the Head of Finance prior to submission to the funding body.

All remittance advices in relation to grants received are to be addressed directly to the Head of Finance.

## **Code of Financial Practice 4a Treasury Management**

### **Treasury Policy Statement and Practices**

The Council has adopted the key recommendations of the CIPFA document 'Treasury Management in Public Services: Code of Practice' (the Code) as described in section 4 of that Code. Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:

- an 'Annual Treasury Management and Investment Strategy' identifying policies with regard to treasury management and the objective of these, and;
- suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the Strategy and TMPs will follow the recommendations contained in sections 6 and 7 of the Treasury Management Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.

The Head of Finance will provide reports on the Council's treasury management policies, practices and activities. This will include, as a minimum, the annual strategy and plan in advance of the year to Council, a mid-year progress report to Cabinet and an annual report to Council, in the form prescribed in the Council's TMPs.

### **Borrowing and Leasing**

All borrowing arrangements of the Council for the purpose of its functions will be made by the Head of Finance and the arrangements made will be reported regularly to the Cabinet in accordance with the Council's treasury management strategy.

All borrowings on behalf of the Council will be affected in the name of the Council. The Head of Finance, or officers authorised by the Head of Finance, will sign all loan documents unless statute or other legal requirements provide that other signatures are required.

### **Registrar of Stocks, Bonds and Mortgages**

The Head of Finance will be the Registrar of Stocks, Bonds and Mortgages and will maintain records of all borrowing of money by the Council.

### **Leasing**

No leasing of equipment or other capital assets will be undertaken without the prior approval of the Head of Finance.



### Investments and Trust Funds

North Ayrshire Council funds will be invested in the name of the Council or in the name of nominees approved by the Cabinet.

Surplus funds will only be invested in financial institutions listed in the Treasury Management Strategy statement.

All Trust Funds will, wherever possible, be held in the name of the Council.

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

### Control of Charitable Funds and Common Good funds

The Head of Finance will ensure the proper and safe custody and control of all charitable funds held by the Council and that all expenditure is in accordance with the conditions of the Fund.

## **Code of Financial Practice 4b**

### **Banking**

#### **Banking Arrangements**

The Head of Finance is responsible for appointing the Council's Bankers. This should be carried out in accordance with the Council's tendering procedures.

All arrangements with the Council's Bankers concerning the Council's bank accounts, the issue of cheques and all other banking services will be made by the Head of Finance.

The Head of Finance will be an authorised signatory for all the Council's bank accounts.

Official bank accounts bearing the Council's name will be opened or closed only by the Head of Finance.

All monies received will be paid into the Council's bank accounts daily or at such other intervals as may be approved by the Head of Finance and will be accounted for in accordance with arrangements made with the Head of Finance.

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

## **Code of Financial Practice 5**

### **Imprests**

#### Provision of Imprests

The Council uses Corporate Procurement Cards for the provision of imprests.

#### Procurement Cards

The Council has a Corporate Procurement Card (P-Card) system in place, this provides an enhanced service which incorporates electronic monitoring and approval of spend. Procurement cards offers a more transparent alternative to petty cash, offering benefits for staff in service areas as well as prompt payment for suppliers. Replacing the use of cash with the use of cards will reduce the amount of petty cash required.

P-cards are issued subject to the discretion of the Head of Finance.

P-cards are in the name of North Ayrshire Council, but individual Cardholders names are held within the records system. Each card has a limit (inclusive of VAT) for a single transaction as well as a cumulative monthly limit.

Individual P-cards will be set up for specific categories of spend relevant to the individual cardholder and service area.

P-Cards can also, for pre-approved individuals, be used to withdraw petty cash up to a pre agreed limit.

No cash should be withdrawn where a purchase can be made by raising a Purchase Order or using the P-card online, instore or over the telephone.

All P-Card transactions must be reviewed and approved via Secure Data Online (SDOL). Access to the SDOL is via unique usernames and passwords and separation of duties between the cardholder and the approver is controlled and monitored.

## Accounting Arrangements for Imprest

Due to bank charges it is recommended that cash withdrawals should be £100 or greater.

Cardholders must maintain a petty cash spreadsheet showing all sums of money withdrawn and expenditure incurred. The balance on the spreadsheet should reflect the balance of money on hand at all times.

Cardholders and approvers must ensure that cash transactions are reviewed and approved regularly within SDOL.

In normal circumstances, if the amount of cash on hand requires replenished, the previous cash withdrawal should be reconciled within SDOL prior to the next withdrawal.

The Procurement Team monitor the use of the P-cards to ensure that cardholders are compliant with the Procurement Card – Policy and Procedures

## Closure of Accounts

Where a cash or card facility is no longer required it will be withdrawn by the GPC Card Administrator within the Corporate Procurement Unit.

## Guidance

Detailed Guidance is given via the 2 documents detailed below:

- 1) Procurement Card (PCard) – Policy and Procedure Reference Guide
- 2) Procurement Card (PCard) – Imprest Petty Cash Reference Guide

Both documents are available on the intranet.

## **Code of Financial Practice 6**

### **Tax Management**

#### Value Added Tax (VAT)

The Head of Finance will ensure that:

- transactions follow the relevant statutory requirements and rules;
- the Council's liability for paying tax is kept as low as possible;
- the rate of 'tax flow' (i.e. the recovery of tax which is due to the Council) is kept as high as possible, and;
- guidance is issued to employees involved in processing tax-related transactions.

Heads of Service must ensure that guidance is sought from the Head of Finance on the VAT implications of any new or unusual transactions before committing the Council.

#### Income Tax

The Head of People and ICT will ensure that income tax is deducted where appropriate from payments to employees and remitted to HM Revenue and Customs timeously.

Heads of Service must ensure that guidance is sought from the Head of People and ICT on the tax implications of any new employee initiatives before committing the Council.

Returns of income tax deducted will be made to HM Revenue and Customs in accordance with statutory deadlines and employees will be issued with a P60 showing the amount of income tax they have paid by 31<sup>st</sup> May each year.

## **Code of Financial Practice 7**

### **Insurance and Risk Management**

#### **Insurance**

The Head of Finance will make appropriate Insurance arrangements for all aspects of the Council's activities and will arrange the negotiation of all insurance claims by the Council, in consultation with other officers where necessary. Delegated authority has been granted to the Head of Finance to negotiate and settle liability claims.

Executive Directors or Heads of Service must not admit liability or give any indication that the Council may make an offer of settlement.

Executive Directors and Heads of Service will give prompt notification to the Head of Finance of all new or increased risks, properties or vehicles which should be covered by insurance and of any alteration affecting existing insurances.

#### **Notification of Claims**

Executive Directors and Heads of Service will notify the Insurance section immediately of any loss, liability or damage or any event likely to lead to an insurance claim. Thereafter the Insurance section will be responsible for advising the insurance company concerned.

#### **Review of Insurance Portfolio**

The Head of Finance will annually review all insurance covers in consultation with Executive Directors and Heads of Services as appropriate. All Insurance policies will be subject to tendering procedures every 5 years.

#### **Responsibility for Security**

Each Executive Director and Head of Service will be responsible for maintaining proper security, custody and control at all times of all plant, buildings, materials, stores, furniture, equipment and cash etc. under their control. Services will notify the Insurance section immediately of circumstances resulting in financial loss or circumstances likely to result in a claim against the Council's insurance policy.

#### **Limits to Cash Holdings**

Executive Directors and Heads of Service will notify the Insurance section of safes used to hold cash. The Insurance section will notify Services of the insured cash limits that should not be exceeded. In exceptional circumstances where cash limits are likely to be exceeded guidance should be obtained from the Insurance Section.

## Safe Keys

Keys to safes and similar receptacles holding cash or valuable documents will not be left in premises overnight. Safe keys will be carried by the responsible person at all times and the loss of safe keys will be reported immediately to Internal Audit. Services will maintain a log of all such key holders and transfers of keys in order that a clear audit trail is always available of which member of staff had responsibility for safe keys at any particular time.

## Risk Management

The Risk Management Strategy contains the framework to be adopted to ensure risk is properly identified and controlled within the authority.

### Identification of Risk

The Head of Finance will be responsible for the co-ordination of a Strategic Risk Register. All Executive Directors and Heads of Service will be responsible for ensuring that suitable arrangements for the identification, recording and monitoring of risks are established within their Service.

### Security of Pre-printed and Pre-signed cheques

The Head of Finance will ensure that secure arrangements are made for the preparation and holding of pre-printed / pre-signed cheques, stock certificates, bonds and other financial documents.

### Security / Retention of Documentation

Each Executive Director and Head of Service will be responsible for maintaining proper security, custody and control of all documents within their Directorate. All documents and records will be retained for the minimum prescribed duration as set out in the Council's Master Retention Schedule.

### IT Security

Each Executive Director and Head of Service will be responsible for ensuring that all staff within their Service comply with the Council's ICT Acceptable Use Policy and associated documents.

Each Executive Director and Head of Service will also consult the Senior Manager (ICT) in any case where security of IT systems is thought to be defective or where it is considered that special security arrangements may be required.

## **Code of Financial Practice 8 Salaries and Wages**

### **Information regarding Payroll Amendments**

Each Head of Service will notify the Head of People and ICT timeously of all matters affecting the payment of salaries, wages and other emoluments, in particular:

- appointments, resignations, dismissals, suspensions, secondments and transfers;
- changes in remuneration (other than normal increments), agreements of general application and changes in terms and conditions of service;
- absences from duty for sickness or other reason apart from approved paid leave;
- information necessary to maintain records of service for superannuation, income tax and social security purposes.

### **Arrangements for Payments**

The payment of all salaries, wages and other emoluments to all employees of the Council will be made by the Head of People and ICT

### **Form and Certification of Records**

All pay documents will be in a form prescribed or approved by the Head of People and ICT.

All timesheets will be completed and signed (manually or electronically) by the employee themselves confirming the accuracy of the claim except in cases of illiteracy when a supervisor may complete them, suitably endorsing the timesheets to this effect. Timesheets will not be completed, authorised or passed for payment in advance of work being undertaken.

All pay documents will be certified in manuscript, electronically via HR21by or by email by an approved authorised signatory on behalf of the appropriate Head of Service. Signature stamps will not be used for this purpose.

Details of Officers authorised to certify such documents (name, designation and email address) will be sent to the Head of People & ICT by Heads of Service. The relevant Head of Service will be responsible for advising any changes. Where a Service is responsible for its own information processing, the names of officers authorised to certify pay documents will be provided to the appropriate input staff.

### **Off-payroll Working (IR35)**

It is the responsibility of all budget holders to identify all worker and contractor relationships, which are not administered through North Ayrshire's Payroll arrangements, and ensure that appropriate consideration is given to the nature of the relationship, including the completion of Status Determination Statements where appropriate.

Guidance on the assessment of potential off payroll working relationships is available from the Head of People and ICT and all completed Status Determination Statements should be retained by the Budget Holder for a minimum of 6 years.



Any relationship which is assessed as being within the scope of IR35 must be reported to the Head of People and ICT to allow arrangements for all payments to be included within standard arrangements for the deduction of appropriate tax and national insurance contributions.

## **Code of Financial Practice 9 Expenses**

### **Arrangements for Claims**

The Head of People and ICT will be responsible for the regulation, administration and payment of claims for expenses and allowances to members and employees of the Council.

### **Employees' Claims**

All claims for payment of travelling allowances, subsistence allowances, car allowances and incidental expenses, duly certified in manuscript on the appropriate official form provided by the Head of People and ICT or processed electronically via the expenses module on HR21 self-service system will be submitted to Employee Services on a regular basis.

Claims will not be paid from imprest accounts. All such expenses will be paid via the Payroll System except in extraordinary circumstances, in which case the approval of the Head of People and ICT will be required for an alternative method of payment.

Claims for travelling and subsistence allowances must be accompanied by the appropriate receipts. Claims for car allowances must be accompanied by a VAT receipt for fuel, dated prior to the first journey. Where claims are processed via HR21 receipts must be retained by the Service in accordance with retention details outlined within the HR21 user guide.

In signing an expense claim form or submitting via HR21, employees are confirming that they have a valid driving licence and appropriate insurance arrangements in place to cover their vehicle for business use. Heads of Service must ensure that driving licences and insurance documents are inspected on an annual basis and details recorded on the Council's integrated HR and payroll database.

### **Certification of Employees' Claims**

The Head of each Service will arrange for the certification in manuscript or approval via HR21 by an officer of their Service of all claim forms. The certification by or on behalf of the Head of Service will be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenditure was wholly, exclusively and necessarily incurred in the course of the employment of the claimant and that any allowances are properly payable. Claims must not be submitted for approval or approved in advance on the expense being incurred.

Details of Officers authorised to certify such documents (name, designation and email address) will be sent to the Head of People & ICT by Heads of Service. The relevant Head of Service will be responsible for advising any changes. In addition, an annual review of such authorisations will be carried out by each Service to ensure that the list of names submitted to the Head of People and ICT is complete and up to date.

No officer authorised to certify such claims will certify their personal claim. Personal claims must be certified by a separate authorised signatory.

## Cash Advances

Cash advances will only be made in exceptional circumstances when other means of payment is not available.

The Head of each Service will arrange for the certification in manuscript by an officer of their Service of all cash advances. The certification by or on behalf of the Head of Service will be taken to mean that the certifying officer is satisfied that the cash advance is necessary in the course of the claimant's employment and that no other means of meeting the anticipated expenses is available.

Officers authorised to certify cash advances will not certify a cash advance to themselves.

All requests for cash advances, duly certified in manuscript on the appropriate official form provided by the Head of Finance, will be submitted to the Head of Finance for payment.

The officer to whom an advance is given will be fully accountable for the advance.

Immediately after the event for which the cash advance is given the accountable officer, using the appropriate official form, will prepare a detailed statement of expenses incurred, with supporting receipts and invoices, which reconciles to the amount of the cash advance. The reconciliation, duly certified in manuscript by an officer authorised by the Head of Service to certify claims for expenses and allowances, will be submitted to the Head of Finance along with the remaining unspent cash balance.

## Elected Members' Allowances

Members' Allowances will be paid in accordance with the Council's approved Scheme of Members' Allowances and national regulations.

Payments to Elected Members who are entitled to claim allowances will be made by the Head of People and ICT on receipt of the prescribed form properly completed and certified in manuscript. Claims will be checked by Democratic Services prior to submission for payment.

Claims will be submitted promptly, and on a regular basis, and in any case claims applicable to a financial year will be submitted within one month after 31st March in that year.

The Head of Democratic Services will maintain a record of members allowances, showing the name of the recipient and the amount and nature of the payments. This record will be available for public inspection and will be published on the Council website not later than June 1<sup>st</sup> each year.

## **Code of Financial Practice 10**

### **Procurement of Goods and Services and Payment of Accounts**

#### Official Orders

All goods, materials and services supplied to or work executed for the Council will be ordered or confirmed in writing by means of an official order, by written acceptance of a tender or offer, or by an electronic order through an eProcurement system. The only exceptions are for purchases using procurement cards, petty cash purchases, supplies of Public Utility services and periodic payments such as rates.

Each order will conform to the Council's Standing Orders relating to Contracts in order to demonstrate best value procurement.

#### Authorisation of Orders and Acceptances

Orders and acceptances of tenders or offers will be authorised either electronically or in writing only by officers certified to do so by the Head of Service of the ordering Service and in accordance with the Council's Standing Orders Relating to Contracts. Signature stamps will not be used for this purpose. Each Service will maintain a current list of officers so authorised.

Limits regarding the level and type of expenditure to which authorising officers can commit the Council will be formalised and maintained by each Head of Service and will be recorded on the list of authorised officers, which will be held by the Head of Finance.

#### Checks on Goods, Materials and Services Received

It will be the duty of the Head of each Service that places an order to ensure that all goods, materials and services received following the placing of such orders are as ordered in respect of price, quality and quantity.

Where goods have been ordered using the e Procurement system, the receipt of goods will also be recorded against the appropriate order on the system.

#### Method of Payment

Apart from payments from imprest accounts (petty cash payments) the normal method of payment of money due from the Council will be by BACS, cheque , Procurement card or other instrument drawn on the Council's bank account(s) by the Head of Finance or any person or persons authorised by the Head of Finance.

The Council's preferred method of payment will be by BACS.

## Certification for Payment

A list of authorised signatories (including their financial limit) for certifying the payment of accounts will be supplied and certified by all Heads of Service to the Head of Finance. Additions and deletions will be notified to the Head of Finance as they occur. Heads of Service will review the lists annually and confirm to the Head of Finance that this has been done.

There is no need to batch invoices as each invoice will be dealt with individually. Heads of Service must ensure that Authorised Signatories only sign invoices within their financial limits.

Once the invoice has been appropriately certified in accordance with the checks below, the Head of Service or other authorised officer intimated to the Head of Finance will pass it without delay to the Accounts Payable team to ensure any offer of cash discount for early payment is received and that financial penalties for late payment are avoided.

### Invoices relating to non-electronic orders

The Head of each Service which incurs expenditure will arrange for the certification either in manuscript or electronically by an authorised signatory of their Service that all accounts and invoices for payment comply with the following:

- the expenditure is on items or services which it is within the Council's legal powers to incur;
- the goods, materials, services or work to which the account relates have been received or carried out and have been examined and approved and are in accordance with the order and the Goods Received Note;
- the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
- the relevant expenditure has been properly incurred and is within the relevant estimate provision;
- appropriate entries have been made in the inventories or stores/stock records as required;
- the appropriate financial ledger code numbers are entered on the document for payment.

Corporate Procurement have designed an invoice stamp that should either:

- be ordered and used by Services when invoices are approved manually.
- be set up as a stamp within Adobe to allow for the electronic signing of individual invoices.

Services should not amend the stamp in any way or use any other stamp.

Corporate Procurement are working on an electronic invoice approval workflow process (for non-electronic orders) through the Integra system. When this has been tested and rolled out across Services the need for manually stamping and signing invoices will no longer be the preferred option.

### Invoices relating to electronic orders

The eProcurement systems have controls in place to ensure that only Authorised Officers (as approved by their Head of Service) can approve orders and invoices. The eProcurement systems will not allow payment to be made unless the goods are recorded as being received and the invoice value agrees with the order or is within a tolerable variance. Any invoices that are out with the pre-set tolerances, will automatically be sent via the Integra electronic invoice certification process to the order approver to either accept or reject. There is therefore no

requirement to use the invoice stamp or manually sign/authorise invoices for orders that have been processed through the eProcurement systems.

### Procurement Cards

Procurement Cards may be used by Services for high volume transactions, one-off low value purchases and/or internet purchases.

All applications for a Procurement Card require to be authorised by a Head of Service, Manager (Grade 14 and above) or Head Teacher.

All transactions are required to be approved on the procurement card system by an authorised approver. The system is administered by Corporate Procurement. It is the responsibility of all card holders and approvers to ensure transactions are approved promptly.

The Council's monthly statement is processed for payment by Corporate Procurement and all transactions made by individual Services will be journalled against the appropriate finance code.

### Duplicate Invoices

Payment will not be made on duplicate, photocopied or faxed invoices unless the appropriate Head of Service or other authorised officer within the appropriate Service certifies in writing that the amounts have not previously been passed for payment.

### Pro-forma Invoices

Payment will not normally be made on 'pro-forma' invoices that state 'this is not a VAT invoice'. In exceptional circumstances where such payments may be made, it will not be possible for the Council to recover VAT.

### Amendments to Invoices

No changes will be made to tax invoices which must instead be returned to the creditor for amendment and reissue.

### IR35 – Off Payrolling

The only exception to the above statement is where the Council needs to comply with Off- Payroll Working in the Public Sector known as IR35 (Intermediaries legislation). Where applicable the Council will amend the invoice to reflect a deduction of both PAYE and National Insurance Contributions.

It will be the duty of each Head of Service who approves the engagement of services to ensure that the employment status has been determined in line with the IR35 Reforms, Status Determination Statements are produced and issued for all PSC arrangements and that relevant documentation is retained and is accessible for audit purposes.

## **Code of Financial Practice 11**

### **Contracts for Supplies, Services and Works**

#### Contracts Register

The Corporate Procurement Unit (CPU) will maintain a record of all contracts held over the value of £10,000 on the Council's Corporate Contract Register.

The Corporate Register includes the following information:

- Contract Award date
- Contract Title
- Successful contractor(s)
- Contract Estimated Value
- Contract Start & End dates (excluding optional extensions)
- Period of extension

The Corporate Register will be published on the Council's external website.

#### Variations to Capital Contracts

All instructions to contractors on project work will be issued by the responsible officer using the appropriate official variation order procedure or via a formal Architect's Instruction (AI)

If it becomes apparent after the start of a project that it will be over or under spent by 0.5% or more, or if the phased expenditure for the current year is likely to vary significantly, it will be the duty of the appropriate Head of Service to report such variation immediately to the appropriate Directorate Project Board and thereafter to the Capital Programme and Asset Group (CPAG). Thereafter, an update will be provided to Cabinet on the action taken.

#### Claims from Contractors

Claims from contractors in respect of matters not clearly within the terms of any existing contract will be referred to the appropriate Service Executive Director, Head of Democratic Services for consideration of the Council's liability and to the Head of Finance for consideration before a settlement is reached.

#### Delay of Contract

Where completion of a contract is delayed it will be the duty of the responsible officer in consultation with the Head of Democratic Services to take appropriate action in respect of any claim for liquidate or other damages.

### Interim Payment

Interim payments to contractors will be certified by the authorised officers responsible for the control and supervision of the work.

### Procurement Guidance/Procedures

All matters relating to contracts should be conducted in accordance with the following Council Documents and other guidance that may be issued by the Council's Corporate Procurement Unit and Head of Democratic Services.

- Standing Orders Relating to Contracts
- North Ayrshire Council Procurement Manual
- Appropriate terms and conditions relating to the specific contract
- [HR Policy & Procedure: Engaging Agency Workers and Personal Service Companies](#)



## **Code of Financial Practice 12**

### **Assets**

#### Asset Registers

Detailed registers of the Council's assets will be maintained as follows:

- Housing properties – Head of Physical Environment
- Other properties – Head of Physical Environment
- Fleet – Head of Commercial Services
- Open spaces - Head of Commercial Services
- Roads - Head of Commercial Services
- ICT – Head of People and ICT

#### Title Deeds

The Head of Democratic Services will have custody of all title deeds under secure arrangements.

#### Capital Accounting Register

The Head of Finance will maintain a register of all assets owned by the Council recording for each one the type of asset, asset value, asset life and depreciation policy. The information recorded in the fixed asset register will be subject to a de-minimus asset value to be determined from time to time by the Head of Finance. The details contained within the fixed asset register will be reconciled annually with the asset registers.

## **Code of Financial Practice 13**

### **Stores and Inventories**

#### Custody of Stores and Stocktaking

Arrangements made by Heads of Service for costing and stock control systems will be subject to the approval of the Head of Finance.

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

- stocktaking is carried out at regular intervals.
- all obsolete or excess stock or scrap material is identified and disposed of in accordance with the Standing Orders relating to Contracts and the Scheme of Delegated Functions.

All stock write-offs will be notified to the Head of Finance.

Heads of Service will supply the Head of Finance with a certificate within timescales laid down that states the financial value of stocks held at the year-end.

#### Inventories

Each Head of Service will ensure that inventories will be maintained at locations used by their staff.

Inventories will be maintained in accordance with the inventory procedures issued by Internal Audit.

**Appendix 1**  
**Definition of Subjective and Objective Expenditure and Income Heads**

Subjective Expenditure Heads

Employee Costs
Property Costs
Supplies and Services
Transport Costs
Administration Costs
Third Party Payments
Transfer Payments
Other Expenditure
Capital Financing Costs

Subjective Income Heads

Government Grants
Other Grants
Subsidies
Other Authorities
Sales, Fees and Charges
Internal Recharges
Funding
Energy Income
Financing Income
Insurance Income
PPP Income
Penalties
Recovery of Costs

## Objective Expenditure Heads

Democratic Services	Chief Executive and Business Support
	Ayrshire Area Support Team
	Information Governance
	Legal
	Policy, Performance and Elections
	Communications
	Committee and Member Services
	Civil Contingencies
Finance	Head of Service
	Financial Services
	Corporate Procurement
	Transformation
	Audit, Fraud, Safety and Risk & Insurance
People and ICT	Head of Service
	Employee Services
	Human Resources and Organisational Development
	ICT
	Customer Services and Business Support
Communities	<b>Early Years**</b>
	<b>Primary Education**</b>
	<b>Secondary Education**</b>
	<b>Additional Support Needs**</b>
	Education Other
	Pupil Equity Fund
	Attainment Challenge
	Connected Communities
	Community Planning

Place	Management and Administration
	Building Services
	Property Management & Investment
	Property Maintenance
	Property Running Costs
	Roads
	Energy and Sustainability
	Waste Management
	Streetscene
	Facilities Management
	Transport
	Housing
	Economic Growth
Health and Social Care	Management and Support Services
	Children, Families and Criminal Justice
	Health and Community Care
	Mental Health, Learning Disabilities and Addiction
	Change Programme (HSCP)
	Challenge Fund
Corporate Items	Joint Boards
	Pension Costs
	Loan Charges & Capital Charges
	Other Corporate Items

**\*\* Virement within these objective heads in Communities will be subject to the conditions of the Council's approved Scheme of Delegation to Schools.**