

# **ANGUS COUNCIL**

## **FINANCIAL REGULATIONS**

## ANGUS COUNCIL FINANCIAL REGULATIONS

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# ANGUS COUNCIL FINANCIAL REGULATIONS

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## **FOREWORD**

Angus Council is a public body specifically created to provide essential services to local citizens. The Council is funded exclusively from public money in one form or another (e.g. Scottish Government Grant, Council Tax, Non-Domestic Rates, etc). There is therefore a burden of responsibility on all members and employees of the Council to ensure that all Council resources are used properly and efficiently.

The size and complexity of the Council and the services it provides makes such stewardship of public funds a real challenge and we all have responsibilities in this regard. As Head of Corporate Improvement and Finance, I have a specific duty in law (Section 95 of the Local Government (Scotland) Act 1973) for the proper administration of the Council's financial affairs. Managers and budget holders have a responsibility to comply with the Financial Regulations and to manage their areas in a manner which provides Best Value. All members and employees have a responsibility to ensure that systems and procedures that are in place are followed.

In light of these responsibilities, these Financial Regulations are critically at the heart of the Council's financial arrangements which ensure the proper and efficient use of resources and set the scene to ensure that sound financial control is operated. They do not (and indeed should not) contain comprehensive detail of each and every financial aspect. However, they do as necessary make reference to where the detail is held.

The Financial Regulations have been designed to help financial control and to provide the necessary framework for support, advice and protection to members and staff involved in financial management at all levels throughout Angus Council. To this end I have tried to find the right balance between safeguarding the Council's money and other resources and retaining operational flexibility.

In order to maintain the Regulations as fit for purpose a periodic process of ongoing review and updating takes place to take account of new policies which are developed and changes in working practice.

**If any queries arise in respect of clarification or interpretation of any matter, please email [finance@angus.gov.uk](mailto:finance@angus.gov.uk) (with the subject "Financial Regulations") or contact your departmental accountant.** Where different interpretations of any point arise, the Head of Corporate Improvement and Finance will be the final arbiter.

**IAN LORIMER**

**HEAD OF CORPORATE IMPROVEMENT AND FINANCE**

## 1. INTRODUCTION & GENERAL PROVISIONS

### Introduction

- 1.1 These Regulations shall be known as "Angus Council Financial Regulations".
- 1.2 The Financial Regulations will be regularly updated and subject to periodic full scale review. The Head of Corporate Improvement and Finance has delegated authority to approve and implement minor amendments to the Financial Regulations throughout the year but will report annually on such delegated approvals to Committee. Proposed alterations to the Financial Regulations of a more significant nature, including periodic full scale reviews, will be brought to Committee for approval prior to implementation.

### Responsibilities of all Council staff and Elected Members - Fraud & Irregular Activity

- 1.3 As a publicly funded body the Council takes its responsibilities towards fraud and irregular activity very seriously. Our position is simple:-
- We adopt a zero tolerance approach to fraud and irregular activity
  - All elected members and all employees of the Council are personally responsible for reporting suspicions of fraud or irregular activity concerning any aspect of Council business or activity. If in doubt report it.

Our zero tolerance approach means perpetrators of fraud or irregular activity against the Council will be reported to the relevant authorities and subject to the full legal, and if relevant, disciplinary process.

In this regard, officers should be aware of the guidance contained within the Council's [Fraud Response Plan](#).

### Responsibilities of all Council staff and Elected Members – Compliance with Financial Regulations

- 1.4 Elected Members and all employees of the Council shall observe the Finance Regulations in performing their duties. Chief Officers are specifically responsible for ensuring that the Financial Regulations are complied with in respect of matters falling within their jurisdiction and must ensure that the requirements of the Financial Regulations are brought to the attention of **all relevant** staff.

In this respect Standing Order 4(2) provides that the Financial Regulations are part of the Council's Standing Orders. Accordingly the Regulations must be read in conjunction with the Council's Standing Orders and also the Scheme of Delegation to Officers. Any departure from the Financial Regulations can only be made with the prior formal agreement of the Head of Corporate Improvement and Finance.

Each Member of the Council and every employee of the Council shall have a responsibility to bring immediately to the notice of the Head of Corporate Improvement and Finance, normally through their relevant service directorate, any matter concerning the contravention of the Council's Financial Regulations.

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For the observance and implementation of: Standing Orders relating to finance; the Financial Regulations; and accounting instructions given by the Head of Corporate Improvement and Finance, each Chief Officer shall appoint a Designated Officer within their service, a senior officer being so designated where the work involved does not justify a full-time appointment. (Refer to [1.11](#) below).

### Head of Corporate Improvement and Finance Responsibilities

- 1.5 The Head of Corporate Improvement and Finance, being the proper officer for the purpose of Section 95 of the Local Government (Scotland) Act 1973, shall be responsible under the general direction of the Council and the specific direction of the Policy and Resources Committee, for the proper administration of the Council's financial affairs. In this respect, the Head of Corporate Improvement and Finance is designated by the Council as the Finance Officer in terms Standing Orders 3 and 45(3). Regulation 3 of the Local Authority (Accounts) Regulations 1975 places upon that officer, the obligation to determine the system of accounting control and form of accounts and supporting records and to ensure that the accounts and records are kept up-to-date.
- 1.6 The Head of Corporate Improvement and Finance shall report to Angus Council with respect to the level of financial resources proposed to be utilised in each financial year by the Council, shall keep the Policy and Resources Committee informed as to the detailed administration and application of such resources, and shall keep other Committees informed with respect to the financial implications of their activities.
- 1.7 The Head of Corporate Improvement and Finance shall liaise with and consult as necessary with Chief Officers in all matters of policy and procedure in relation to these Financial Regulations. Ultimate responsibility for the proper administration of the Council's financial affairs will nevertheless rest with the Head of Corporate Improvement and Finance.

### Duty to Secure Best Value

- 1.8 The Council shall at all times endeavour to secure the best value for the money it spends and encourage the use throughout Council Departments of the best management and service delivery techniques. Further, the Council (Elected Members and all employees) shall at all times follow the specific requirements of the Local Government in Scotland (Act) 2003 in relation to Best Value and shall endeavour to adhere to the statutory guidance issued thereon.

### Corporate Governance

- 1.9 Each Chief Officer shall comply with the requirements of the Council's Local Code of Corporate Governance and shall be responsible for providing the Chief Executive with an Annual Assurance Statement for their area(s) of responsibility. In respect of this Regulation 1.9, Chief Officer includes the Head of Corporate Improvement and Finance, the Head of Legal and Democratic Services and Chief Social Work Officer, who have specific assurance statements to return in their roles under Standing Orders.

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### Definition of Chief Officer, etc.

1.10 For the avoidance of doubt and subject to Regulation 1.9 above, the term Chief Officer for the purposes of Financial Regulations means:

- Chief Executive
- Strategic Director Children & Learning
- Strategic Director Communities
- Strategic Director Resources

It is the responsibility of each Chief Officer to ensure that any matters falling within their jurisdiction are addressed by appropriate staff within their department and that such staff are properly empowered to do so through their departmental scheme of delegation.

### Definition of Accountable Manager

1.11 Accountable Manager as contained within Financial Regulation 4.1 and 4.2 shall mean a line manager, nominated by the Chief Officer, with responsibility for discrete elements of the budget.

1.12 Each Chief Officer shall maintain a list of Accountable Managers detailing the budget areas they are responsible for and their delegated financial authority levels. Remits and authority levels should also be contained within departmental schemes of delegation.

1.13 This excludes Designated Accountable Manager (DAM) in respect of capital projects, and this is dealt with within Financial Regulation 7.8.

### Definition of Reporting Officer and Officers at Third and Fourth Tier levels

1.14 Reporting Officer as contained within Financial Regulation 16.12 shall mean an officer nominated by the Chief Officer to take delivery of opened tenders for the purpose of checking and examination. The Reporting Officer must be a person with knowledge of the contract and tender documents and in a position to answer reasonable questions posed by the officers in attendance.

The reference in Financial Regulation 16.12 to officers at "third tier" level shall mean the grade immediately below Head of Service grade and consistent with this, reference to officers at "fourth tier" level shall mean the next again grade.

### Employee Code of Conduct

1.15 Throughout these Financial Regulations, members and employees must have regard to the Councillor's Code of Conduct and the Employee Code of Conduct respectively.

## 2. **REVENUE BUDGET (General Fund and Housing Revenue Account)**

### 2.1 INTRODUCTION

The following sections set out the general responsibility and procedures to be followed by Council Committees and Officers in relation to the preparation of each year's revenue budget and the setting of the Council Tax and Rent levels.

### 2.2 COUNCIL / COMMITTEE ROLES

- a **Policy and Resources Committee** – The Policy and Resources Committee shall be responsible for:-

Determining the medium to long term policy and resource framework within which the Council should operate. instructing the Head of Corporate Improvement and Finance, after considering appropriate advice, on the procedures to be adopted in the preparation of the revenue budget and for monitoring the approved budget.

Reports in this regard may, however, be considered by Council for reasons of expediency.

- b **Special Budget Meeting of the Council** – A Special Budget Meeting of the Council is required to approve all items pertinent to the setting of provisional departmental revenue budgets and the level of Council Tax at Valuation Band D for the forthcoming financial year. This meeting must take place before 10th March of the financial year preceding the year for which the budget is being prepared.

- c **Special Meeting of the Communities Committee** – A special Meeting of the Communities Committee is required to consider the Housing Revenue Account estimates and determine the level of rents for the forthcoming financial year, taking account of any advice issued by the Head of Corporate Improvement and Finance in this regard.

### 2.3 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES

On the basis of the Policy and Resources Committee's instructions, the Head of Corporate Improvement and Finance shall request that each Chief Officer prepare a departmental revenue budget for expenditure and income. This "provisional base budget" will be submitted in accordance with a timetable and detailed guidance issued by the Head of Corporate Improvement & Finance.

The Head of Corporate Improvement and Finance shall be responsible for ensuring that appropriate professional support and advice is provided by Finance to Chief Officers to assist in the preparation of their revenue budgets.

The Head of Corporate Improvement and Finance shall be responsible for ensuring that sufficient, relevant information is made available to members of the Policy and Budget Strategy Group (PBSG) and Member / Officer Groups (MOG) to facilitate decision-making by these forums.

The Head of Corporate Improvement and Finance shall be responsible for ensuring that appropriate reports are submitted to the Special Budget Meeting

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of the Council to permit a decision regarding departmental provisional base budgets and the level of the Council Tax at Valuation Band D to be made.

The Head of Corporate Improvement and Finance, in conjunction with the Head of Planning & Place, shall be responsible for ensuring that appropriate reports are submitted to the Special Meeting of the Communities Committee to permit decisions regarding the Housing Revenue Account estimates and level of rents to be made.

The Head of Corporate Improvement and Finance will periodically submit a report detailing forward years' budget projections to Angus Council to inform medium term financial planning arrangements.

The Head of Corporate Improvement and Finance shall also be responsible for providing Members, the Chief Executive and other Chief Officers as necessary with information on external factors affecting the General Fund or Housing Revenue Account revenue budgets, including announcements by the Scottish Government, and agreements in relation to pay awards and information on other factors and contingencies relevant to the budget setting process.

The Head of Corporate Improvement and Finance must also be consulted where it is proposed to procure any goods or services via alternative funding mechanisms which result in an ongoing revenue budget commitment (in particular the use of leasing) – this to be separate from procurement routes / consultations.

### **2.4 CHIEF OFFICERS' RESPONSIBILITIES**

Each Chief Officer shall be required to prepare revenue budget estimates within a timetable and in a form as directed by the Head of Corporate Improvement and Finance. In this respect, it is the responsibility of each Chief Officer to ensure that the detailed annual guidance issued by the Head of Corporate Improvement and Finance is followed and to draw on the professional support and advice available from Finance as necessary.

Where appropriate, Chief Officers should liaise with each other and any other appropriate Officers, to ensure that all relevant facts have been considered in the preparation of the revenue budget. This is particularly the case where proposals from one directorate would have a direct impact on service provision in another directorate e.g. savings.

Each Chief Officer should ensure that a review of charges is conducted annually and, where necessary, approval sought for any changes arising from that review.

Each Chief Officer, in conjunction with the Strategic Director of Resources and the Head of Corporate Improvement and Finance, shall ensure their respective conveners and vice conveners are kept advised of developments in relation to the revenue budget and are provided with sufficient information on which to make recommendations to the Policy and Resources Committee and the Special Budget Meeting of the Council and Communities Committee, as appropriate.

Further, Chief Officers are directed to the specific Section within the Financial Regulations (i.e. Section 9) on Committee Report Preparation.



### **2.5 POLICY AND BUDGET STRATEGY GROUP (PBSG)**

The Policy and Budget Strategy Group core membership shall comprise:

- the Leader of the Council (Chair);
- the Depute Leader of the Council;
- the Policy & Resources Committee Finance Convenor and Vice Convener;
- two non-administration members;
- the Chief Executive;
- the Strategic Directors; and
- the Head of Corporate Improvement and Finance.

Other appropriate officers will also be required to attend as necessary.

The PBSG will make the key decisions in setting the annual revenue and capital budget strategy ahead of formal consideration via Council meetings. It will also: set the budget strategy for the longer term; determine the approach to budget savings / efficiencies to be adopted; decide on contributions to the Council's Special Funds and balances; agree Council Tax decisions; and consider the HRA budget and proposed rent levels.

The PBSG will meet as required throughout the budget setting process. The PBSG will, however, require to hold an initial meeting at the commencement of the budget setting process to determine the Council's overall strategy.

Additionally, the PBSG will meet with the respective Members and Chief Officers towards the end of the budget setting process to finalise each department's revenue budget. These meetings will be referred to as Member Officer Group (MOG) meetings.

### **2.6 MOTIONS INVOLVING INCREASED EXPENDITURE**

Subject to Standing Order 16(9), no resolution of a Service Committee arising from a motion which would involve expenditure not provided for, or reduce income provided for, in the revenue estimates shall be put into effect without the approval of the Policy and Resources Committee.

### **2.7 AUTHORITY TO IMPLEMENT BUDGET / AUTHORITY TO INCUR EXPENDITURE**

The inclusion of items in the approved revenue budget shall constitute authority to the Service Committee, Sub-Committee, Chief Officer or other Officer, as appropriate in terms of the Order of Reference of Committees and the Scheme of Delegation to Officers, to implement the revenue budget and to incur expenditure in this regard. The Policy and Resources Committee or the Council may however place reservation on any such items and expenditure on any such reserved items may be incurred only to the extent that such reservation has been removed.

### **2.8 TREATMENT OF REVENUE BUDGET OVERSPENDS**

Where a department/service is determined to have incurred an annual budget overspend, this will be deducted from the revenue budget of the immediately following financial year (e.g. an overspend in 2017/18 will be deducted from 2018/19 budgets). This deduction will be applied in the form of a management adjustment to the approved budget for monitoring purposes.

### **2.9 BUDGET GUIDE AND FINAL BUDGET VOLUME**

The Revenue Budget process is concluded with the production of a Budget Guide which provides summary information for the benefit of Council Rent and Council Tax Payers and a Final Budget Volume which provides detailed information for Council Officials within Departments to monitor and control expenditure.

The detailed departmental revenue budgets contained in the Final Budget Volume constitute the agreed cash limited budget of each Council department, on an objective and subjective budget head basis. Once published, changes to these budget figures should only be made in accordance with the virement procedures set out in section 4 of these Regulations.

## 3. **REVENUE BUDGET MONITORING** (General Fund and Housing Revenue Account)

### 3.1 RESPONSIBILITY

The primary responsibility for detailed monitoring and control of departmental cash limited revenue budgets lies with each Chief Officer. This responsibility covers revenue expenditure, any relevant Renewal & Repair Funds and any other funds which may be allocated during a financial year (e.g. additional grants).

### 3.2 CASH LIMITED BUDGETS

The principle of cash limited budgets requires that departments contain their expenditure within the budget set for a particular financial year. In this regard, no anticipation of future years' resources is permitted.

### 3.3 COUNCIL AUTHORITY

Subject to Standing Order 16(9), where the resolution of a Service Committee arising from a motion would involve expenditure which cannot be contained within existing departmental resources then, except with the authority of the Policy and Resources Committee:

- a no tender for any project costing more than the sum allowed in the Revenue Budget shall be accepted;
- b no new or significantly altered project shall be substituted for an approved project; and
- c where the final measurement of a contract sum exceeds the price in the original contract or an agreed revised contract sum (taking into account any approved variations authorised in terms of the contract) no payment in excess of the original or revised contract sum, as appropriate, shall be made.

### 3.4 ADDITIONAL EXPENDITURE

A cash limited budget dictates that revenue expenditure shall be restricted to that included in the Revenue Budget.

Only in exceptional circumstances will consideration be given to allowing additional expenditure and any such proposals will require approval by the appropriate committee and the Policy and Resources Committee.

In this respect, Chief Officers are directed to the specific Section within the Financial Regulations (i.e. Section 9) on Committee Report Preparation.

**The funding of any agreed exceptional circumstances which require additional expenditure may result in the Policy and Resources Committee having to take compensating corrective action.**

### 3.5 MONITORING STATEMENTS

The Head of Corporate Improvement and Finance shall furnish each Chief Officer with calendar monthly financial statements of expenditure and income

and such other relevant information the Head of Corporate Improvement and Finance and the Chief Officer conclude to be necessary. It shall be the responsibility of each Chief Officer however to ensure that they have all the relevant financial information available to control the actual expenditure and income against the budget.

### 3.6 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES

The Head of Corporate Improvement and Finance has a responsibility to ensure that revenue monitoring by Chief Officers is carried out and that relevant financial information is provided in a format and within a timetable to allow such monitoring.

The Head of Corporate Improvement and Finance shall be responsible for ensuring that appropriate professional support and advice is provided by Finance to Chief Officers to assist with revenue monitoring.

### 3.7 MONITORING REPORTS TO COMMITTEE

#### Corporate Reports

The format and timetable of corporate, summary revenue monitoring reports to the Policy and Resources Committee shall be determined by the Head of Corporate Improvement and Finance in consultation with Chief Officers. The content of the report in respect of individual departmental budgets and expenditure should be determined after close liaison between departmental accountants within Finance and the Designated Officer for the relevant department. The corporate revenue monitoring report shall also be submitted to the Policy and Resources Committee in the November / December cycle, to help inform the key budget decisions which are taken in January and February.

#### Directorate Reports

Chief Officers may also wish to provide a more detailed monitoring report regarding their service to the appropriate committee. The format and content of such a report is at the discretion of the Chief Officer subject to the content not conflicting with corporate monitoring information.

*For the purposes outlined above, Designated Officer is defined at paragraph 1.11.*

### 3.8 CONTRACT VARIATIONS

Accumulations of variations which will result in a material over/underspend against budget shall be reported to the Head of Corporate Improvement and Finance for homologation by committee within the context of periodic monitoring reports. For this purpose, a material under/overspend is deemed to occur at a threshold of:

- 5% of the original contract value where this was in excess of the appropriate Chief Officer Delegated Authority limit per Appendix 1: and
- 7.5% of the original contract value where this was less than or equal to the appropriate Chief Officer Delegated Authority limit per Appendix 1

**It is the responsibility of Chief Officers to report such variations as soon as anticipated and in the case of potential overspends in particular, as far as possible in advance of expenditure being incurred which will result in the overspend.** The Head of Corporate Improvement and Finance in consultation

with the Strategic Director of Resources has discretion to review this percentage over/underspend threshold for contracts in excess of £1 million.

### **3.9 SCHOOL CONVEYANCE CONTRACT VARIATIONS**

For the avoidance of doubt, school conveyance contract variations are covered by the terms of Financial Regulation 3.8 above. In value terms, however, these are generally very minor in nature and it is acceptable therefore for these variations to be reported by ensuring they are encompassed within Directorate monitoring reports.

## 4. **REVENUE BUDGET VIREMENT AND BUDGET FLEXIBILITY**

### 4.1 **DEFINITION OF VIREMENT**

Virement is the agreed transfer of revenue budget provision from one income or expenditure budget head to another (or to one of the Council's Special Funds) within a specific financial year.

It can be used to enable Accountable Managers to amend budgets in the light of experience, or to reflect anticipated changes in the pattern of future income or expenditure. It is a budgetary control mechanism which provides Accountable Managers with flexibility to manage budget variances within a financial year. This should not be seen however as a substitute for setting a robust budget at the start of the financial year.

### 4.2 **PRELIMINARY CONSIDERATIONS**

In a cash limited budget environment (as defined at Regulation 3.2), budgetary control must be strictly maintained throughout the year in order that potential expenditure overspends and income under-achievements within individual budget heads are identified at the earliest possible opportunity.

Before applying virement, Accountable Managers must determine what corrective action could be applied with a view to averting any potential adverse variance. Virement should therefore only be considered as an option once the possibility of corrective action within a particular subjective budget head has been sufficiently explored.

Accountable Managers should be cautious when utilising virement to ensure that projected expenditure underspends or projected additional income are capable of being delivered.

*For the purposes outlined at 4.1 and 4.2 above, Accountable Manager is defined at paragraph 1.11.*

### 4.3 **PERMITTED LIMITS OF VIREMENT**

Budgets must be broken down and entered on to the corporate financial system (Integra) at a level consistent with the analysis of expenditure and income. Virement must be targeted at this level. Virement limits (subject to the Virement Guidelines at paragraph 4.4 below) apply at subjective budget head level (e.g. Employee Costs) for each Final Budget Volume page and to each individual instance of virement (i.e. virements are not counted cumulatively). Virements between elements within one subjective budget head are not subject to the virement limits.

The budgets of Council departments vary significantly and the limits of virement delegated to relevant Chief Officers have been appropriately varied to reflect this. Prior approval of the relevant service committee is required for any proposed virement above the limits indicated below.

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	Category 1	Category 2	Category 3
Directorate	Children & Learning	Communities *	Chief Executives Unit Resources
Limit	£150,000	£100,000	£50,000

\* - Virement between the Housing Revenue Account and General Fund elements of the Communities directorate (or any other General Fund directorate) is prohibited.

### 4.4 VIREMENT GUIDELINES

**It should be noted that where any conflict exists, these Guidelines take precedence over the Virement Limits.**

- a No virement proposal shall involve the introduction of a new policy or a significant variation of existing policy without the prior approval of the appropriate Service Committee and the Policy and Resources Committee.
- b No virement proposal shall commit the authority to expenditure beyond the financial year then current without the approval of the appropriate Service Committee and the Policy and Resources Committee, unless the following year's approved budget provides for the expenditure or income, or it can be confirmed that the requirement for the following year can be accommodated in proper virement for that year. Sub-paragraph (i) below is relevant to this.
- c No virement proposal shall add to the permanent establishment of the authority or make alteration to wages, salaries or conditions of service including incremental progression on salary scales as agreed by the national negotiating bodies, without the approval of the relevant Chief Officer in terms of the Council's Scheme of Delegation to Officers. Where such changes relate to posts on a chief officer grade, the approval of the appropriate Service Committee is required.
- d No virement proposal shall affect amounts to be paid to another department of the Council without the agreement of the Chief Officer of that other department.
- e No virement shall take place in respect of:
  - Capital financing costs;
  - Technical & Property Services Recharge (Maintenance);
  - Technical & Property Services Recharge (Energy);
  - Support service and internal recharge costs / income; and
  - Specific Grants.
- f No virement will be permitted in the first three calendar months of a financial year without the express agreement of the Head of Corporate Improvement and Finance.
- g No individual virement can exceed the virement limit or 100% of the subjective budget head, whichever is smaller.

- h All virement proposals should be agreed with Departmental Accountants within Finance for updating of the Official Virement Register and for monitoring purposes. All virement proposals shall be recorded on the appropriate pro-forma documentation electronic copies of which can be obtained via Departmental Accountants.
- i **No changes to the final approved budget of each department/service (as contained in the Final Budget Volume) should be made without the necessary virement documentation being prepared.**

*An example of the application of virement limits within a budget head is attached at [Appendix 2](#).*

### 4.5 REPORTING PROCEDURES

The Head of Corporate Improvement and Finance will be responsible for ensuring that information outlining total virements applied during the year is submitted to the Policy and Resources Committee. The format and frequency of this report shall be determined by the Head of Corporate Improvement and Finance in consultation with the Strategic Director of Resources, but may be by inclusion within the regular revenue budget monitoring reports.

### 4.6 DEVOLVED SCHOOL MANAGEMENT

The Children and Learning Committee has adopted a scheme of Devolved School Management (DSM) based on National Guidance.

The scheme has been prepared by the Strategic Director of Children & Learning in consultation with the Head of Corporate Improvement and Finance and any amendments to the financial responsibilities therein shall be subject to Head of Corporate Improvement and Finance agreement.

Within the framework outlined in the scheme each participating school can:

- a vire budgets;
- b carry forward up to 10% of the devolved budget to the following financial year;
- c request the Strategic Director of Children & Learning to amend the budget of a school during a financial year, e.g. to take account of variations in the school roll, subject to the overall budgetary provision of the Children & Learning Directorate not being exceeded.

All virement proposals shall be recorded on the appropriate pro-forma documentation, a copy of which shall be submitted to the Head of Corporate Improvement and Finance.

The provisions pertaining to Permitted Limits of Virement and Virement Guidelines, contained respectively within paragraphs [4.3](#) and [4.4](#) above, are applicable in the context of Devolved School Management.

### 4.7 BUDGET FLEXIBILITY BETWEEN FINANCIAL YEARS - 50% CARRY FORWARD

In certain circumstances, a proportion of controllable directorate budget underspends may be carried forward from one financial year to the next to



## ANGUS COUNCIL FINANCIAL REGULATIONS

allow directorates the flexibility to consider issues beyond the current financial year, and to think strategically about the use of resources.

The following costs are not included in the determination of any budget underspends or overspends for carry forward purposes:

- Central Service Support Costs;
- Capital Charges;
- Items funded by Specific Grant;
- Corporate Budget Transfers; and
- Substantial windfall gains arising from external factors.

**Where a directorate has a calculated annual budget underspend, they may carry forward 50% of the underspend, subject to the following ceilings:**

	<b>Category 1</b>	<b>Category 2</b>	<b>Category 3</b>
Directorate	Children & Learning	Communities *	Chief Executives Unit  Resources
Limit	£500,000	£200,000	£100,000

\* - No carry forward limit applies in respect of the Housing Revenue Account element of the Communities directorate.

Notes:

- Any underspends in areas that have been funded from ring-fenced resources (including the Housing Revenue Account) may be carried forward in full but only for their ring-fenced purpose and with the prior approval of the Head of Corporate Improvement and Finance and the Policy and Resources Committee in line with the provisions of Financial Regulation 4.8.
- Variations to the above limits may be permitted in exceptional circumstances, subject to the agreement of the Chief Executive, Strategic Director of Resources and the Head of Corporate Improvement and Finance.
- No carry forward will be allowed in respect of Miscellaneous Other Service Budgets, except with the express agreement of the Head of Corporate Improvement and Finance for special circumstances, although the discipline of cash limited budgets still applies.
- As approved by the Neighbourhood Services Committee of 28 February 2008 and the Corporate Services Committee of 13 March 2008 (report 191/08 refers), any unutilised balance on the Museums Collection Fund will be carried forward to be utilised for the specified purposes in a future financial year.

#### **4.8 BUDGET FLEXIBILITY BETWEEN FINANCIAL YEARS - 100% CARRY FORWARD**

Requests by directorates to carry forward certain resources in full between financial years will be subject to specific procedures and criteria which will be contained in guidance to be issued from time to time by the Head of Corporate Improvement and Finance. The procedures and criteria will be determined in consultation with the Executive Management Team and will also apply to requests to transfer resources to one of the Council's Special Funds (e.g. Local Capital Fund, Renewal and Repair fund).

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Following consideration of requests by the Head of Corporate Improvement and Finance in consultation with the Executive Management Team, recommendations will be presented to the Policy and Resources committee at appropriate points in the year for member consideration.

## 5. **CAPITAL BUDGET AND FINANCIAL PLAN**

(General Fund & Housing Revenue Account)

### 5.1 INTRODUCTION

The following sections set out the general responsibility and procedures to be followed by Council Committees and Officers in relation to the preparation of the Council's Financial Plan which incorporates the annual capital budget.

### 5.2 COUNCIL / COMMITTEE ROLES

- a **Policy and Resources Committee** – The Policy and Resources Committee shall be responsible for:

Determining the medium to long term strategy and policy framework within which the Council's Financial Plan should be produced.

Instructing the Head of Corporate Improvement and Finance, after considering appropriate advice, on the procedures to be adopted in the preparation of the Financial Plan and for monitoring the approved capital budget.

Reports in this regard may, however, be considered by Council for reasons of expediency.

- b **Special Budget Meeting of the Council** – A Special Budget meeting of the Council is required to approve all items pertinent to the setting of the capital budget. Under the requirements of the Prudential Code, a Special Budget Meeting of the Council shall consider for approval the prudential indicators for the forthcoming financial year and two forward years thereafter and for the financial year preceding the year for which the capital budget is being set.

- c **Special Meeting of the Communities Committee** – A special Meeting of the Communities Committee is required to consider the Housing Revenue Account capital programme and approve the programme to be progressed for the forthcoming financial year, taking account of any advice issued by the Head of Corporate Improvement and Finance in this regard.

### 5.3 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES

On the basis of the Policy and Resources Committee's instructions, the Head of Corporate Improvement and Finance shall request that each Chief Officer prepare a departmental Financial Plan proposal, to be submitted in accordance with specific guidance and a timetable issued annually by the Head of Corporate Improvement and Finance.

The Head of Corporate Improvement and Finance shall be responsible for ensuring that appropriate professional support and advice is provided by the Corporate Improvement and Finance Division to Chief Officers to assist in the preparation of their capital budgets.

## ANGUS COUNCIL FINANCIAL REGULATIONS

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The Head of Corporate Improvement and Finance shall be responsible for ensuring that sufficient, relevant information is made available to members of the Policy and Budget Strategy Group to facilitate decision-making by this forum.

The Head of Corporate Improvement and Finance shall also be responsible for providing Elected Members, the Chief Executive and other Chief Officers as necessary with information on external factors affecting the Financial Plan.

The Head of Corporate Improvement and Finance shall be responsible for ensuring that the capital expenditure plans of the Council which are recommended to Members are compliant with the requirements of the Prudential Code in that they are affordable, prudent and sustainable, as well as being consistent with and supporting local strategic planning, local asset management planning and proper option appraisal.

Capital expenditure are ordinarily progressed within the Council's Financial Plan and accordingly decisions regarding funding routes will form part of the normal Financial Plan budget setting process. Should any such plans be progressed outwith the normal Financial Plan route however, the Head of Corporate Improvement and Finance must be consulted on any proposed alternative funding mechanisms (in particular the use of leasing or any other funding mechanism that results in an ongoing revenue budget commitment) – this to be separate from procurement routes / consultations.

The Head of Corporate Improvement and Finance shall also be responsible for determining the method of financing capital expenditure from borrowing (in accordance with the Prudential Code), capital receipts, funding from revenue etc.

### **5.4 CHIEF OFFICERS' RESPONSIBILITIES**

Each Chief Officer shall be required to prepare Financial Plan submissions within a timetable and in a form as directed by the Head of Corporate Improvement and Finance. In this respect, it is the responsibility of each Chief Officer to ensure that the detailed annual guidance issued by the Head of Corporate Improvement and Finance is followed and to draw on the professional support and advice available from the Corporate Improvement and Finance Division as necessary.

Each Chief Officer is responsible for ensuring that full cognisance is taken of any Asset Management Plans within their departments, when preparing their Financial Plan proposals.

Following approval of the Financial Plan by Council, Chief Officers should ensure that any new General Fund or Housing Revenue Account capital projects are subject of appropriate committee approval.

Chief Officers should ensure that there they have sufficient budget provision for any revenue budget consequences arising from their capital projects at the point of their approval.

### **5.5 TREATMENT OF CAPITAL BUDGET OVER / UNDERSPENDS**

Any in-year underspends in respect of the Council's capital programme will be dealt with in accordance with Council monitoring procedures and guidance as may be issued by the Head of Corporate Improvement and Finance.

Overspends will be adjusted either in year in accordance with Council monitoring procedures, or by way of adjustments to the Capital programme in future years as detailed in appropriate guidance issued by the Head of Corporate Improvement and Finance.

Further, Chief Officers are directed to the specific section within the Financial Regulations (i.e. Section 9) on Committee Report Preparation.

### **5.6 TECHNICAL VALIDATION PROCESS**

Each department's Financial Plan submission shall be subject to an informal validation process to confirm that key figures are verified and the Head of Corporate Improvement and Finance's budget guidance has been followed. The Service Manager (Financial Services) will be responsible for co-ordinating this process and in this role may organise meetings between departmental and Corporate Improvement and Finance representatives to clarify key issues. This will ensure that the information which is submitted to subsequent PBSG meetings (see below) is as accurate and comprehensive as possible.

### **5.7 POLICY AND BUDGET STRATEGY GROUP (PBSG)**

The PBSG will make the key decisions in setting the annual capital budget strategy, and also set the Council's budgetary strategy for the longer term.

The PBSG shall consider any ad hoc proposals put forward by the Capital Projects Monitoring Group (CPMG – see section 7) during the course of the year in relation to departmental capital budgets and revise Financial Plan submissions as necessary. The PBSG will then make recommendations regarding the detailed capital budget and Financial Plan.

All PBSG recommendations will however require to be approved through the relevant Committees as appropriate during the budget process.

### **5.8 CAPITAL RECEIPTS**

Capital receipts generated from the sale of Council assets will be treated in accordance with the policy approved by the Resources & Central Services Committee of 28 November 2006 (report 1433/06 refers).

Capital receipts will be pooled and known as corporate receipts. A prudent level of corporate receipts will be assumed when considering the estimated available capital resources for the capital budget process. Should corporate receipts exceed this estimate, the PBSG will consider the use to which this additional resource should be put. Such proposals would include:

- a) Making special repayments of capital debt to reduce future capital financing cost burdens on the revenue budget;
- b) Transfer to the Local Capital Fund as a contingency resource;
- c) Increase target levels for one or more departments, to facilitate advancement of priority projects reflected in the Financial Plan; and
- d) Allow projects not reflected in the Financial Plan to be undertaken, provided such projects can be demonstrated to be of greater priority for delivery of key Council priorities.

Ring-fencing of a capital receipt will only be considered where the receipt arises as a natural consequence of undertaking a particular project (i.e. the receipt can only be generated if the project progresses). The project's priority

status (established through the corporate plan, service plan and budget processes) must be the driver behind the progress of the project and not the apparent availability of the receipt as a funding source. **The capital receipt must however be integral to achieving the preferred solution for the project.**

**Ring-fencing of all other capital receipts is not permitted.**

Additionally, other capital receipts will not be used to fund unplanned or opportunistic projects which become a high priority merely as a result of funding availability.

Should a Chief Officer consider that ring-fencing of a capital receipt is appropriate, the permission of the PBSG is required in the first instance. Such requests should be made via the Head of Corporate Improvement and Finance who will consult with the other PBSG members. Thereafter the approval of the Policy and Resources Committee must be sought, preferably at the same time as the project itself is presented for approval.

### **5.9 MOTIONS INVOLVING INCREASED EXPENDITURE**

Subject to Standing Order 16(9), no resolution of a Service Committee arising from a motion which would involve expenditure not provided for, or reduce income provided for, in the capital estimates shall be put into effect without the approval of the Policy and Resources Committee.

### **5.10 AUTHORITY TO IMPLEMENT BUDGET / AUTHORITY TO INCUR EXPENDITURE**

The inclusion of items in the approved capital budget shall constitute authority to the Service Committee, Sub-Committee, Chief Officer or other Officer, as appropriate in terms of the Order of Reference of Committees and the Scheme of Delegation to Officers, to implement the capital budget and to incur expenditure in this regard. The Policy and Resources Committee or the Council may however place reservation on any such items and expenditure on any such reserved items may be incurred only to the extent that such reservation has been removed.

### **5.11 BUDGET GUIDE AND FINAL BUDGET VOLUME**

The Financial Plan preparation process is concluded with the production of a Budget Guide, which provides summary information for the benefit of Council Rent and Council Tax Payers, and a Final Capital Budget Volume which details for Council Officials the agreed departmental capital budgets for the forthcoming financial year. The Final Capital Budget Volume is presented to the Policy and Resources Committee on an annual basis for approval.

### **5.12 CAPITAL BUDGET MONITORING STATEMENTS**

Capital budget monitoring procedures are detailed in Section 7. Monitoring will be carried out utilising the capital budget contained in the Final Capital Budget Volume. This budget will not normally be altered once the Final Capital Budget Volume is approved, however departmental capital budgets may be revised by the PBSG and reported to Committee through the Capital Monitoring Statements in order to take corrective action to protect the Council's position where:

- capital resources are at variance from those anticipated; or

- significant projected over or underspending on the Council's capital budget has a material impact on the presentation of the Capital Monitoring Statements.

### 5.13 TREATMENT OF EXPENDITURE SLIPPAGE

Where, as a result of expenditure slippage arising during the financial year, a Chief Officer wishes to either bring forward a project (or works) already in their Financial Plan or introduce a new project (or works) to their Financial Plan, the **prior** approval of the PBSG is required.

Proposals in this regard must relate to projects which are at an advanced stage of development and the anticipated spend must be realistic and achievable. Proposals should be submitted in writing (or by e-mail) to the Head of Corporate Improvement and Finance who will consult with the other PBSG members. Such projects will usually be the subject of a committee report, however the consultation with the PBSG must take place first and the outcome must be reflected in the report.

**6. CAPITAL PROJECT APPRAISALS**

**6.1 INTRODUCTION**

The Council has a Capital Project Appraisal (CPA) process to ensure a robust assessment of the costs and benefits of capital projects. Requirements with regard to the format, timescale, etc. for CPAs are issued annually by the Head of Corporate Improvement & Finance within the capital budget preparation guidance.

**6.2 CHIEF OFFICERS' RESPONSIBILITIES**

Each Chief Officer is required to have prepared a CPA, in line with the guidance issued by the Head of Corporate Improvement and Finance, for those capital projects above the de minimis cost level, which are anticipated to be legally committed during the current year or following year of the latest Financial Plan. Each Chief Officer shall be responsible for ensuring the robustness of the information contained within the CPA and must ensure a thorough consultation exercise is undertaken prior to its formal submission.

**6.3 DE MINIMIS COST LEVEL**

A CPA does not require to be prepared for any capital project where the estimated **gross total** cost of the capital project is less than £500,000 at outturn prices.



## 7. **CAPITAL BUDGET MONITORING**

### 7.1 **RESPONSIBILITY**

The primary responsibility for the monitoring and control of departmental capital budgets lies with each Chief Officer.

The Capital Projects Monitoring Group monitors the Council's capital budget, as contained in the Financial Plan, during the financial year and reports on this performance to the relevant Committees at appropriate intervals through the Capital Monitoring Statement.

The Policy & Budget Strategy Group, in consultation with Conveners of such Committees as appropriate, shall be empowered to vary the departmental capital budgets, as contained in the Final Budget Volume, as necessary to protect the Council's position and in accordance with the provisions of paragraph 5.9. This will be reflected in the Capital Monitoring Statement which will be submitted to the appropriate Service Committee and the Policy and Resources Committee for approval.

### 7.2 **COUNCIL AUTHORITY**

Subject to Standing Order 16(9), where the resolution of a Service Committee arising from a motion would involve expenditure which cannot be contained within existing departmental resources, then except with the authority of the Policy and Resources Committee:

- a no tender for any project costing more than the sum allowed in the Financial Plan shall be accepted;
- b no new or significantly altered project shall be substituted for an approved project; and
- c where the final measurement of a contract sum exceeds the price in the original contract or an agreed revised contract sum (taking into account any approved variations authorised in terms of the contract) no payment in excess of the original or revised contract sum, as appropriate, shall be made.

### 7.3 **MONITORING REPORTS TO COMMITTEES**

#### Corporate Reports

The format and timetable of corporate, summary capital monitoring reports to the Policy and Resources Committee shall be determined by the Head of Corporate Improvement and Finance in consultation with Chief Officers. The content of the report in respect of individual departmental budgets and expenditure should be determined after close liaison between service accountants within Finance and the Designated Officer for the relevant department.

#### Directorate Reports

Chief Officers may also wish to provide a more detailed monitoring report regarding their service to the appropriate committee. The format and content of such a report is at the discretion of the Chief Officer subject to the content not conflicting with corporate monitoring information.

For the purposes outlined above, Designated Officer is defined at paragraph 1.11.

### **7.4 CAPITAL PROJECTS MONITORING GROUP (CPMG)**

Report 1050/04 to the Resources & Central Services Committee of 9 September 2004 and the Strategic Policy Committee of 14 September 2004, approved the establishment of a Capital Projects Monitoring Group to examine any issues raised through the routine capital monitoring process on the General Fund and Housing Revenue Account Capital Programmes and subsequently direct any corrective action which may be required.

The core membership of the CPMG will comprise:

- the Convener for Finance of the Policy and Resources Committee;
- the Vice Convener for Finance of the Policy and Resources Committee;
- a non-administration Member from the Policy and Resources Committee; and
- the Head of Corporate Improvement and Finance.

Departmental Chief Officers / Designated Officers will be required to attend as necessary to provide information on individual capital projects and address any issues which the CPMG may wish to raise.

The Group will undertake an overview role in the overall monitoring of the capital programme which will supplement other monitoring arrangements as detailed above; investigating with relevant officers the issues and reasons for identified areas of substantial potential overspend/underspend and agreeing corrective action as appropriate.

The Group will largely perform a monitoring role, but may make recommendations to the PBSG in terms of the development or funding of individual capital projects or the capital programme as a whole.

### **7.5 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES**

The Head of Corporate Improvement and Finance has a responsibility to ensure that capital monitoring by Chief Officers is carried out at least calendar monthly and that relevant financial information is provided in a format and within a timetable to allow such monitoring.

The Head of Corporate Improvement and Finance also has a responsibility to ensure that the CPMG is provided with suitable information to allow the Council's capital budget to be monitored.

### **7.6 CONTRACT VARIATIONS**

Accumulations of variations which will result in a material over/underspend against budget shall be reported to the Head of Corporate Improvement and Finance for homologation by committee within the context of periodic monitoring reports. For this purpose, a material under/overspend is deemed to occur at thresholds of:

- 5% of the original contract value where this was in excess of the appropriate Chief Officer Delegated Authority limit per Appendix 1.
- 7.5% of the original contract value where this was less than or equal to the appropriate Chief Officer Delegated Authority limit per Appendix 1.

**It is the responsibility of Chief Officers to report such variations as soon as anticipated and in the case of potential overspends in particular, as far as possible in advance of expenditure being incurred which will result in the overspend.** The Head of Corporate Improvement and Finance in consultation with the Strategic Director of Resources has discretion to review the percentage over/underspend threshold for projects in excess of £1 million.

### **7.7 DESIGNATED ACCOUNTABLE MANAGERS**

Each Chief Officer shall ensure that an appropriate Designated Accountable Manager (DAM) is identified for each capital project within their Financial Plan. The officer identified should be empowered to take all decisions in respect of the project and will be responsible and accountable for both the delivery and budget monitoring of the project.

## 8. **MONEY LAUNDERING**

### 8.1 INTRODUCTION

The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 outline the obligations on organisations and their employees to establish and adhere to internal procedures to prevent the use of their services for the purposes of money laundering.

The procedures required by the above legislation include maintaining processes for verifying and recording the identity of counterparties, reporting suspicions, and ensuring that employees involved in this area are appropriately trained.

### 8.2 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES / PROCEEDS OF CRIME REPORTING OFFICER

The Head of Corporate Improvement and Finance is responsible for ensuring that Council departments and their staff are aware of the requirements of the Council's Anti-Money Laundering Policy and for providing any necessary advice in this regard. The Head of Corporate Improvement and Finance shall also make arrangements for staff training in this regard where considered necessary. The Head of Corporate Improvement and Finance shall also keep the Council's Policy under periodic review.

The Proceeds of Crime Act 2002 requires organisations to designate a reporting officer with whom suspicions regarding money laundering activity can be raised. Within the Council the Head of Corporate Improvement and Finance is the nominated Proceeds of Crime Reporting Officer. The Head of Corporate Improvement and Finance will implement an [Anti Money Laundering Policy](#) to meet legislative requirements and to mitigate the risk of money laundering to the Council.

### 8.3 CHIEF OFFICERS' RESPONSIBILITIES

Chief Officers shall ensure that their employees are aware of their obligations under the Council's Anti-Money Laundering Policy and assist the Head of Corporate Improvement and Finance in identifying specific training requirements for employees in areas of activity that may be more at risk of exposure to money laundering activity and to identify areas of risk to the Council which may require amendment to the Policy.

### 8.4 APPLICATION

The Council's Anti-Money Laundering Policy applies to:-

- All Council staff – permanent and temporary;
- Elected members; and
- Agency staff.

All such affected individuals must follow the procedures set down in the Policy.

## **9. COMMITTEE REPORTS - FINANCIAL MATTERS**

### **9.1 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES**

The Head of Corporate Improvement and Finance shall ensure that Committee reports contain a section outlining the financial implications of the matter being reported upon. Additionally, the Head of Corporate Improvement and Finance shall be entitled to report upon the financial implications of any matter coming before the Council, Service Committees or other Committees, and shall further report as necessary to the Policy and Resources Committee in the interests of the financial affairs of the Council.

Subject to the exclusions noted in Standing Order 47(4) relating to Planning and Licensing matters, all Chief Officers are obliged to consult with the Head of Corporate Improvement and Finance on all matters which are likely to result in a report to Committee.

### **9.2 CHIEF OFFICERS' RESPONSIBILITIES**

With regard to reports prepared for consideration by Committee, Chief Officers shall follow the expected format and guidance notes for ensuring all financial implications are identified and recognised. Further, Chief Officers shall ensure that the Head of Corporate Improvement and Finance is fully and timeously consulted on the financial implications of all reports (with the inclusion of appendices within reports for ease of reference where it is considered appropriate) and shall be responsible for ensuring the Head of Corporate Improvement and Finance's comments are taken on board.

### **9.3 PRINCIPLES**

It is essential that the financial implications for the Council arising from the recommendations in Committee reports are clearly and transparently shown in those reports so that elected members can make fully informed decisions.

Although avoiding excessive detail, Council officers responsible for drafting Committee reports should ensure that all relevant facts and information concerning the financial implications of their recommendations are included within the report in a clear and logical manner so as to aid the readers understanding. In addition to this general principle the following specific principles should be adhered to in the preparation of all Committee reports:

- a The report should clearly distinguish capital and revenue financial implications, the financial years affected and the phasing of costs and funding where applicable;
- b Implications for the capital budget should identify where provision exists within the Council's capital programme;
- c Where there are no specific financial implications (revenue or capital) arising as a direct result of the recommendations of a report, the financial implications must not be omitted but must clearly indicate there are no implications to afford clarity to members in this regard;

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- d Implications for the revenue budget should identify where provision exists within the Council's revenue budget. It is not sufficient to merely indicate that any increase in expenditure will be contained within the departmental budget unless it is of a nominal nature i.e. less than £1k;
- e Implications for the revenue budget should distinguish ordinary running costs from capital financing costs;
- f Capital financing costs should be calculated on the basis of loan charges. The capital financing costs arising from the recommendations of a Committee report (if any) should be sought from Departmental Accountants within Finance;
- g No budgetary implications which cannot be contained within existing departmental resources will be allowed, unless specifically approved by the Policy and Resources Committee;
- h Reports should make clear how additional or unbudgeted running costs are to be funded in both the current year and future year's revenue budgets i.e. via ongoing compensating savings, virement, external funding etc;
- i Where virement is proposed, in order to fund overspends or unbudgeted expenditure, reports should indicate whether such virement is to be considered as a permanent adjustment or as a one-off;
- j Grant funding availability / arrangements should be clearly highlighted, as should the percentage of expenditure covered by grant and any residual costs to be borne by the Council. If the grant is to be available for only a limited period then this should also be identified in the financial implications;
- k Staffing changes / additions should clearly state whether such adjustments are of a permanent, temporary or fixed term nature;
- l All financial implications calculations, narrative and supporting appendices should be agreed with the relevant Departmental Accountant within Finance at drafting stage and thereafter with the relevant Committee attendee from Finance at formal consultation stage;
- m Reports with significant financial implications, should, as a matter of course have a financial appendix which should provide a financial analysis broken down into appropriate cost and income headings (e.g. employee costs, property costs, supplies and services etc.) and should identify current year costs (which in the main will have a part year effect only) and costs for a full financial year; and
- n Costings for the purpose of financial implications should be to the nearest hundred pounds using current year prices, unless there is a need to use a different price base as advised by the Head of Corporate Improvement and Finance.

**9.4 LONGER TERM PLANNING & BUDGETING**

Chief Officers shall comply with any guidance issued by the Head of Corporate Improvement and Finance with regard to the need to reflect any longer term planning and / or budgeting implications within Committee reports. This guidance may cover three year budgeting issues, prudential indicator requirements, etc.

**10. ACCOUNTING**

**10.1 GENERAL**

All accounting procedures and records of the Council and its officers shall be determined by the Head of Corporate Improvement and Finance, and all accounts and accounting records of the Council shall be compiled by the Head of Corporate Improvement and Finance or under their direction.

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

- a Duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- b Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- c Each Chief Officer shall ensure observance by his or her department of year end instructions issued by the Head of Corporate Improvement and Finance to properly determine the accurate accounting of expenditure and income in the proper financial year.

**10.2 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES**

The Head of Corporate Improvement and Finance shall be responsible for the compilation of all accounts and accounting records of the Council, including the annual accounts in accordance with the latest Accounting Code of Practice.

The Head of Corporate Improvement and Finance shall submit to the Council, not later than 30 June of each year, or such other date as may be prescribed by regulation or statute, an Abstract of Accounts for the previous financial year.

The Head of Corporate Improvement and Finance shall, in consultation with the Strategic Director of Resources, ensure that the audited copy of the abstract, together with the audit report, is laid before a meeting of the Council held not later than two months after receipt of certification.

The Head of Corporate Improvement and Finance shall be responsible for providing all information required to allow members to be satisfied with the accuracy and adequacy of accounts and other financial statements.

**10.3 RESPONSIBILITY OF COUNCILLORS FOR FINANCE MATTERS**

In addition to the responsibilities of the Head of Corporate Improvement and Finance and the Strategic Director of Resources, the Councillors sitting on the Policy and Resources Committee shall oversee the provision of financial information and ensure they are provided with all information from the Head of Corporate Improvement and Finance which they feel is necessary to ensure that they are satisfied with the accuracy and adequacy of accounts and other



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financial statements. Appropriate training shall be provided to enable Councillors to fulfil this responsibility.

### 10.4 ASSET REGISTER

The Head of Corporate Improvement and Finance shall maintain an Asset Register which shall record the assets of the Council and which shall support the Capital Accounting Framework. An asset for this purpose will include:

- land (both operational and non-operational);
- buildings (both operational and non-operational);
- infrastructural assets;
- major items of equipment (subject to a de minimis level of £5,000);
- vehicles; and
- any assets which have become surplus to requirements.

Chief Officers are responsible for ensuring that the Head of Corporate Improvement and Finance is supplied with all the information necessary to maintain the Register. Such information should be supplied within one month of any transaction taking place, and will normally include:

- details (description of asset, monetary value, funding, date of transaction), of each and every asset acquisition or disposal;
- details of all major activities which could reasonably be expected to materially affect the value of an existing asset (e.g. improvements, partial demolition); and
- details of all assets which have become surplus to requirements.

### 10.5 FUNDS

The Head of Corporate Improvement and Finance shall have the authority to set up, apply and maintain in accordance with Schedule 3 of the Local Government (Scotland) Act 1975 -

- a A Loans Fund relative to which they
  - i may borrow such sums as may be required to cover authorised capital or revenue expenditure as incurred, on short-term or long-term within the appropriate statutory limits, and according to the Treasury Management in the Public Services Code of Practice 2001, and the Statement of Recommended Local Authority Accounting Practice for the Calculation and Allocation of Interest on Revenue Balances.
  - ii shall have authority to make/receive premature repayment of any loan subject to payment by/to the Council of an appropriate penalty and administration charge.
- b A Capital Fund - known in Angus Council as the Local Capital Fund (LCF).
- c A Renewal and Repair Fund to be used for the purpose of defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, equipment or articles belonging to the Council other than mobile vehicles or plant, and, in particular expenditure of a non-recurring or extraordinary nature on

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- i works or supplies approved and contracted for in any previous year.
- ii approved works or supplies relevant to its purpose, other than those relating to mobile vehicles and plant.
- iii relevant works or supplies necessitated by some contingency and authorised after a full report to the appropriate Committee and a recommendation to the Policy and Resources Committee.

There shall be paid into the Fund such amounts as shall be determined by the Council or the Policy and Resources Committee, having regard to -

- i declared Departmental Revenue Budget underspends, prevailing at the end of the financial year, approved by the Head of Corporate Improvement and Finance in consultation with the Chief Executive, the Strategic Director of Resources and relevant Chief Officers.
- ii any balance brought forward from the previous year.
- iii the estimated expenditure on the items approved to be met from the Fund.
- iv any income expected to be raised by the Fund.
- v provision for contingencies requiring expenditure from the Fund.

Estimates of the state of the Fund and proposals for its application in the coming year shall be included in the annual estimates or such other reports to Committees as appropriate.

The Council operates 7 such Funds, as follows:

- Property;
- Roads ;
- Information Technology ;
- Print Unit ;
- Recreation;
- Leisure & Cultural; and
- Vehicles & Plant.

Policy Statements are in place for the guidance of Chief Officers seeking to utilise the Funds.

- d An Insurance Fund - in accordance with Schedule 13 of the Local Government etc (Scotland) Act 1994. The Fund should be used for the purposes of and maintained in accordance with the Local Authority Funds for Insured and Self-Insured Risks - Best Practice Guidance (June 1995) endorsed by LAA(S)AC.

Council/Head of Corporate Improvement and Finance Responsibilities in relation to the Insurance Fund:-

- i to maintain accurate records of its past loss and claims experience for the risks that the Fund is designed to cover.

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- ii to ensure that these records will be capable of identifying the total value of losses due to any specific risk for any particular insured or financial period.
  - iii in order to establish a reliable base from which premia can be calculated, commensurate with claims and performance, it is recommended that claims experience for a minimum of three preceding years should be taken into consideration.
  - iv the Council will assess its likely funding needs prior to the commencement of each insured or financial period, paying due attention to its past claims experience and to any on-going loss reduction or control projects that have been initiated.
  - v the Fund should be protected against deterioration in loss experienced by the purchase of insurance cover, for the risks covered by the Fund, above the Council's stop loss insurance or the level considered by the Council to be its catastrophe threshold.
  - vi the Council will obtain a regular independent valuation of the cumulative value of its Fund relative to its known claims, outstanding liabilities and projection of incidents incurred but not yet reported. Such a valuation should be undertaken no less than triennially and certified by a member of either the Institute of Actuaries or the Faculty of Actuaries.
  - vii the Council will not plan for a deficit balance on the Fund. If a cash deficit arises then this will be made good by an immediate charge on the Council's General Fund and/or Housing Revenue Account (requiring approval of the Scottish Government). If an actuarial deficit arises then this will be made good by an increase in the premia from either the point in time at which the deficit is identified should funds be available or the beginning of the year after which the valuation took place and extending not longer than 3 years.
  - viii the Insurance Funds will be invested in accordance with the Council's overall investment procedures and as permitted by paragraph 22 (3) of Schedule 3 of the Local Government (Scotland) Act 1975.
- e A Car Parking Reserve – in accordance with s.55 of the Road Traffic Regulation Act 1984. The uses to which the balance on the Car Park Reserve can be put are strictly defined by s.55. The principal uses are:-
- i meeting the cost of the provision and maintenance of off-street car parks
  - ii if the provision of further off-street car parking is unnecessary or undesirable the Council could elect to use the balance on the reserve for:
    - meeting the costs incurred in public transport services; or
    - road improvement projects.
- f Arbroath Harbour Contingency – the Council maintains the Arbroath Harbour Contingency for the purpose of defraying expenditure that may require to be incurred from time to time in undertaking works of repair, maintenance, replacement or renewal at the Arbroath Harbour.

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A contribution is made annually to the Contingency of 6% of the income on the Arbroath Harbour Trading Account.

Although no minimum balance exists, the Contingency has historically only been accessed for undertaking works of an emergency nature.

- g Devolved School Management Reserve Funds – the Council has adopted a scheme of Devolved School Management (DSM) that devolves a significant proportion of the Education budget to individual schools.

Within the framework of the scheme, each participating school can carry forward up to 10% of the devolved budget for use in the following financial year. This is achieved through making contributions to General Fund balances at the financial year-end that are earmarked for the purposes of Devolved School Management.

Any other Funds, Reserves or Contingencies shall only be established with the approval of the Policy and Resources Committee.

### 10.6 CHIEF OFFICERS' RESPONSIBILITIES

- Each Chief Officer shall be required to appoint a Designated Officer who shall provide all necessary information requested by the Head of Corporate Improvement and Finance to enable the compilation of the Abstract of Accounts.

This will include information on stocks, debtors, creditors, petty cash imprests and any other areas deemed necessary by the Head of Corporate Improvement and Finance in order to fulfil their duties.

Each Chief Officer shall be responsible for assisting, where necessary and reasonable, staff of the Council's appointed external auditors insofar as they may require access to records (computer or otherwise), working papers and other documents.

Each Chief Officer shall also be responsible for providing information so as to allow the accurate, timeous and informative preparation of the Council's Annual Report and Accounts.

In consultation with the Head of Corporate Improvement and Finance, each Chief Officer responsible for the administration of a particular Fund shall be responsible for the preparation and review (in accordance with paragraph 10.7 below) of a Policy Statement for that Fund.

*For the purposes outlined above, Designated Officer is defined at paragraph 1.11.*

### 10.7 PERIODIC REVIEWS OF FUNDS

To ensure the continuing relevance and adequacy of the Funds, the Head of Corporate Improvement and Finance, in conjunction with the Chief Officer responsible for each Fund, shall undertake periodic reviews of these Funds.

**11. VALUE ADDED TAX (VAT)**

**11.1 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES**

It shall be the responsibility of the Head of Corporate Improvement and Finance to secure arrangements for the administration and accounting of VAT to ensure compliance with all statutory requirements including such returns as are required within laid down timescales.

**11.2 CHIEF OFFICERS' RESPONSIBILITIES**

Each Chief Officer shall keep records, as determined by the Head of Corporate Improvement and Finance, for the prescribed statutory period, of all matters pertaining to the administration and accounting of VAT, and in particular:

- All supplier invoices, including any relevant back-up and authorisation documents;
- Documentation supporting all income raised by invoice; and
- Documentation supporting all non-invoiced income, including amounts lodged directly with the bank and cash collected directly by departments.

It is highlighted that electronic retention of records is sufficient as opposed to retention of paper originals.

**11.3 DIRECTION AND ADVICE**

The Head of Corporate Improvement and Finance will nominate one Finance officer as the contact point for enquiries regarding any VAT matter. Each Chief Officer shall fully observe any direction and advice regarding VAT as may be issued by the Head of Corporate Improvement and Finance or the nominated officer.

## 12. **INTERNAL AUDIT**

### 12.1 **INTERNAL AUDIT**

The Local Authority Accounts (Scotland) Regulations 2014 require all Scottish Local Authorities to operate a professional and objective internal auditing service, which must be delivered in accordance with recognised standards. The Service Manager (Governance & Consultancy) will arrange for the provision of a continuous internal audit function, overseen by a suitably qualified and experienced individual (the Audit Manager), to review the governance, risk and internal control arrangements of the Council in accordance with the Public Sector Internal Audit Standards.

The Audit Manager, will be responsible for the provision of an annual report and opinion on the Council's governance, risk management and internal controls to Elected Members and Senior Officers, through the Scrutiny and Audit Committee.

Prior to commencement of any new major systems development, enhancement or reconfiguration, the details of values flowing through the system, development cost and timescales should be notified to Internal Audit who, in consultation with service management, will decide on internal audit involvement. A pro-forma is available from the Service Manager (Governance & Consultancy).

The detailed role, responsibility, access arrangements etc for Internal Audit are contained in the Internal Audit Charter and other policy documentation (all linked below) which are available on the Council internet.

### 12.1 **FRAUD**

If elected members or officers suspect or discover any fraud or irregularity they follow the guidance within the Council's [Fraud Response Plan](#).

### 12.3 **LINKS TO INTERNAL AUDIT SUPPORTING POLICIES**

- a. [Counter Fraud Strategy](#)
- b. [Whistleblowing Policy](#)
- c. Code of Practice on Data Matching (see [Appendix 3](#))
- d. [Anti Money Laundering Policy & Disclosure Note Template](#)

## **13. CORPORATE GOVERNANCE**

### **13.1 INTRODUCTION**

The Council adopted a Local Code of Corporate Governance in May 2002. This Code defines how the Council will conduct its business and affirms Council commitment to the fundamental principles of openness and inclusivity, integrity and accountability in overall governance arrangements.

### **13.2 ACCOUNTABILITY IN FINANCIAL MATTERS**

The principle of accountability relates to the requirement of the Authority and its members and staff to be accountable for their decisions and actions, including stewardship of public funds and aspects of performance. The Financial Regulations are part of the process whereby the Authority ensures those parties have an understanding of their responsibilities and a framework within which to discharge them. It is therefore imperative that the Financial Regulations, and any supplementary guidance or instructions thereto, are followed in the discharge of Council business.

### **13.3 CHIEF OFFICERS' RESPONSIBILITIES IN RELATION TO THE LOCAL CODE**

Chief Officers are responsible for ensuring:-

- a members of staff adhere to the principles of sound governance including adherence to Financial Regulations; supplementary guidance in relation to financial arrangements and performance management and monitoring; codes of conduct and other policies and procedures of the Council;
- b service delivery arrangements in their department are discharged in accordance with the Local Code;
- c ongoing review arrangements are in place to ensure compliance with the various elements of the Local Code;
- d an annual assurance statement is completed confirming compliance with the Code.

**14. BANKING ARRANGEMENTS**

**14.1 BANKING ARRANGEMENTS**

All arrangements with the Council's Bankers shall be made by the Head of Corporate Improvement and Finance who shall operate such banking accounts including national giro accounts, as they consider necessary. No bank account (or equivalent) shall be opened without the express formal consent of the Head of Corporate Improvement and Finance. The Head of Corporate Improvement and Finance shall ensure that monthly bank reconciliations are drawn up for all corporate bank accounts.

**14.2 CONTROL OF CHEQUES**

All cheques, including national giro payment forms, shall be ordered only on the authority of the Head of Corporate Improvement and Finance who shall make proper arrangements for their safe custody.

**14.3 SIGNATURE ON CHEQUES**

All cheques shall be signed as the Head of Corporate Improvement and Finance may determine.

**14.4 BANKING OF MONIES**

Each Chief Officer shall fully observe directions issued by the Head of Corporate Improvement and Finance as to the banking of monies both as to the method and frequency. In particular, all sums shall be paid in gross unless specifically and exceptionally approved by the Head of Corporate Improvement and Finance.

**14.5 ELECTRONIC PAYMENT TRANSFER**

The Head of Corporate Improvement and Finance shall be responsible for arranging any payments through the Banker Automated Clearing System (BACS), Clearing House Automated Payments (CHAPS) or Faster Payments systems and shall ensure that proper security control procedures are in place and periodically reviewed.

**14.6 DEPOSIT RECEIPTS**

No Deposit Receipts shall be arranged without the written consent of the Head of Corporate Improvement and Finance. Such Deposit Receipts that are arranged shall be kept under review by the Service Manager (Finance Services).



## 15. TREASURY MANAGEMENT

### 15.1 ADOPTION OF CIPFA'S CODE OF PRACTICE

The Head of Corporate Improvement and Finance and his staff shall observe the guidance laid down in the CIPFA Treasury Management in the Public Services – Code of Practice and Cross Sectoral Guidance Notes (2011 Edition). Adoption of the Code was formally approved by Angus Council on 25 March 2010 (report 244/10 refers).

### 15.2 TREASURY MANAGEMENT PRINCIPLES

As part of the Code, CIPFA recommended that all public service organisations adopt 4 specific formal principles and that these be enshrined in appropriate governance documents. In this regard the following 4 clauses were formally adopted by Angus Council on 25 March 2010.

#### 15.2.1 CLAUSE 1

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

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

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the 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 principles.

#### 15.2.2 CLAUSE 2

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

#### 15.2.3 CLAUSE 3

This organisation delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Policy and Resources Committee, and also delegates the Head of Corporate Improvement and Finance to undertake all treasury management activities in accordance with the Council's agreed treasury strategy and treasury management practices (TMP's).

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### 15.2.4 CLAUSE 4

This organisation nominates the Scrutiny and Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

### 15.3 TREASURY MANAGEMENT POLICY STATEMENT

The Head of Corporate Improvement and Finance shall prepare a Treasury Management Policy Statement which shall be adopted by the Council and thereafter shall be implemented and monitored by the Policy and Resources Committee.

### 15.4 TREASURY MANAGEMENT REPORTS

The following reporting arrangements have been adopted, in accordance with the requirements of the Code.

Report	Report To	Frequency
Treasury Management Policy Statement	Full council	Initial adoption in 2010
Treasury Management Strategy / Annual Investment Strategy	Full council	Annually before the start of the financial year
Treasury Management Strategy / Annual Investment Strategy – mid year report	Full council	Based on mid-year position - report presented by December
Treasury Management Strategy / Annual Investment Strategy – updates or revisions at other times	Full council	If / as required
Annual Treasury Outturn Report / Annual Investment Report	Full council	Annually by 30 September after the end of the financial year *
Treasury Management Monitoring Reports	Policy and Resources Committee	If / as required
Treasury Management Practices	Policy and Resources Committee	Formal review every 2 years
Scrutiny of treasury management strategy	Scrutiny & Audit Committee	Annually before the start of the year **
Scrutiny of treasury management performance	Scrutiny & Audit Committee	Annually prior to Annual Outturn / Investment Report going to full Council

\* - as a matter of good practice the Report is considered by Scrutiny & Audit prior to Council. The timetabling of committee cycles may mean that the frequency noted here cannot always be achieved.

\*\* - this may require a special meeting of the Committee.

### **15.5 THE CHIEF FINANCE OFFICER**

All money in the hands of the Council shall be under the control of the officer designated for the purposes of Section 95 of the Local Government (Scotland) Act 1973 referred to in CIPFA's Code of Practice as the Chief Finance Officer. The Chief Finance Officer for Angus Council is the Head of Corporate Improvement and Finance.

### **15.6 DELEGATED TREASURY MANAGEMENT POWERS**

All executive decisions on borrowing, investment or financing are delegated to the Head of Corporate Improvement and Finance who shall act in accordance with the Code and within the parameters of the strategy approved by Council.

### **15.7 DEPARTURE FROM THE CODE**

Should the Head of Corporate Improvement and Finance wish to depart in any material respect from the main principles of the Code or the approved strategy, the reasons should be disclosed in a report to the Council.

### **15.8 LOAN FINANCING**

Any loan financing shall be subject to proper record keeping to ensure that the amount is repaid within the maximum permitted period using the appropriate repayment method.

## 16. PROCUREMENT ARRANGEMENTS

### 16.1 INTRODUCTION

16.1.1 This Section 16 of Angus Council's Financial Regulations forms part of its Standing Orders, governing its contracts for the supply of goods or services or for the execution of works as required by Section 81 of the Local Government (Scotland) Act 1973. As such, their application is mandatory for all council procurement to which this Section applies.

16.1.2 They also, however, form the underpinning structure of the council's corporate procurement arrangements as set out in the council's Corporate Procurement Manual (see the guidance note to this Financial Regulation below) as applied along with any commodity-specific arrangements within departments by Chief Officers. These Regulations focus on the tactical / tendering (middle) phase of procurement but officers need to bear in mind that good procurement practice as set out in the Corporate Procurement Manual requires attention to the initial strategic / planning and ultimate operational / contract management phases of the procurement cycle as well. The Corporate Procurement Manual is available on the council's Corporate Intranet. This Section of Financial Regulations therefore needs to be understood and applied in the context of these overall corporate procurement arrangements.

16.1.3 Some terms are used throughout this Section of Financial Regulations with the following meanings:

**"contract"** – this means the legally binding instrument by which the council secures those necessary supplies at the optimum mix of price and quality.

**"commodity"** – this means, for present purposes, a discrete type of supply. Various "Categories" of commodity exist under collaborative procurement arrangements (see Corporate Procurement Manual for guidance)

**"compliant"** in the context of a contract means that it complies with the council's legal duties in terms of adequate publicity, fair competition, etc.

**"major procurement"** – has the meaning set out in Financial Regulation [16.8.4](#).

**"procurement"** – this means the process of planning, tendering for, ordering and managing contracts which the council requires for the supplies (etc.) necessary to perform its functions.

**"quotation"** – this is like a tender (see below) but is not openly invited – it is suitable only for low value or emergency requirements.

**"supply"** – this term is used in this Section of Financial Regulations as short-hand (where it is convenient to do so) to cover all kinds of works, goods and services purchased by the council.

**"tender"** – this means an offer by a supplier to deliver the supply (be they goods, services or works) as invited by the council, either openly or from objectively pre-selected suppliers.

**"works"** – this means construction (build or design and build) of physical infrastructure such as buildings and roads.

See also Financial Regulation [1.15](#) for additional definitions used both in this and other Sections of Financial Regulations. Additional explanations of specific terms are also available in the Corporate Procurement Manual.

16.1.4 Note also that a given **procurement** may be thought of in 3 distinct phases:

"strategic" – from identifying the need to writing the business case for and completing all necessary planning for the procurement;

"tactical" – from inviting tenders / expressions of interest to awarding the contract; and

“operational” – ensuring practical implementation and use of the contract, placing orders for supply under it and undertaking supplier / contract management.

This is the context that “**strategic**” procurement is referred to in this Section of Financial Regulations.

16.1.5 There are also certain bodies referred to in this Section of Financial Regulations which merit explanation:

- The **Tayside Procurement Consortium** (TPC) is a shared procurement service initiative of which Angus Council is a full member along with Dundee City and Perth and Kinross Councils. Tayside Contracts are an associate member (for their procurement interest only). Its function is to act as the strategic lead for its members on their procurement arrangements as well as a central purchasing body for regionally-procured (Category “C1”) commodities.
- **Scotland Excel** is the Scottish local government centre of procurement expertise. Its function is to act as the strategic lead for its members on their procurement arrangements as well as a central purchasing body for nationally-procured local government sector (Category “B”) commodities.
- **Procurement Scotland** is the Scottish public sector centre of procurement expertise. Its function is to act as the strategic lead for its members on their procurement arrangements as well as a central purchasing body for nationally-procured public sector (Category “A”) commodities.
- **Buying Solutions** is the UK national central purchasing body for the UK public sector and the commercial arm of the Office of Government Commerce (OGC).
- **East and Central Hub Co** refers to the joint venture vehicle to be established under the Scottish Futures Trust “Hub Initiative”. This aims to deliver community infrastructure projects on a joint basis amongst participating local authorities, health boards and other community partners within the territory of Scotland which includes Angus.

16.1.6 Note that the format of this Section is that where guidance to a reference / link to appropriate supplementary information is offered, this is shown boxed off and in italics.

*The [Corporate Procurement Manual](#) is available on the [Corporate Intranet Procurement](#) site. The Corporate Procurement Manual contains Procurement Guidance Notes (PGNs) and Procurement Model Documents available to staff undertaking procurement for the council. It is intended to be the primary source of reference material for Angus Council staff undertaking procurement activity for the council. The following links take users to “overview” flow charts which are intended to be simple starter guides to the council’s procurement arrangements and guides for navigating the Corporate Procurement Manual and selecting those parts applicable to a given stage of a procurement:*

*[PGN14 A Short Guide to Procurement](#)  
[Corporate Procurement Manual Navigator](#)*

## 16.2 APPLICATION

- 16.2.1 This Section of Financial Regulations applies, unless stated otherwise, to all tender and contract arrangements (including, for the avoidance of any doubt, any mechanism by any other name, such as service level agreements) where the council procures supplies.
- 16.2.2 This Section applies to these contract arrangements where they are in return for payment of money or, more rarely, for money's worth (e.g. part-exchange or the right to exploit a significant and valuable council asset or resource).
- 16.2.3 This Section does not apply to pure land transactions (to which Section 17 of Financial Regulations applies), albeit that the good procurement practice principles set out here and in the Corporate Procurement Manual may be applied to land transactions where it is advantageous to the council to do so. In the case of mixed land / supply (e.g. sale and construction works or lease and service delivery) transactions, the predominant purpose of the transaction will determine which set of rules apply. "Predominant purpose" will usually be determined by the whole life cost value of the land and supply elements, unless, for a given transaction, that "value" method does not properly represent the predominant purpose and a better method exists.
- 16.2.4 Application of this Section 16 relies on some fundamental principles in terms of the approach which should be followed depending on the type and value of the items being procured. For clarity, an overview of the scheme of the governance regime set out in this Section 16 and Appendix 1 of Financial Regulations is as follows: -
- (a) **"De Minimis" Threshold**- very low value (up to and including £1,000) where no specific rules are prescribed - see Regulation 16.22;
  - (b) **Low Value Threshold** - relatively low value where at least 3 competitive quotes (wherever possible, from local suppliers + 1 national supplier for comparison) are required. These limits are defined in Appendix 1 as up to and including **£50,000** for construction & civil engineering works and supplies and services - see Regulation 16.23 for the procedure.
  - (c) **Chief Officers Delegated Authority**- "medium" value contracts where full competitive and advertised tendering is required but authority is delegated to Chief Officers balancing operational efficiency with the level of scrutiny / oversight considered necessary. The financial limits of delegated authority are variable according to the kind of commodity concerned and are set out in Appendix 1. The financial limits for different methods of procurement are also variable and set out in Appendix 1. Chief Officers must maintain a register of all staff who are authorised to conduct procurement on their behalf along with the nature of procurement activity authorised and the financial limits of that authority – See Regulation 16.7.
  - (d) **Committee Authority**- beyond Chief Officers' delegated authority, full competitive and advertised tendering is required and committee approval is also necessary. **Reporting** to Committee of **delegated** procurement per (c) above should take place on a list basis, at least 6 monthly. See Regulation 16.8.2. Reporting to Committee of **non-delegated** procurement should be strategic in nature and should normally take place once only and seek specific **prior** authority for the Chief Officer to undertake that procurement and report the results back to elected members in the 6 monthly report. Where a procurement is designated to be a "major procurement", reporting to Committee for noting should take place in addition at key stages of the procurement exercise. See Regulation 16.8.

- (e) The **Exemptions Scheme** allowing departure from the terms of Financial Regulations is to be understood as being exceptional only with the onus on the responsible Chief Officer to set out the justification in full. The role of the **Exemption Co-ordinator** in terms of deciding an exemption application is limited to proposed contracts of a value above the Low Value Threshold but below the limit of the Exemption Co-ordinator's delegation, i.e. up to and including, £100,000. The Exemption Co-ordinator also, however, has a consultative role outwith those values. Chief Officers have delegated authority to grant their own exemptions for up to and including the Low Value Threshold. Use of the Exemptions Request Form is required for requests to the Exemption Co-ordinator. The day-to-day Exemption Co-ordinator is the Corporate Procurement Manager. See Regulation **16.24** for the procedure.
- (f) A **Corporate Procurement Manual** exists in the form of Procurement Guidance Notes and Procurement Model Documents available to staff undertaking procurement for the council.

*Note: if you are in doubt about whether or not this section applies to a particular procurement, please contact the Corporate Procurement Team for further guidance. Please have to hand details of the subject of the transaction and the whole life cost values. Contact details are given at the Contact Us page on the the Procurement site.*

### 16.3 LEGISLATIVE / REGULATORY COMPLIANCE

- 16.3.1 All tendering and contract arrangements and procedures shall comply, where appropriate, with the requirements of:
- (a) The statutory duty to secure Best Value under the Local Government in Scotland Act 2003 and all related Best Value Guidance;
  - (b) European Union Public Procurement regime and associated UK/Scottish legislation.
  - (c) any other relevant legislative provisions.

Financial Regulations are subordinate to these legal regulatory requirements. Although this Section 16 is consistent with that regulatory regime, cases of difficulty and interpretation may arise. The council's Corporate Procurement Manager is available to assist in cases of difficulty. Chief Officers are responsible for ensuring that the procurement carried out within their departments complies with that regulatory regime as well as with this Section of Financial Regulations.

*Note: Understanding whether a proposed contract falls within the services or works categories is important as the estimate value thresholds are very different, Guidance on the EU rules on this is available on the Corporate Intranet **Procurement site**. If further advice is required contact [procurement@angus.gov.uk](mailto:procurement@angus.gov.uk) initially. It is ultimately a question of law, however, so in difficult cases the Head of Legal and Deomocratic Services will require to rule on this.*

- 16.3.2 In carrying out tendering and contract arrangements, Chief Officers shall arrange for regard to be had to relevant general or contract-specific procurement guidance issued by the Head of Corporate Improvement and Finance or on his behalf by the Corporate Procurement Manager. Chief Officers are responsible for ensuring that their staff are familiar with and follow guidance contained within the Corporate Procurement Manual, subject to commodity-specific variations put in place within departments by Chief Officers.

Note: The Corporate Procurement Manual along with other relevant guidance are available together on the [Procurement site](#).

## 16.4 COMMUNITY BENEFIT AND SUSTAINABILITY

- 16.4.1 Angus Council wishes to ensure that the procurement spend which it administers on behalf of its citizens, as well as being applied to secure value for money, is also used to deliver community benefits wherever possible. Angus Council wishes to support its local supply base through its procurement activity. In particular it wishes to support Small / Medium Enterprises (SMEs) and voluntary (or "Third") sector providers within its area as far as is permissible consistent with legislation and good procurement practice. The Council recognises that it is unlawful and contrary to good procurement practice to discriminate amongst individual suppliers on the grounds of place of establishment, irrespective of the value of the contract. Equally, however, the council wishes to use expenditure of public funds to the greatest benefit of Angus citizens, including support of the Angus economy. The Council also recognises that where such support measures are to be applied to the supply base they are generally best addressed outwith and/or prior to a tendering process being embarked upon.
- 16.4.2 The Council also wishes to see sustainability – socially, economically and environmentally - at the heart of its procurement arrangements. That requires sustainability impact to be considered at the earliest opportunity within a procurement exercise. The Council wishes to ensure that sustainability impacts are considered in all its procurement and that, wherever possible and in accordance with the Council's best value duty, it secures a contribution, whether directly or indirectly, to protecting the environment and delivering the Council's emissions reduction targets.
- 16.4.3 To those ends, Angus Council will take the following minimum steps in support of the Angus supply economy and to incorporate sustainability into its procurement:
- (a) the Corporate Procurement Manager will monitor the council's spend on an annual basis to identify whether the council's procurement strategy is having an adverse effect on its local and SME supply base;
  - (b) when Chief Officers are identifying their procurement requirements prior to contract tender or renewal, they will consider whether delivery of those requirements would benefit from local establishment of suppliers and, if so, include provision within specification for that procurement which secures that benefit in a non-discriminatory and legally compliant manner;
  - (c) when Chief Officers are identifying procurement requirements currently met by a Third Sector provider, they will consult the current providers and end users in the course of preparing specifications to identify the added value benefits to end users from that service provision and ensure that such added value is maintained by specification provision and/or tender evaluation;
  - (d) the council will support (primarily through its Economic Development service) training and development initiatives for SMEs and Third Sector providers based in Angus to improve their performance in public sector tendering exercises generally;
  - (e) The Corporate Procurement Manager will develop guidance and policy on delivering community benefits and sustainability through the council's procurement activity jointly with Chief Officers. The guidance and policy will sit



within the Corporate Procurement Manual and Chief Officers will apply it throughout the procurement activity within their responsibility; and

- (f) As set out at Financial Regulation 16.23.2, the council will make quotation opportunities available to the local supply base wherever possible.

## 16.5 CODE OF CONDUCT FOR COUNCIL EMPLOYEES

16.5.1 The Council has developed an Employee Code of Conduct which includes staff behaviour requirements on "Relationships – With Contractors". This Policy Statement is designed to support the requirements of the Financial Regulations, and re-iterates that it is incumbent on all employees to ensure that the requirements of the Financial Regulations are fully adhered to, and the facility to exempt any contract from the Regulations under Regulation 16.24 is kept to a strict minimum, transparently recorded and not open to any accusation of officer abuse.

16.5.2 The Policy Statement also stresses the need for **impartiality** from officers dealing with contractors and potential contractors, and states the policy on the acceptance of gifts and / or hospitality offered by contractors or potential contractors. Chief Officers are responsible for ensuring that staff undertaking procurement on their behalf are specifically aware of and follow the terms of the Employee Code of Conduct relating to Relationships with Contractors.

## 16.6 COLLABORATIVE PROCUREMENT AND CENTRAL PURCHASING BODIES (CPBs)

16.6.1 Where a commodity is approved by the appropriate Council committee as being "in scope" for the Tayside Procurement Consortium (TPC) the TPC may make decisions regarding procurement of that commodity and the Council will comply with those decisions. "In scope" in this context means where a commodity is identified as presenting an opportunity for benefit to the Council through collaborative procurement. TPC's own contract rules will apply to procurement undertaken by TPC for the partner authorities.

16.6.2 Where a national, regional or other contract is evaluated and approved by TPC or by the Council for use across the Council, such use of that contract shall be mandatory provided that the contract (a) meets the Council's proper requirements (on a "fit for purpose" basis) and (b) offers the Council best value. Where a Chief Officer proposes not to use an approved contract, he or she shall provide the Corporate Procurement Manager with a sufficient and verifiable case to demonstrate that criteria (a) or (b) above are not met. That case may also be shared with the ultimate contract "owner" (e.g. the central purchasing body leading the procurement) to support improvement of that contract.

16.6.3 Without prejudice to the generality of Regulation 16.6.2, "core items" on an approved contract product list should be used wherever they are available and meet the Council's proper requirements.

16.6.4 Where the Council makes use of a contract procured by a Central Purchasing Body (CPB) e.g. Scotland Excel, Procurement Scotland, Buying Solutions or East and Central Hub Co, then the contract standing orders, rules and tender procedures of that body shall apply to that procurement in place of this Section 16 of these Financial Regulations, with the exception of this Financial Regulation 16.6 and Financial Regulation 16.8 and Appendix 1 (Delegated Authority and Procurement Authority Reporting).

- 16.6.5 Where the Council makes use of a multi-supplier framework agreement procured by a CPB which supports further competition (or “mini competition”) then the “Quick Quote” function on Public Contracts Scotland (or approved equivalent alternative mechanism) shall be used to manage any such mini competition by the Council unless the Chief Officer is satisfied, after consultation with the Corporate Procurement Manager, that there are compelling reasons why not.

*Note: “Core items” in that context means those product lines which have been directly competed over and so offer a good assurance of offering best value. “non-core” items may also be available under such contracts (so they are “compliant”) but are not necessarily as competitively priced as core items. Where applicable, core and non-core items are identified as such in bespoke catalogues or product lists produced by the CPBs for their contracts. Relevant products are specifically identified as core and non-core for relevant contracts within the council’s PECOS e-Procurement system. In case of difficulty, advice should be taken from the council’s Corporate Procurement team.*

## **16.7 STANDING CONTRACT ARRANGEMENTS**

- 16.7.1 Suitable contract arrangements shall be established by each Chief Officer within his or her department to achieve compliance with:

- (a) the legal procurement framework within which council procurement operates;
- (b) the council’s duty of best value;
- (c) the council’s corporate procurement policies and guidance as set out in the corporate procurement manual; and
- (d) any other council policies specific to the procurement in question.

- 16.7.3 In circumstances where the Council have entered into formal corporate procurement arrangements it is the duty of the Chief Officer to ensure that those contracts are fully utilised, and to report any specific difficulties to the manager of that contract.

- 16.7.4 Chief Officers shall maintain a register of all staff authorised to undertake procurement on their behalf, containing details of the posts concerned, current post holders, the nature of the procurement activity authorised and the financial limits of that authority. That information may be kept on a single register along with the information required to be kept in terms of Financial Regulation [18.6](#).

- 16.7.5 Chief Officers shall be responsible for ensuring that staff in their departments are sufficiently qualified and knowledgeable to undertake the procurement tasks required of them and to ensure fulfilment of Chief Officer’s responsibilities in terms of Regulation 16.7.1.

*Note: guidance on the registration process and criteria for assessing suitable qualifications and knowledge of procurement staff will be developed by the Corporate Procurement team to support the functions referred to at FR 16.7.4 and 16.7.5.*

## **16.8 PROCUREMENT AUTHORITY**

- 16.8.1 Reports seeking authority for proposed procurement shall be submitted to the appropriate Committee or its Executive Sub-Committee for consideration where the estimated value of the contract over its duration (or over 48 months where the duration is indefinite) is above the maximum values stated in [Appendix 1](#). Authority for proposed procurements equal to or below those values is delegated to Chief Officers.

*Note: procurement by definition involves purchase from external suppliers so the delivery of services on an "in-house" basis is outwith the scope of this Section 16 of Financial Regulations. Limited reference is made to the mandatory use of in-house services operating on a trading account basis, Digital Reprographics Unit and Tayside Contracts in FRs 16.9.3 – 6 for ease of reference. The securing of best value by the use of those in-house services is subject to separate scrutiny arrangements. However, when in-house services are bidding for a supply along with external suppliers, they must be treated equally with those external suppliers and this Section 16 of Financial Regulations fully applies.*

- 16.8.2 Where power is delegated in terms of the Scheme of Delegation, the appropriate Chief Officer shall be entitled to make decisions which are within the Order of Reference of the appropriate Committee. However, this must be within the maximum values stated in Appendix 1, and is subject always to the provisos that provision for the expenditure has been made within existing approved budgets and that all necessary borrowing resolutions and consents have been obtained. It is the responsibility of all Chief Officers to ensure that all delegated contract award decisions so made are subsequently reported to the appropriate Committee at least every six months.
- 16.8.3 Committee Reports on proposed procurement shall include sufficient information necessary to adequately scrutinise the strategic and legal compliance and robustness of the proposed tender process as well as clearly identifying the anticipated cost and service implications arising from the contract. The following issues should therefore be addressed as a minimum unless they are clearly inapplicable to the procurement concerned:
- (a) The conclusions from the sourcing strategy prepared for the commodity, including purchase avoidance options considered, the results of the procurement planning undertaken, supply market analysis, consideration of linkages with regional / national / cross-sectoral collaborative procurement opportunities, consideration of any wider Angus Council requirement and policy issues and a summary of the requirement identified for competitive tendering;
  - (b) the planned procurement start / finish dates, including start of supply;
  - (c) the proposed duration (including any options to extend) for a term contract;
  - (d) the total estimated value on a whole life cost basis (including operating, maintenance and disposal costs, where applicable);
  - (e) the procedure to be followed (e.g. 2-stage, restricted or single-stage, open procedure);
  - (f) the proposed evaluation and contract award basis (i.e. lowest price or MEAT price / quality split, including criteria and weightings), unless (and only to the extent that) there are practical reasons these cannot be expressed at the point of reporting;
  - (g) the assessed procurement risks and a risk management strategy insofar as this is pertinent to the proposed contract;
  - (h) if the procurement is considered to be a "major procurement" within the meaning of Regulation 16.8.4; and
  - (i) within "Financial Implications", confirmation that budget provision is available from revenue budgets, capital budgets or special funds and, where appropriate, a comparison with previously approved estimates for the project.

For the avoidance of any doubt, such Reports may address requirements having a common sourcing strategy or requirement even if they are to be procured by

separate tender if it is more efficient to do so. Approval of such a report confers authority to procure.

16.8.4 Notwithstanding the grant by Committee of authority to procure, in the case of a Major Procurement, Chief Officers are obliged to report the outcomes of the key stages of the procurement exercise to Committee for noting. For the purpose of this Financial Regulation,

(a) "major procurement" means one which accounts for a significant part of the Chief Officer's approved budget or is expected to be of significant public interest; and

(b) The key stages of a procurement exercise are seeking expressions of interest, selection of tenderers for a select list, issue of invitations to tender and tender evaluation / contract award.

*Note: The Head of Corporate Improvement and Finance will issue guidance from time-to-time in consultation with Chief Officers on the indicators to be applied to identify whether or not a proposed procurement is a "major" one for the purposes of this FR 16.8.4.*

16.8.5 Authority to procure from such Committee Reports is subject always to the overall costs (on a whole-life basis) assessed following receipt of tenders being contained within the approved budgets. If the overall post-tender costs are outwith the approved budget, Chief Officers will require to report the tender results to Committee for approval prior to contract award unless they are within the budget reporting limits set out at [Regulations 3.8](#) or [7.6](#) as the case may be.

16.8.6 Chief Officers will be responsible for maintaining an evaluation record for each tender exercise undertaken recording all evaluation carried out on all tenders received together with clear and intelligible reasons for and a decision on contract award to the winning tenderer. Chief Officers will also provide such additional post-tender information and reports as the Head of Corporate Improvement and Finance may require from time-to-time for budget monitoring, efficiency achievement and other corporate reporting.

## 16.9 INVITATION TO TENDER

16.9.1 Competitive tenders shall be invited for all contracts, subject to the exemption and emergency provisions set out at [Regulation 16.24](#) and to the approved list arrangements set out in [Regulation 16.10.1](#). Tender opportunities for Council contracts of a value above the Low Value Threshold set out in [Appendix 1](#) shall be publicly advertised. This should be primarily on the internet (via the [Public Contracts Scotland Portal](#) or equivalent alternative mechanism approved from time-to-time by the council as sufficient to achieve adequate publicity of its contract opportunities). This may be together with any additional publicity as is considered to be required in Chief Officers' discretion, having regard to the costs of such publicity and the relative value of the contract. Where the proposed additional publicity involves press, trade journal or other printed media, the prior approval of the Head of Corporate Improvement and Finance is required. This requirement is separate from any legal requirement to advertise on OJEU (the Official Journal of the European Union) in accordance with EU contract rules.

*Note: Guidance on the procedures for such advertising (including OJEU) is available on the Corporate Intranet [Procurement site](#).*

- 16.9.2 Where two-stage “select list” (i.e. “restricted procedure”) competition or an approved list is being used, invitations to tender shall be issued to at least five tenderers provided that sufficient suitable bidders capable of meeting the requirement are available on the select list or the approved list, as the case may be. Chief Officers may select maximum numbers for select lists as they see fit.

*Note: No maximum limit is stated on the number of tenderers to be included in a select list because this will be specific to the nature of the competition and depend on a range of factors, including the complexity of the contract / lotting arrangements and the state of the supply market at the time. “Lotting” in this context means the division of a single contract opportunity into a number of discrete parts or “lots”. However, a balance should be struck between achieving adequate competition and avoidance of having too many tenderers on the select list . The latter would result in inefficient bidder and evaluation effort / expense and even diminution of competition by diluting the prospects of success for those bidders admitted to the select list. An optimal maximum number for a simple tender exercise is around 8 tenderers.*

- 16.9.3 Subject to the statutory requirement to secure Best Value, any directly employed workforce (operating as a Trading Account Unit) of the Council capable of providing any supply required by the Council shall be given the opportunity to submit a tender for the supply. In submitting such an offer the Trading Account Unit shall be bound by the price contained therein. Bids submitted under this provision will be subject to the normal tender and evaluation rules as outlined in this section of the Regulations.
- 16.9.4 Chief Officers must comply with the Council’s policy on use of the Print and Design Unit approved by the Corporate Services Committee at its meeting on 3 September 2009 and the Scrutiny and Audit Sub Committee at its meeting on 29 September 2009. This policy is that all departments of the Council are required to obtain all print and print-related graphic design services via the Print and Design Unit (with the exception only of the graphic design services currently provided by the dedicated graphic designers located in the Public Relations Unit of the Chief Executive’s Unit and the Services to Communities Division of the Communities Directorate).

*Note: Further guidance on procurement of print and print-related services is available on the Intranet [Procurement site](#).*

- 16.9.5 Chief Officers must comply with the Minute of Agreement between Angus Council, Dundee City Council and Perth and Kinross Council regarding the “direct award” of services to (or, more properly, maximising value from use of the council’s direct service organisation resource) Tayside Contracts. A copy of that Minute of Agreement is attached as Appendix 7 to these Financial Regulations.

## **16.10 SELECTION OF TENDERERS**

- 16.10.1 The Council may maintain approved lists of contractors or consultants to be invited to tender for contracts for specified categories within the maximum values stated in Appendix 1, and, subject to Regulation [16.9.2](#), invitations to tender for such contracts shall be limited to those included on the lists. The lists shall be compiled every three years following public advertisement and shall be reviewed and updated at least every six months.

Note: Guidance on the operation of approved lists is set out in [PGN 12](#), with related guidance on advertising approved lists (etc.) set out in [PGN 1](#). This guidance is found on the Intranet [Procurement site](#) or by contacting [procurement@angus.gov.uk](mailto:procurement@angus.gov.uk)

- 16.10.2 The Council may maintain term contracts, including schedule of rates contracts, for approved contractors or consultants, which are to be operated within the maximum values stated in Appendix 1. Term contracts shall normally be renewed at least every three years following public advertisement and the submission of competitive tenders. Chief Officers shall have the discretion to provide for term contracts to endure for up to six years (including any option to renew). Term contracts for periods longer than six years will require Committee approval.
- 16.10.3 The appropriate Chief Officer shall have power to select tenderers from approved lists within the maximum limits stated in [Appendix 1](#).
- 16.10.4 Where no suitable approved list exists, tenderers shall be selected from those responding to public advertisement in the manner referred to in Regulation [16.9.1](#).
- 16.10.5 Where authority to procure is granted to a Chief Officer either under delegated powers or by Committee, that authority shall include power to select tenderers from those responding to public advertisement.
- 16.10.6 The criteria for selection of tenderers shall be reasonably related to the subject matter of the contract and shall be applied by the responsible Chief Officer fairly and without discrimination. The Chief Officer shall be responsible for ensuring compliance with Angus Council procurement policy and guidance on the selection of tenderers.
- 16.10.7 Where only one expression of interest is received at the pre-qualification stage and the tender process is unlikely to produce the desired value for money that a fully competitive tender process would, the advice of the Corporate Procurement Manager should be sought as to whether to proceed with the tender process. Should the tender process not proceed, a review of the possible circumstances which may have resulted in only one expression of interest should be carried out covering such areas as packaging of the contract, contract promotion, advertising strategy and available market capacity / skill base. Should the tender process proceed, the returned tender should be evaluated in line with the provisions of Regulation [16.14.3](#) below.
- 16.10.8 For the avoidance of any doubt, Regulations 16.10.2, 16.10.4 and 16.10.9 may be applied to both two-stage "restricted" tendering procedure and single-stage "open" tendering procedure, where relevant (Regulations 16.10.5, 16.10.6 and 16.10.7 by definition only apply to two-stage "restricted" tender procedure). The specific advice of the Corporate Procurement Manager should be sought before embarking on any other procurement procedure (e.g. mini competition, competitive dialogue).
- 16.10.9 Irrespective of which procurement route or procedure is chosen to select tenderers and receive tenders / bids, each tenderer to be considered for selection shall be subject to such financial assessment as is considered appropriate by the Head of Corporate Improvement and Finance. Where tenderers are registered with Constructionline, the Head of Corporate Improvement and Finance may presume their financial standing to be acceptable but he will be free to carry out such other checks as may be considered necessary. The Head of Corporate Improvement and Finance may also, in his discretion, require a tenderer whose financial standing or stability is in doubt to submit a parent company guarantee or other surety acceptable to the Head of Corporate Improvement and Finance before that

tenderer may be selected for invitation to tender or have its tender evaluated, as the case may be.

*Note: Chief Officers are reminded of the additional bond surety obligations for higher value civil engineering / construction works contracts as set out at FR [16.16.1\(b\)](#).*

16.10.10 The Head of Corporate Improvement and Finance may issue guidance on the financial assessment of tenderers to be applied in different cases and who is responsible for carrying out such assessment.

*Note: that guidance from the Head of Corporate Improvement and Finance on financial assessment of tenderers is to be contained within the Corporate Procurement Manual with effect from 31 August 2010. Guidance on the procurement of consultancy work is also contained within the Corporate Procurement Manual. This guidance is found on the Intranet [Procurement site](#) or by contacting [procurement@angus.gov.uk](mailto:procurement@angus.gov.uk)*

### 16.11 LODGING OF TENDERS

16.11.1 All tenders with the exception of tenders under £500,000 managed by the Head of Technical and Property Services (which will be lodged with the Head of Technical and Property Services at Bruce House, Arbroath) shall be lodged with the Head of Legal and Democratic Services no later than 12 noon on the appointed day in a sealed envelope using the official label issued with the tender documents and endorsed with the title of the contract, the delivery location and the latest time for lodging the tender. Any exception to the foregoing must be formally agreed beforehand with the Head of Legal and Democratic Services.

16.11.2 Tenders received after the time fixed for lodging through no fault of the council's shall not be considered and shall be returned to the tenderer. Tenders submitted by fax or e-mail (outwith an approved e-Tendering system) shall not be considered. Tenders lodged within the time fixed for lodging but not otherwise in accordance with this Regulation in respect of a minor technicality will be considered by the Head of Legal and Democratic Services or the Head of Technical and Property Services as the case may be having regard to the provisions of Financial Regulation 16.11.1 and the minor infringement may be disregarded where it would be disproportionate to do otherwise. Any such minor technicalities should be recorded on or with the appropriate record of opening (having regard to the provisions of Regulation [16.13](#) below) to ensure the establishment of a clear audit trail as detailed within the council's tender opening procedures. Any actual return of unconsidered tenders will require to be a proportionate response and will be on the express authority of the Head of Legal and Democratic Services.

16.11.3 Tenders may only be received electronically by use of an e-procurement system approved by the Head of Corporate Improvement and Finance for that purpose. E-auctions may also be conducted on such an e-procurement system. In those events, the tender "opening" and/or auction arrangements shall be carried out in accordance with guidance issued by the Head of Corporate Improvement and Finance in consultation with the Head of Legal and Democratic Services to ensure the integrity of the process.

*Note: The tender opening procedures referred to at Regulation 16.11.2 above are available on the Intranet at the [Procurement site](#)*

## 16.12 OPENING OF TENDERS

- 16.12.1 Details from the official label on each tender received shall be recorded by the Head of Legal and Democratic Services excepting those tenders for which other arrangements are made in accordance with Regulation 16.11.1 above, which shall be recorded by the responsible Chief Officer.
- 16.12.2 Tenders up to and including the maximum values stated in Appendix 1 shall be collected from the Head of Legal and Democratic Services by or on behalf of the appropriate Chief Officer, as soon as practicable after the time fixed for lodging the tender. Such tenders thereafter shall be opened as soon as practicable after that, signed and listed by the Chief Officer or a nominee at no lower than fourth tier level in the presence of a Reporting Officer, who shall also sign the list.
- 16.12.3 All other tenders (i.e. those above the delegated values stated in Appendix 1) shall, as soon as practicable after the time fixed for lodging, be opened and listed by or on behalf of the Head of Legal and Democratic Services or nominee and signed by the Chief Officer or a nominee at no lower than fourth tier level, in the presence of a Reporting Officer, who shall also sign the list.
- 16.12.4 The administrative procedures for tender receipt, opening and collection as set out in guidance approved by the Head of Legal and Democratic Services in consultation with the Head of Corporate Improvement and Finance for that purpose shall be applied by all officers as if they were part of these Regulations. These administrative procedures may also provide for other officers to fulfil these tender receipt, opening, etc functions and for minor departures from the arrangements set out in this Financial Regulation 16.12.

*The administrative procedures guidance referred to at Regulation 16.12.4 above is available on the Intranet at the Procurement site. For the purposes outlined above, Reporting, 4<sup>th</sup> Tier Officers are defined at Financial Regulation 1.15.*

## 16.13 CHECKING AND EXAMINATION OF TENDERS

- 16.13.1 Before a decision is taken as to which, if any, tender is to be accepted, tenders shall be subject to checking and examination by the appropriate Chief Officer or his or her nominated officer.
- 16.13.2 If it is discovered on examination that a tenderer has not complied with all the mandatory requirements of the invitation to tender, the appropriate Chief Officer may contact the tenderer to ascertain if the tenderer is prepared to conform to these requirements without amendment to the tender amount, other than arithmetical correction under Regulation 16.13.3 below. The tender of any tenderer who does not so conform shall be rejected.
- 16.13.3 Arithmetic errors discovered in extensions or summations, whether increasing or decreasing the tender sum, shall be raised with the tenderer by way of clarification. This option is not available where the rate is binding (as opposed to the extended or summed tender total amount) and contains no manifest arithmetic errors itself.
- 16.13.4 If it is considered that a tenderer has made an arithmetic error in its tender, then Chief Officers may ask the tenderer to confirm its price or withdraw its offer (noting that if the rate is binding in the tender then no confirmation may be required).

*The references here to tenders where the "rate is binding" means that the Tender Documents have stipulate that it is the unit price as bid for the supply is binding on the*



*supplier, not the extended totals after application of quantities (either estimated or committed) to those unit prices.*

- 16.13.5 If the tenderer fails to exercise the option offered to it within the timescale communicated by the Chief Officer then its tender will be deemed to be withdrawn.
- 16.13.6 A tender may be rejected where it is so abnormally low that it is not considered to be viable by the Chief Officer. That conclusion may only be reached after the Chief Officer has first presented the conclusion and the grounds for it to the tenderer, has sought assurance on his / her viability concerns, including where necessary by exposure (on a strictly commercially confidential basis) by the tenderer of its pricing assumptions on an open book basis and has taken into account the results of that dialogue with the tenderer. For the avoidance of any doubt, the outcome of the clarification set out in this Regulation will still be for the tenderer to confirm or withdraw its tender as set out at Regulation 16.13.4.
- 16.13.7 In the case of proposing to reject an abnormally low tender under Regulation 16.13.6, where the tender value is above the relevant EU threshold, the Chief Officer must first consult the Head of Legal and Democratic Services and the Corporate Procurement Manager with full background information to allow verification that the grounds for doing so appear sound. The Chief Officer should err on the side of caution in either case.

*Note: even for cases below EU threshold, where rejection of a tender is being considered on the grounds that its price is abnormally low, it is recommended that Chief Officers seek the advice of the Corporate Procurement Manager first before any decision is made.*

## 16.14 TENDER EVALUATION

- 16.14.1 All tenders received shall be evaluated and contract awarded on the basis of either lowest price or the most economically advantageous tender ("MEAT"). The basis selected will be set out in the invitation to tender documents which, in the case of MEAT evaluation, will also specify the price / quality split percentage and evaluation criteria weightings. Where necessary to ensure that application of this weighting does not result in the acceptance of unacceptably low quality tenders, Chief Officers may apply a minimum quality score threshold below which tenders will not be accepted.

*Notes: It is emphasised that Angus Council's approach remains that Chief Officers' objective should be to include all required supply quality standards as mandatory requirements within the contract specification, particularly where the requirement is a recurring one, and to evaluate tenders on a lowest price basis wherever possible. Guidance on the circumstances in which a less than 70/30 price / quality split (in favour of price) will be acceptable is available on the Intranet [Procurement site](#). Attention is drawn to the provisions of FR [16.16.1\(b\)\(v\)](#) relating to the evaluation consequences of waiving a performance bond requirement for a DSO / DLO.*

- 16.14.2 Chief Officers will pursue the preparation of robust and comprehensive specifications compliance with which would achieve the required level of quality to a fit for purpose standard (and accordingly without the need for qualitative MEAT evaluation) wherever and insofar as is possible. Otherwise, where MEAT evaluation is necessary:

- (a) the evaluation criteria and methodology shall be subject to the prior approval of the Corporate Procurement Manager on behalf of the Head of Corporate Improvement and Finance; and
- (b) the price / quality split percentage will not be less than 70/30% in favour of price without the prior approval of the Corporate Procurement Manager on behalf of the Head of Corporate Improvement and Finance.

16.14.3 Where, following a fully competitive tendering process involving the appropriate number and type of tenderers as detailed by Regulations 16.9 or 16.23, only one tender is returned, the contract will be deemed to have been subject to a fully competitive process. The procedures in Regulation 16.13 above should however still be followed such that the appropriate Chief Officer is satisfied that the tender is arithmetically correct and satisfies all the requirements of the Council and that the value of the tender submitted is a fair and reasonable representation of the expected value of the contract

16.14.4 Where, following a fully competitive tendering process involving the appropriate number and type of tenderers as detailed by Regulations 16.9 or 16.23, there are no affordable and/or compliant tenders received for a contract, the business case, procurement strategy and tendering process for the contract in question must be reconsidered having due regard to the points detailed below.

- (a) Whether the packaging and promotion of the contract can be reconsidered to make the contract more attractive / viable;
- (b) Whether the contract can be dealt with by an alternative form of procurement in consultation with the Corporate Procurement Manager and the Head of Legal and Democratic Services; and
- (c) If the requirement for the contract remains as stated and whether it is still necessary to proceed with its procurement.

If the appropriate Chief Officer is satisfied following appropriate market investigation that the above issues cannot be re-addressed to make the tender process viable, then the Chief Officer may apply / seek an exemption under exemption criteria 16.24.10(e).

## 16.15 ACCEPTANCE OF TENDERS AND CONTRACT AWARD

16.15.1 Tenders shall be accepted and signed on behalf of the Council:

- by the Head of Legal and Democratic Services in the case of tenders which are above the delegated limits set out in Appendix 1; and
- by the appropriate Chief Officer where the tender is equal to or below those limits.

16.15.2 Contract award information (including the name and address of the successful bidder and the contract value) will be published by the council (equivalently to publication of the initial contract advertisement) and intimated to all bidders with an opportunity provided for a post-tender debrief, where sought within a reasonable period after contract award. This requirement is in addition to any legal requirement in accordance with EU contract rules.

*Note: the EU rules on contract award (including "standstill") and provision of information to unsuccessful bidders are complex. Guidance is available on the Intranet Procurement site. The current approved primary method of contract*

advertising and award notification for Angus Council is use of the [Public Contracts Scotland Portal](#).

## 16.16 CONTRACT TERMS

16.16.1 Contract documents issued by, or on behalf of, the Council, and all contracts made with the Council, shall be in a form and contain terms approved by the Head of Legal and Democratic Services, either generally from time to time or specifically. These terms shall, where appropriate, include the following terms:

(a) That the contract shall, unless the Head of Legal and Democratic Services approves otherwise, be subject to the Laws of Scotland.

(b) That in respect of all construction works and civil engineering works to the value of £750,000 or above:

(i) the contractor shall be required to enter into an appropriate Performance Bond of an amount not less than 10% of the total contract value with a Bank or Insurance Company as required by the Head of Corporate Improvement and Finance in consultation with the Head of Legal and Democratic Services and the appropriate Chief Officer;

(ii) The contractor must provide evidence that the Bond is in place prior to the contractor taking possession of the site. The appropriate Chief Officer is responsible for ensuring receipt of any required Performance Bond and thereafter obtaining formal clearance from the Head of Legal and Democratic Services following appropriate review;

(iii) Chief Officers in consultation with the Head of Corporate Improvement and Finance may agree the partial reduction of Bond values in line with works valuations as the contract progresses where they are satisfied that this provides the council with better value. This should be exceptional rather than routine;

(iv) For contracts where the contractor has a design responsibility and where the Chief Officer, in consultation with the Head of Legal and Democratic Services, determines that there is a need to secure direct recourse to the contractors design consultants' duty of care obligations, collateral warranty agreements from those design consultants shall be required on terms meeting with the approval of the Head of Legal and Democratic Services; and

(v) The requirement for a Bond may be waived at the request of the relevant Chief Officer in respect of a contract awarded under competition to a direct services organisation or direct labour organisation of the council (including a joint organisation such as Tayside Contracts) provided that the effect of that waiver has been taken fully into account in the evaluation of all tenders received in accordance with the principle of equal treatment of tenders and to the satisfaction of the Head of Corporate Improvement and Finance in consultation with the Head of Legal and Democratic Services.

(c) That the contractor shall be insured with an approved insurance company against the following risks:

(i) liability to workpeople under statute to a value of at least £10 million per claim and without unusual excess values or terms having regard to the prevailing insurance market;

(ii) liability at common law and generally to third parties to a value of at least £5 million per claim and without unusual excess values or terms having regard to the prevailing insurance market; and

(iii) such other insurances (e.g. professional indemnity insurance for consultancy services) for a value and on such terms as the Head of Corporate Improvement and Finance (in conjunction with the Service Manager (Governance)) advises having regard to the value and nature of the contract in question.

The relevant policy or policies and premium renewal receipts shall be produced by the contractor whenever required for inspection by any officer authorised by the Council for that purpose.

*Note: the council's standard set of contract conditions documents are available on the Intranet [Procurement Site](#).*

16.16.2 Without prejudice to the delegated power vested in him under paragraph 4a.(3) of the Council's Scheme of Delegation to Officers (power to approve and implement minor amendments to the Financial Regulations) the Head of Corporate Improvement and Finance shall have power to vary any of the financial limits set out in Financial Regulation 16.16.1 either on a temporary basis from time to time or for specific contracts as he sees fit.

16.16.3 Chief Officers shall apply all the arrangements detailed in Section 16 of Financial Regulations to the engagement of consultants, including the guidance set out in the Corporate Procurement Manual. Contracts for provision of consultancy services shall contain the following terms, where appropriate:

- (a) The consultant shall at any time during the carrying out of the contract, on request by the appropriate Chief Officer, produce all records maintained in relation to the contract;
- (b) On completion of the contract the consultant shall transmit all such records to the appropriate Chief Officer; and
- (c) The consultant shall transfer to the Council full intellectual property rights in drawings, documents and software produced specifically for the commission but only insofar as this term is commercially viable having regard to the market in question.

## **16.17 CONTRACTING FOR SOCIAL CARE AND HOUSING SUPPORT**

16.17.1 Contract arrangements for social care services shall be made in accordance with standard terms of contract approved by the Head of Legal and Democratic Services and authorised by the Social Work and Health Committee or the Children and Learning Committee as appropriate, except insofar as the Strategic Director People, Head of Children's Services or Head of Adult Services are authorised to do so under the council's Scheme of Delegation.

16.17.2 Rates of payment for residential and nursing home care for adults may be set annually by the People Directorate with reference to statutory requirements and guidance, the outcomes of national fee negotiations and Angus Council policy.

- 16.17.3 Rates of payment for residential care for children may be negotiated annually by the People Directorate with individual service providers.
- 16.17.4 Rates of payment for other social care services for adults and children, which shall include but not be limited to, specialist accommodation with care, day-care, domiciliary care and support and counselling services may be negotiated by the People Directorate with individual service providers.
- 16.17.5 Notwithstanding Regulation 16.17.1 above, contracts for any of the above services may be entered into following the invitation of competitive tenders in accordance with this section 16 of Financial Regulations and competitive tenders shall be so invited where a market exists and it is advantageous and consistent with the council's best value duty to do so.
- 16.17.6 Angus Council will apply the principles of the "Social Care Procurement Scotland Guidance" when it is jointly published by the Scottish Procurement Directorate and the Scottish Government's Joint Improvement team to its social care procurement (including housing support services) except insofar as that guidance may be inconsistent with any express provision to the contrary in this Section of Financial Regulations or in relevant procurement legislation.

#### **16.18 CONTRACTING FOR TRANSPORTATION SERVICES - BEST VALUE PROCEDURE**

- 16.18.1 Where a contract for transportation services, that is to say non-commercial bus services and for the conveyance of school children, is deemed to be exempt from normal tendering arrangements by virtue of the grounds stated at Regulation [16.24.10\(f\)](#), the undernoted arrangements must be followed.
- 16.18.2 The arrangements by which a tender for transportation services can be dealt with under this Best Value procedure were approved by the Infrastructure Services Committee of 22 January 2004 and cover the criteria, checks and contract award terms which must be observed. The checks were subject to amendment following changes to the methodology for the evaluation and award of local bus service contracts approved by Infrastructure Services Committee on 19 January 2010 (Report 47/10 refers). The approved criteria are attached at Appendix 4(a).
- 16.18.3 Report 69/04 also approved that a pro-forma must be completed when using the Best Value procedure, with details of why the procedure is being used and evidence of why the contract represents Best Value for the Council. A blank pro forma for this purpose is shown at Appendix 4(b).
- 16.18.4 The following arrangements apply to transportation services procurement undertaken under this Best Value procedure:
- (a) The maximum value of all contracts awarded under the Best Value procedure shall be determined as a percentage of the local bus service subsidy budget in any one financial year, with reference to the percentage detailed in [Appendix 1](#) of these Financial Regulations;
  - (b) The Head of Technical and Property Services has delegated power to approve use of this Best Value procedure for contracts up to and including a maximum value equal to that detailed in Appendix 1 of these Financial Regulations with reference to Services (including Transportation Services) and Approved list (Competitive Award). Use of this Best Value procedure for contracts in excess of this value require the prior approval of the Chief Executive and the Head of Corporate Improvement and Finance; and

(c) Authority to procure above delegated limits should wherever practicable be approved by Committee following the process set out at Financial Regulation 16.8 prior to transportation procurement being undertaken (whether under the Best Value procedure or otherwise). Where this is impractical, a fast track approval can be implemented by the Head of Technical and Property Services having delegated power to award contracts up to and including a maximum value equal to that detailed following consultation with the Head of Corporate Improvement and Finance, Chief Executive and the Convener of the Communities Committee. In both circumstances, any such contract awards must be reported to the next available Communities Committee.

16.18.5 At all times during consideration of contracts under the Best Value procedure, cognisance must be taken of the checks approved as part of report 69/04 (as amended by report 47/10 to the Infrastructure Services Committee on 19 January 2010) and in particular those intended to demonstrate that such a contract does indeed present the Council with a Best Value solution, namely:

(a) Costs per mile comparable to similar operations; and

(b) Score attained in respect of subsidy per mile, subsidy per passenger and percentage of workers using the service being comparable to existing contract scores.

16.18.6 Notwithstanding Regulations 16.18.1 – 5 above, contracts for any of the above services may be entered into following the invitation of competitive tenders in accordance with this section 16 of Financial Regulations and competitive tenders shall be so invited where a market exists and it is advantageous and consistent with the council's best value duty to do so.

## **16.19 CONTRACT ADMINISTRATION**

16.19.1 Chief Officers shall make arrangements for the monitoring of all contracts under their control to ensure compliance by the contractor with all the terms and conditions of the contract.

16.19.2 Where the Chief Officer considers that the contractor is materially failing to comply with such terms and conditions, he shall submit a report with recommendations to the appropriate Committee which, in extreme circumstances, may lead to termination of the contract, recovery of additional costs from breach and removal from approved lists / future tender selection. In an emergency, the Chief Officer in consultation (where practicable) with the Corporate Procurement Manager and the Convener of the appropriate Committee (where the contract procurement was approved by Committee) may exercise the powers specified in this Regulation subject to reporting that exercise to Committee as soon as practicable thereafter.

16.19.3 Chief Officers shall make arrangements for the monitoring of contract expenditure and shall ensure that arrangements are in place to report as necessary any variations in contract values in line with the provisions of Financial Regulations 3.8 (revenue) and 7.6 (capital). Without prejudice to these reporting arrangements for budget monitoring purposes, Chief Officers shall have delegated authority to approve all necessary variations to awarded contracts, to agree claims and generally to deal with all matters incumbent on the Council under such contracts. Where the value of such variations, claims etc. is above the limit set out in Appendix 1, the relevant Chief Officer shall first consult with the Head of Corporate Improvement and Finance, the Head of Legal and Democratic Services and the Corporate Procurement Manager (as a minimum) before exercising any power incumbent on the Council under the

contract. For the avoidance of any doubt, however, the limits of Chief Officers' authority in terms of this Regulation do not apply to contractually mandatory requirements, such as extensions of time and changes of law or incorporated national / international specification standards.

## **16.20 REGISTER OF CONTRACTS**

16.20.1 The Head of Corporate Improvement and Finance, or the Chief Officer as agreed with the Head of Corporate Improvement and Finance, shall maintain a register of contracts to include the title of the project, the name of the contractor, the contract sum, the start and end dates of the contract and such other information as is required. The official responsible for accepting any tender for approved works shall provide to the Head of Corporate Improvement and Finance, or Chief Officer as agreed with him, such information as is required as soon as a formal contract has been constituted.

16.20.2 Where applicable, the exercise of extension options must be recorded in the contracts register by Chief Officers along with all necessary update information to keep the register up-to-date.

16.20.3 Contract details for contracts of a value up to and including the Low Value Threshold do not need to be recorded in the contracts register but may be so recorded at the discretion of the responsible Chief Officer.

## **16.21 ALTERNATIVE FORMS OF PROCUREMENT including Public Private Partnerships**

16.21.1 Best Value demands the consideration of alternative ways of delivering services other than by the conventional in-house approach. Such alternatives are frequently referred to as partnerships, although they can include innovative forms of contract and vehicles of service. The most common forms of Public Private Partnerships which are recognised as being available to local authorities are:

- Formal and informal partnerships
- Strategic Partnering
- Partnership sourcing
- PFI/PPP schemes
- Joint Ventures
- Trusts
- Companies Limited by Guarantee

The Heads of Corporate Improvement and Finance, Legal and Democratic Services and (where applicable) Head of Technical and Property Services, shall be consulted prior to any proposal to commission works or services by any method other than a conventional approach. The Head of Technical and Property Services will be responsible for deciding which property related works may be procured by any method other than a conventional approach, subject to agreement from the Heads of Corporate Improvement and Finance and Legal and Democratic Services.

## **16.22 DE MINIMIS THRESHOLD**

16.22.1 For procurement of a value less than or equal to the "de minimis" level stated in [Appendix 1](#), no formal procedure will be required at all. However, Chief Officers must bear in mind the following points:-

- (a) if a number of apparently discrete purchases are made for the same kind of supply or service then they require to be treated as a single and/or recurring requirement and the values aggregated accordingly.
- (b) Chief Officers remain responsible for ensuring that value for money is secured for the council and that the Code of Conduct for Employees, particularly the requirement for impartiality, is applied by staff at all levels of spending of public funds.
- (c) minor purchases will normally be available from a Central Purchasing Body (CPB) contract. Requirements and purchasing procedures must be reviewed on an ongoing basis to ensure that maximum use is being made of CPB contracts to achieve value for money for the Council from these aggregated purchasing power and compliant procurement routes. Chief Officers are reminded of their obligations to ensure compliant use of mandated contracts in terms of Regulation 16.6.2.
- (d) Chief Officers should monitor spend below the de minimis limit to identify recurrent spend items which should be addressed within a more formally procured arrangement and work with the Corporate Procurement Manager to achieve this, where appropriate.

### 16.23 LOW VALUE PROCEDURES

16.23.1 In the following circumstances:

- (a) for contracts of a value up to and including the Low Value Threshold defined in Appendix 1; or
- (b) where required by the Exemptions Co-ordinator in accordance with Regulation 16.24.11 (Post Exemption Process)

quotations shall be obtained in accordance with this Financial Regulation instead of contract advertisement and full tender procedures.

*In relation to FR 16.23.1.(b), for example, the Exemptions Co-ordinator might approve not seeking tenders or advertising but may still require 2 or more quotes if e.g. he is satisfied that the supply requirement is urgent so there is no time for advertised tenders but there is still a market so we should seek quotes to demonstrate best value.*

16.23.2 The following procedures shall apply to seeking quotations:-

- (a) Quotations must be in writing except in a case of urgency when verbal quotations may be taken, provided that the successful quotation is confirmed in writing (e-mail being sufficient for this purpose).
- (b) Quotations should be sought from at least 3 bidders (where available) and on the basis of a common specification. Wherever possible, invitations to quote will be issued to locally-established suppliers along with at least one national supplier for value comparison purposes.
- (c) Wherever possible, at least 7 days will be allowed for bidders to submit their quotations and with an opportunity to inspect premises, where required for that purpose.
- (d) Contract award should normally be on the basis of lowest price unless there are overriding reasons to apply most economically advantageous tender (MEAT) criteria.



- (e) Financial Regulations 16.13, 16.14, 16.15.1(b), 16.16, 16.17, 16.18 and 16.19 shall apply to quotations as they apply to fully tendered contracts, insofar as they are applicable to contracts of a value equal to or below the Low Value Threshold.
- (f) The “Quick Quote” function on Public Contracts Scotland (or approved equivalent alternative mechanism) shall be used to manage the process for seeking quotations unless the Chief Officer is satisfied, after consultation with the Corporate Procurement Manager, that there are compelling reasons why not.

*Notes: The Low Value Quotation forms available on the Intranet Procurement site should be used to secure quotations under this Regulation.*

*Use of quick Quote should also be used as a matter of good practice for framework agreement mini competitions (see FR 16.6.5) AND for equivalent Angus Council processes eg seeking quotations / tenders under Angus Council framework agreements, multi supplier schedule of rates contracts and approved lists (with the same caveat as set out above regarding compelling reasons not to.*

## 16.24 EXEMPTION PROVISIONS

### General - Exceptional Nature of Exemption

16.24.1 Exemptions from the application of the foregoing Financial Regulations in Section 16 should be exceptional and never routine. The approval of an exemption is not a substitute for poor procurement planning and may be refused if that is the cause of the application for exemption. No approval of any exemption shall be deemed to create a precedent and each exemption request will be considered on its own individual merits.

### Exemption Co-ordinator

16.24.2 The Corporate Procurement Manager (whose contact details are noted at the end of this section) has responsibility for the role of Exemption Co-ordinator.

16.24.3 In the absence of the Corporate Procurement Manager, the Service Manager (Financial Services) will fulfil the Exemption Co-ordinator role.

16.24.4 The Exemption Co-ordinator will act as a single point of contact for all exemption decisions, with the exception of those taken under Chief Officer Delegated Authority as set out below. This role will include consultation with the Chief Executive, Head of Corporate Improvement and Finance, Head of Legal and Democratic Services and other Chief Officers as necessary.

16.24.5 The limit of the Exemption Co-ordinator's authority is set out in Appendix 1, beyond which Committee authority is required. The Exemptions Co-ordinator must be consulted, however, on an exemption proposal in advance of a Report to Committee and his views incorporated in that Committee Report.

16.24.6 The form of application to the Exemption Co-ordinator is set out in the Corporate Procurement Manual. This form must be used in any exemption applications or consultations submitted to the Exemption Co-ordinator.

16.24.7 In considering any specific exemption request, the Exemption Co-ordinator shall have regard to the exemption requests already granted for the same project or for a series of related contracts and the desirability of avoiding excessive cumulative exemptions in the context of their delegated authority.

Note: a Word copy of the Exemption request form is available from the FRs [Forms](#) page and the Intranet [Procurement site](#).

### **Chief Officer Delegated Authority**

16.24.8 Chief Officers have delegated authority to decide which contracts are to be exempted from any, or all, of the provisions of this Regulation 16, by virtue of any of the exemption criteria noted below where the value of such a contract does not exceed the Low Value Threshold as set out in Appendix 1. Notwithstanding this provision, Chief Officers may contact the Exemption Co-ordinator for advice in respect of the application of exemption criteria as required. In all circumstances where Chief Officers exempt a contract under this provision, it must be demonstrated that Best Value is being achieved and appropriate records should be maintained for this purpose. Use of the Exemptions Request form is recommended to capture such decisions and the grounds for them properly.

In all circumstances where a contract value exceeds the Low Value Threshold set out in Appendix 1, the Exemption Co-ordinator must be contacted at an early stage in the process to decide on the applicability of the exemption criteria noted below and certainly prior to any decision being taken to proceed with a contract on an exempt basis.

### **Exemption Criteria**

16.24.9 A contract whose value exceeds the Low Value Threshold can only be exempted from any, or all, of the provisions of this Regulation 16 where one of the exemption criteria set out at Regulation 16.24.10 below is met and provided that such exemption would not conflict with EU Tendering rules and other legislative provisions (e.g. Local Government Act 1988, Competition Act 1998, Local Government in Scotland Act 2003).

16.24.10 A contract may be considered for exemption under any **one** of the following criteria:

- (a) the supply can only be provided by one supplier for reasons connected either with exclusive intellectual property, artistic or product rights or with technical compatibility with existing Council assets or infrastructure;
- (b) the supply is required as a matter of urgency to meet an essential service requirement whose delivery is required immediately in the public interest (but only to the extent that it is an essential and urgent requirement);
- (c) the supply has been subject to adequate market testing current to within the last 3 months and direct award of a negotiated contract to the proposed supplier (including a completion supplier in the case of a prematurely terminated contract) will be demonstrably advantageous to the Council;
- (d) the exemption is for a temporary supply period of not longer than one year and is necessary to allow the carrying out of a full competitive tendering exercise for the supply (subject to the need for an exemption not being attributable to any failure to act with due diligence and foresight);

- (e) tenders or quotations have been invited in accordance with this Section 16 and tenders or quotations have been received but none of them comply with the Council's mandatory requirements and or are affordable, provided that the issues set out in Financial Regulation 16.14 have been duly addressed;
- (f) **for Transportation Services only**, the Head of Technical and Property Services, in consultation with the Exemption Co-ordinator, determines that the Best Value approach as approved by the Infrastructure Services Committee of 19 January 2010 (report 47/10 refers) should be used, the criteria for which were set out in Appendix 3 to the aforementioned report and which are detailed at Financial Regulation 16.18 and attached as Appendix 4(a) to these Regulations; or
- (g) the appropriate committee is satisfied that the exemption is justified for some other exceptional reason not referred to above and where approval of the exemption offers overriding demonstrable benefit to the Council.

**Post Exemption Process - Criteria 16.24.10 (a) to (e) and (g)**

16.24.11 Where a contract is exempted from the requirement to advertise and/or seek tenders/quotations for the contract under one of the exemption criteria at Regulation 16.24.10 (a) to (e) and (g) then a written contract on the applicable council standard terms and conditions is still required.

In granting exemption from tendering requirements, the Exemption Co-ordinator may require quotations to be obtained instead (in accordance with Regulation 16.23).

*Note: with reference to the use of the word "applicable" above. It is recognised that, on occasion and for truly specialist supplies, the council's standard terms and conditions may not be applicable and we may only be able to secure provision on the specialist supplier's terms. In that event, officers should understand the risks and obligations they are taking on for the Council by accepting the supplier's terms. Legal advice should be sought before accepting them.*

**Post Exemption Process - Criteria 16.24.10 (f) (Transportation Services)**

16.24.12 Where a contract is considered exempt on the grounds of Financial Regulation 16.24.10(f) above then, in addition to the provisions of Regulation 16.7, the arrangements as set out in Regulation 16.18 must be adhered to. In all other cases relating to Transportation Services, the normal tendering procedures as set out in Regulations 16.7 to 16.20 should be followed.

**Exemptions Register and Reporting**

16.24.13 All Chief Officers and the Exemption Co-ordinator will maintain a register of all exemptions granted by them under their respective delegated powers. Chief Officers are responsible for ensuring that exemptions actioned by them under delegated powers are reported to the appropriate committee at least every six months.

**General Provision For Emergencies - Public Safety**

- 16.24.14 Notwithstanding the foregoing contract exemption provisions, Chief Officers may be faced from time to time with emergency situations which present an immediate risk to public safety. Where such situations arise and the specific circumstances preclude use of any of the exemption provisions detailed above, Chief Officers may authorise essential supplies to be procured (including the carrying out of works) to protect public safety until such time as the exemption provisions can be applied through the Exemption Co-ordinator or Committee, as appropriate. Such supplies should not exceed the limit detailed at Appendix 1 for each individual emergency situation other than in exceptional circumstances of a strict emergency nature. Chief Officers will be held accountable for providing full and transparent support information to justify any such exceptions. Any such exceptions applied by Chief Officers will be subject to review by the Corporate Procurement Manager or Committee, as appropriate.
- 16.24.15 Where such emergencies arise, Chief Officers are required to advise the Chief Executive, Strategic Director of Resources, Head of Corporate Improvement and Finance and Head of Legal and Democratic Services at the earliest opportunity thereafter and to bring a report to the first available appropriate Committee for its information, with such report including full details of the impacts on departmental revenue and capital expenditure positions.
- 16.24.16 The Head Of Corporate Improvement and Finance in consultation with the Exemption Co-ordinator shall maintain a list of standing exemptions for identified utilities providers where, by operation of law or practice, there is no competitive open market for the provision of a required supply. Inclusion of a provider on such a list will exempt chief officers from the provisions of Section 16 relating to the seeking of competitive tenders for that provider, irrespective of the value of the current requirement. For the avoidance of any doubt, chief officers will, however, remain responsible for ensuring that budget provision is available for the cost of the exempted supply. In addition, the award of contracts exempted from competition under this Financial Regulation will require to be reported to the appropriate Committee at least every six months in the same manner as is set out in Financial Regulations [16.8.2](#) and [16.24.13](#).

*The Standing Exemptions List approved by the Head of Corporate Improvement and Finance is available from the Corporate Procurement Team.*

*The Corporate Procurement Manager would also advise that, where a project requiring the construction / installation of a new utility supply is being reported to Committee by way of a Procurement Authority Report (PAR) such installation merits mention in PARs as forming part of the whole life cost of the construction, irrespective of the existence of a standing exemption.*

**17. ACQUISITION AND DISPOSAL OF ASSETS**

**17.1 APPLICATION – LAND AND PROPERTY**

- 1 Regulations 17.1 and 17.2 apply, unless otherwise stated, to all proposals and transactions regarding the acquisition, development, disposal or change of use of land or buildings in connection with the provision of Council services.
- 2 All proposals by any Committee involving the acquisition, appropriation, excambion or leasing in of land or buildings, or the provision of buildings other than civil engineering works and associated buildings, shall be submitted to the Policy and Resources Committee for comment and any such comment shall be taken into account in deciding the matter.
- 3 Subject to the specific delegation to the Service Manager (Economic Development) in respect of lease or disposal of sites (Scheme of Delegation to Officers 3(a) refers), where any land or building is potentially surplus or has been declared surplus to the requirements of any department, the matter shall be referred to the Head of Technical and Property Services who shall advise all other departments of the Council to ascertain whether the land or building can be appropriately used by any other department.

The Strategic Director of Communities, through the Service Manager (Housing), will be offered the opportunity to assess whether:-

- There is an interest in acquiring such land or property, whether rural or urban for the development of affordable housing by Angus Council in accordance with the [Appropriation Policy](#); or
- consult local Housing Associations to determine if they have any interest in the acquisition of such land and property, whether rural or urban, by negotiation at open market value for an affordable housing development.

If a suitable alternative use is identified, no further action to dispose of the land or building shall be taken until the other department concerned has had the opportunity to present recommendations regarding its future use to the Policy and Resources Committee, in conjunction with the Head of Technical and Property Services.

The Head of Technical and Property Services shall submit a report for consideration by the Policy and Resources Committee, which shall summarise the position for each item of land or building (including Common Good assets), which is potentially surplus or has been declared surplus, identifying those where it is proposed that there shall be:-

- appropriation for use by another department;
- appropriation by the Communities Directorate for development of affordable housing;

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- disposal to a local Housing Association for the development of affordable housing;
- disposal by negotiation at less than best value in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010; or
- general disposal.

In all instances of disposal, the Head of Technical and Property Services shall utilise the approved Disposal Procedure Checklist to ensure consistency and traceability.

- 4 Where power is delegated in terms of the Scheme of Delegation to Chief Officers, the Head of Technical and Property Services shall have powers to make decisions which are otherwise the responsibility of the Policy and Resources Committee, within the maximum values stated in the Scheme of Delegation and as summarised in Appendix 1, subject always to the proviso that provision for any expenditure has been made within existing approved budgets and that all necessary borrowing resolutions and consents have been obtained, and that any land or buildings being disposed of have been declared surplus to Council requirements. All decisions so made shall be subsequently reported to the Policy and Resources Committee at least every three months.
- 5 For the purposes of 17.1.4 above, the value of a lease should be calculated as the product of the annual rental and the period of the lease.

### 17.2 TRANSACTIONS – DISPOSAL OF LAND AND PROPERTY

- 1 Subject to 17.2.3 and 17.2.4 below, in all cases where land or buildings are declared surplus to requirements and approved as such by the Policy and Resources Committee, or in the case of Housing Revenue Account land or buildings the Communities Committee, competitive tenders shall be invited by public advertisement for the disposal of the land or buildings, except where disposal by negotiation at less than best value in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010 has been approved or where the Head of Technical and Property Services determines that disposal through auction is appropriate, either in accordance with delegated authority or when approved by the Policy and Resources Committee.
- 2 The successful tenderer will generally be the highest bidder, however in exceptional circumstances, the Most Economically Advantageous Tender principle can be applied, where it can be demonstrated that there are wider economic benefits to the Angus area arising from a lower priced submission. All instances where it is proposed not to accept the highest bid must be subject to the approval of the Policy and Resources Committee.
- 3 The Head of Technical and Property Services shall, in conjunction with the Head of Legal and Democratic Services and the Head of Corporate Improvement and Finance, and in consultation with the Strategic Director of Resources, be responsible for entering into negotiations with the successful tenderer and reaching provisional agreement for the

acquisition, appropriation, excambion or leasing in and disposal or termination of leasing of land or buildings in respect of approved proposals, including excambions involving the disposal or termination of leasing of land or buildings declared surplus to requirements.

- 4 Where an approach is made to purchase a piece of land and this approach relates to a small plot of land which can be determined to only have a discernable benefit to the applicant, this may be dealt with by negotiation with the applicant, subject to approval of the Policy and Resources Committee, or in the case of Housing Revenue Account land the Communities Committee, to the final terms of the sale.
- 5 Other than in the circumstances detailed at 17.2.4 above, prior approval of the Policy and Resources Committee, or in the case of Housing Revenue Account land the Communities Committee, is required for any variation from the requirement to seek competitive tenders.
- 6 The Council may receive an unsolicited approach to acquire land or property that has not been declared surplus to requirements. In such circumstances the service holding the asset will first determine whether it is potentially surplus to requirements. If this is confirmed, the process outlined above will be followed culminating in a report to Policy & Resources Committee providing a recommended way forward.

### 17.3 APPLICATION – OTHER ASSETS

- 1 Regulations 17.3 and 17.4 apply, unless otherwise stated, to all Council assets not covered under paragraph 17.1.1 above.

### 17.4 TRANSACTIONS – DISPOSAL OF OTHER ASSETS

- 1 Subject to the provisions of Regulations 17.4.3 to 17.4.6, surplus Other Assets for which there is a reasonable expectation that there is a disposal value shall be disposed of competitively, by public auction or by public advertisement inviting sealed offers, unless the relevant Service Committee decides on an alternative disposal method.
- 2 Where items are of a minor nature, e.g. small furnishings, Chief Officers may offer these for sale to employees at a reasonable amount set by the Chief Officer, providing the associated administrative arrangements are not too time consuming and disposal is not in contravention of other Council policies on equipment disposal.
- 3 Items of an information technology nature including PC's, printers, scanners, etc. are excluded from these disposal provisions and arrangements for disposal should be made through the Service Manager (Information Technology), who will have due regard to any reasonable expectation that there may be a disposal value for the assets. In this regard, disposal can include reallocation to another department, however the Service Manager (Information Technology) should still be involved to ensure that any potential issues (e.g. compatibility) are properly addressed.

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- 4 Chief Officers may, with the agreement of the Head of Corporate Improvement and Finance, release surplus items of furniture to be made available for donation to organisations and groups who contribute to the improvement of the Angus community.
- 5 Where the expected disposal value of an Other Asset is less than the Chief Officer delegated low value threshold for supplies and services as detailed in Appendix 1, the relevant Chief Officer may apply, in writing or by e-mail, to the Exemption Co-ordinator for an exemption from the requirements of Regulation 17.4.1, stating clearly why they believe an exemption is justified and including all supporting evidence to allow the Exemption Co-ordinator to form a view.
- 6 Should the Exemption Co-ordinator determine that an exemption is justified, they may approve the approach proposed or can at their discretion require that aspects of Regulation 16.21 be applied to the disposal of the asset.

### 17.5 TENDERING / SEALED OFFER PROCEDURES

Procedures for the lodging, opening, checking and examination, reporting and acceptance of tenders or sealed offers shall be in accordance with the relevant comparable provisions within section 16 of these Regulations.

### 17.6 CODE OF CONDUCT FOR COUNCIL EMPLOYEES

See Section 16.5.



## **18. ORDERS FOR WORKS, GOODS AND SERVICES**

### **18.1 INTRODUCTION**

This Section should be read in conjunction with Financial Regulation 16 - "Contract Arrangements", and Appendix 1.

Anything authorised or required to be done under this Financial Regulation 18 may be so done electronically by use of an e-procurement system approved by the Head of Corporate Improvement and Finance for that purpose. The PECOS system is currently so approved.

### **18.2 RESPONSIBILITY FOR ORDERS**

Each Chief Officer shall be responsible for all orders issued by their department, and in particular shall:

- Ensure all orders are in an approved form (see section 18.4);
- Appoint nominated officer(s) to authorise orders, and maintain a list of such officers together with the information detailed in section 18.6 below;
- Ensure that costs are allocated to appropriate budget heads and covered within approved estimates; and
- Fully observe all other instructions given by the Head of Corporate Improvement and Finance.

### **18.3 PURCHASE OF SECOND HAND GOODS FROM MEMBERS OF STAFF**

The purchase of second hand goods by the Council from members of staff is prohibited.

### **18.4 FORM OF OFFICIAL ORDERS**

All orders shall be issued in a form approved by the Head of Corporate Improvement and Finance. All orders issued via the Integra Purchase Ordering System or PECOS e-procurement system shall be raised only by officers authorised by the appropriate Chief Officer. All other orders shall be signed only by officers authorised by the appropriate Chief Officer. Orders issued via the Integra Purchase Ordering System or PECOS e-procurement system shall be raised in accordance with the instructions contained in the user operations manuals available from the office of the Head of Corporate Improvement and Finance.

### **18.5 ACCEPTABLE USE OF OFFICIAL ORDERS**

It is important to note that official orders must only be used for purchases directly attributable to the Council and must not be used for private purchases made on behalf of individual employees. Further, employees should not be permitted to purchase goods which form part of operational stock within the Council.

However, it is acceptable for employees to purchase goods or services through the Council as part of an official employee benefits package.

### 18.6 AUTHORISED OFFICERS

Chief Officers shall ensure that a register of officers authorised to raise and/or sign official orders is maintained within their department and that this is in accordance with the department's Scheme of Delegation. The register must be reviewed annually and must be made available for inspection by Internal and External Audit staff at all times.

This register will contain the following:

- The employee's name
- The designation of the employee
- The authorisation level of the signatory (financial threshold). Note that this reflects, where applicable, the VAT inclusive total of orders
- The employee's network login to facilitate electronic approval e.g. by PDF stamp
- A sample of the authorised signatory's initials
- A specimen signature

The financial threshold of each signatory should be reviewed and agreed by the relevant Chief Officer, in consultation with the Head of Corporate Improvement and Finance as necessary, to ascertain reasonableness and consistency. The financial threshold should reflect the status, and not the accessibility of the officer.

The register must be kept up to date and therefore any additions, deletions and other changes to the register must be actioned timeously.

### 18.7 PROCEDURES FOR ISSUE OF ORDERS

An official order shall be issued for all work, goods or services to be supplied to the Council with the exception of the following:

- supplies of public utility services (excepting those relating to installation, alteration or repair);
- periodical payments such as rent and rates;
- petty cash payments / reimbursements; and
- such other exceptions as the Head of Corporate Improvement and Finance may approve.

### 18.8 USE OF CORPORATE CREDIT CARD TO RAISE ORDERS

It is recognised that in some circumstances, departments may wish to apply to use the corporate credit card to order goods or services as this is the only payment method accepted by the service provider. Details regarding the use of the corporate credit card are contained at Financial Regulation [19.11](#).

## 19. PAYMENT OF ACCOUNTS

### 19.1 INTRODUCTION

Anything authorised or required to be done under this Financial Regulation 19 may be so done electronically by use of an e-procurement system approved by the Head of Corporate Improvement and Finance for that purpose. The PECOS system is currently so approved.

Where the Council is involved in partnership working and has responsibility in this regard for payment of invoices, such invoices should only be paid where they are addressed to Angus Council. It is the responsibility of the relevant Chief Officer to inform partner organisations of this requirement.

### 19.2 CERTIFICATION FOR PAYMENT

The Chief Officer issuing an order is responsible for the examination, verification and certification of the related invoices and similarly for any other invoices, payment vouchers, documents or accounts arising from sources within their department. Purchase invoices received by email are an acceptable method of submitting accounts from suppliers but must be in a secure format approved by the Head of Corporate Improvement and Finance.

The Chief Officer may authorise a nominated officer to carry out these duties on their behalf. Where these duties have been delegated, the Chief Officer must ensure that a list of such officers, together with the information detailed in section 19.3 below, is maintained.

The Chief Officer is also responsible for ensuring that all instructions given by the Head of Corporate Improvement and Finance in respect of procedures for certifying payment are fully observed within their department.

Certification should be by signature or an electronic authorisation route approved by the Head of Corporate Improvement and Finance.

### 19.3 AUTHORISED OFFICERS

Chief Officers shall ensure that a register of officers permitted to authorise payment of invoices is maintained within their department and that this is in accordance with the department's Scheme of Delegation. The register must be reviewed annually and must be made available for inspection by Internal and External Audit staff at all times.

This register will contain the following:

- The employee's name
- The designation of the employee
- The authorisation level of the signatory (financial threshold). Note that this reflects, where applicable, the VAT inclusive total of invoices
- The employee's network login to facilitate electronic approval e.g. by PDF stamp
- A sample of the authorised signatory's initials
- A specimen signature

The financial threshold of each signatory should be reviewed and agreed by the relevant Chief Officer, in consultation with the Head of Corporate Improvement and Finance as necessary, to ascertain reasonableness and consistency. The financial threshold should reflect the status, and not the accessibility of the officer.

The register must be kept up to date and therefore any additions, deletions and other changes to the register must be actioned timeously.

### **19.4 SEPARATION OF DUTIES**

Arrangements should be made by each Chief Officer for the separation of the duties of ordering goods, receiving goods and certifying invoices for payment.

Where the PECOS system is in use, as approved by the Head of Corporate Improvement and Finance, separation of the goods ordering and invoice certification duties is thus achieved by the segregation of order requisitioning and order approval duties achieved through the system.

**Variations to these arrangements are subject to the approval of the Head of Corporate Improvement and Finance.**

### **19.5 PROCEDURES PRIOR TO CERTIFICATION**

Before certifying invoices, payment vouchers, goods received notes, documents or accounts, the authorising officer shall, except to the extent that the Head of Corporate Improvement and Finance may otherwise determine, satisfy themselves that:

- a the work, goods or services to which the invoice relates have been received, carried out, examined and approved;
- b the prices, extensions, calculations, trade discounts, other allowances, credit and tax are correct;
- c the VAT treatment and calculation are correct, having regard to any advice issued by the Head of Corporate Improvement and Finance in this regard;
- d the relevant expenditure has been properly incurred and is within the relevant budget provision and has been coded accordingly;
- e the appropriate entries have been made in inventories, stores records or stock books as required;
- f the invoice has not been previously passed for payment, is in the name of the Council and is a proper liability of the Council; and
- g proper treatment, in accordance with instructions issued by the Head of Corporate Improvement and Finance, has been given to invoices subject to "Deduction of Tax from Payments to Contractors in the Building Industry".

### **19.6 PASSING INVOICES FOR PAYMENT**

Chief Officers shall be responsible for ensuring that duly certified invoices are passed for payment without delay.

Invoices shall be passed for payment via the Integra Purchase Ledger system in accordance with the instructions contained in the user operations manuals available from the office of the Head of Corporate Improvement and Finance.

All invoices passed for payment shall be clearly marked as having been passed for payment; marked as authorised by an officer so delegated in accordance with the departmental register; and shall be made available for inspection by Internal and External Audit staff at all times.

### 19.7 INTERNAL ACCOUNTS

All internal accounts between Departments shall be settled in a manner laid down by the Head of Corporate Improvement and Finance within a period of one month from the date of issue. In the event of the Departments concerned failing to agree as to the liability or the amount of the account, the matter shall be referred to the Head of Legal and Democratic Services and the Head of Corporate Improvement and Finance for final determination.

### 19.8 YEAR END LIST OF OUTSTANDING ACCOUNTS

Each Chief Officer shall, as soon as possible after each 31st March, and not later than a date to be intimated by the Head of Corporate Improvement and Finance, notify expenditure on outstanding invoices relating to the previous financial year save to the extent that it can be confirmed that all orders have been issued via "Integra" with a proper evaluation placed on such. In making such notification Chief Officers shall comply with all instructions issued by the Head of Corporate Improvement and Finance.

### 19.9 PERIODIC PAYMENTS

Where a department makes periodic payments which are not subject to orders/invoices in the normal way, the Chief Officer involved shall institute a Periodic Payments Register and shall ensure the full and regular review of such entries to ensure the continued appropriateness of such payments.

### 19.10 ADVANCE PAYMENT OF GOODS AND SERVICES

Where it is not possible to order and purchase goods or services in the recognised manner (i.e. order, receipt of goods, invoice and payment), alternative arrangements may be made. Unless provided for otherwise by specific guidance as may be issued from time to time by the Head of Corporate Improvement and Finance, all such arrangements **must be subject to the prior approval of the Head of Corporate Improvement and Finance** and must ensure full certification and authorisation. In this regard, specific guidance has been issued relating to some maintenance contracts and some utility company transactions. Specific further guidance or interpretation in respect of this Financial Regulation 19.10 can be sought from the Council's nominated VAT contact rather than the contact noted at the end of this section.

The approval of the Head of Corporate Improvement and Finance will indicate how VAT on such purchases is to be dealt with.

### 19.11 USE OF CORPORATE CREDIT CARD TO MAKE PAYMENTS

It is recognised that in some circumstances, departments may wish to apply to use the corporate credit card to pay for goods or services as this is the only payment method accepted by the service provider. Use of the corporate credit card is strictly limited to such instances at present and is administered by the Head of Corporate Improvement and Finance.

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A formal procedure for the use of the corporate credit card is in place and entails the submission of an application form to the Head of Corporate Improvement and Finance which can be requested via [finance@angus.gov.uk](mailto:finance@angus.gov.uk).

Approval of any one use of the corporate credit card will not be deemed to create a precedent and each application will be considered on its own individual merits.

**20. PAYROLL ADMINISTRATION**

**20.1 HEAD OF SERVICE RESPONSIBILITIES**

The Head of Service with responsibility for Human Resources, shall be responsible for establishing effective, efficient, economical and secure arrangements for the proper, timeous payment of all emoluments to employees or former employees of the Council and for due proper accounting of all deductions to the proper authorities to whom deductions must be forwarded within laid down timescales.

**20.2 PAYMENT OF SALARIES AND WAGES**

The payment of all salaries, wages, compensation and other emoluments to all employees or former employees of the Council shall be made by the Head of Service with responsibility for Human Resources or under arrangements approved and controlled by them.

**20.3 CHIEF OFFICERS' RESPONSIBILITIES**

Each Chief Officer, as determined by the Head of Service with responsibility for Human Resources, shall keep records of all matters affecting the payment of such emoluments and in particular:

- a appointments, promotions, resignations, dismissals, suspensions, secondments and transfers;
- b absences from duty for sickness, holidays or other reason;
- c changes in remuneration, other than normal increments and pay awards and agreements of general application; and
- d information necessary to maintain records of service.

Each Chief Officer shall fully observe all directions and advice in respect of payroll administration issued by the Head of Service with responsibility for Human Resources on any matter affecting or potentially affecting the payment of any emolument.

**20.4 FORM OF PAY DOCUMENTS**

All time records or other pay documents shall be in a form prescribed or approved by the Head of Service with responsibility for Human Resources and shall be certified by or on behalf of the Chief Officer.

Chief Officers shall ensure that a register of officers authorised to raise and/or sign official documentation is maintained within their department and that this is in accordance with the department's Scheme of Delegation. The register must be reviewed annually and must be made available for inspection by Internal and External Audit staff at all times.

## ANGUS COUNCIL FINANCIAL REGULATIONS

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This register will contain the following:

- The employee's name
- The designation of the employee
- The limits to authority of the signatory
- The employee's network login to facilitate electronic approval e.g. by PDF stamp
- A sample of the authorised signatory's initials
- A specimen signature

The limits to authority of each signatory should be reviewed and agreed by the relevant Chief Officer to ascertain reasonableness and consistency. The financial threshold should reflect the status, and not the accessibility, of the officer.

The register must be kept up to date and therefore any additions, deletions and other changes to the register must be actioned timeously.

*For the purposes outlined above, Designated Officer is defined at paragraph [1.11](#).*



**21. INCOME**

**21.1 CHARGES FOR GOODS OR SERVICES SUPPLIED BY THE COUNCIL**

Not less frequently than once a year, each Service Committee and Chief Officer shall, in consultation with the Head of Corporate Improvement and Finance, prepare schemes of charges to be made for goods supplied or services rendered. Where a charge to be made depends upon the means of the recipient of that charge, a scale shall also be prepared for the assessment of any rebate or concession to be granted. The scheme of charges shall be approved by the Council. Any exception to the foregoing must be formally agreed beforehand with the Head of Corporate Improvement and Finance.

**21.2 VARIATION OF CHARGES**

Charges for goods or services shall be varied only with the authority of the Council. The Head of Corporate Improvement and Finance may make minor variations in special cases.

**21.3 RAISING INVOICES**

Chief Officers shall be responsible for ensuring invoices are raised at the time of the provision of goods or services or as soon as possible thereafter.

Invoices shall be raised via the Integra Sales Ledger system in accordance with the instructions contained in the user operations manuals available from the office of the Head of Corporate Improvement and Finance.

Chief Officers shall ensure that a register of officers authorised to raise invoices is maintained within their department and that this is in accordance with the department's Scheme of Delegation. The register must be reviewed annually and must be made available for inspection by Internal and External Audit staff at all times.

This register will contain the following:

- The employee's name
- The designation of the employee
- The employee's network login to facilitate electronic approval e.g. by PDF stamp A sample of the authorised signatory's initials
- A specimen signature

The register must be kept up to date and therefore any additions, deletions and other changes to the register must be actioned timeously.

**21.4 MONIES DUE TO THE COUNCIL**

Chief Officers shall ensure that the collection, custody, control and banking of all monies arising in their Department are secure with all risks minimised. They shall observe all directions issued by the Head of Corporate Improvement and Finance in this regard.

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

### **21.5 RECEIPT FORMS, BOOKS, TICKETS ETC**

All receipt forms, books, tickets and other such items used to record financial and related transactions shall be in a form approved by the Head of Corporate Improvement and Finance and shall be ordered, controlled and issued to Departments by them or under arrangements approved by them. No officer shall give a receipt for money received on behalf of the Council on any form other than an official receipt form or ticket. A receipt must be issued for all money received - with no exceptions.

### **21.6 ARRANGEMENTS FOR DEPOSITING MONIES**

Subject to 21.7 below, all monies received on behalf of the Council in any Department shall be deposited promptly with the Head of Corporate Improvement and Finance or the Council's Bankers in accordance with arrangements made with the Head of Corporate Improvement and Finance and in line with the provisions of Financial Regulation 14.4. No deduction may be made from such money except to the extent that the Head of Corporate Improvement and Finance may specifically authorise.

### **21.7 CASH PAYMENTS**

No single cash payment in excess of £4,000 shall be accepted by the Council without a formal approval from the Head of Corporate Improvement and Finance. Cash payments for the purposes of this Regulation include notes, coins and travellers cheques in any currency, including for the avoidance of doubt, pounds sterling.

### **21.8 PERSONAL CHEQUES**

Personal cheques shall not be cashed out of money held on behalf of the Council, nor shall personal cheques be substituted for cash collected on behalf of the Council

### **21.9 EVIDENCE OF TRANSFERS OF MONIES**

All transfers of money from one employee to another will be evidenced in the records of the Departments concerned by the signature of the receiving officer.

### **21.10 BAD DEBTS**

The Head of Corporate Improvement and Finance has delegated authority to write-off all debts owed to the Council providing all avenues to make recovery have been exhausted and that sufficient provision exists within the Council's accounts to meet such bad debts (Scheme of Delegation to Officers 6(a) refers).

**22. FINANCIAL SYSTEMS**

**22.1 GENERAL**

The Head of Corporate Improvement and Finance shall make such rules and set out such procedures as they consider should be followed by all Departments of the Council in order to provide and maintain satisfactory financial systems. It shall be the duty of the Chief Officer of each Department to ensure compliance with these rules and procedures. Any subsidiary or memorandum analysis of income and expenditure shall in all cases, and prior to implementation, be specifically approved by the Head of Corporate Improvement and Finance.

**22.2 CORPORATE FINANCIAL SYSTEMS**

The Head of Corporate Improvement and Finance shall issue detailed rules and procedures for the operation of all Integra modules (i.e. General Ledger, Purchase Ledger, Sales Ledger and Purchase Order Processing (RSS)) and PECOS. The Head of Service with responsibility for Human Resources shall issue such rules and procedures for ResourceLink (integrated payroll and personnel system). These rules and procedures shall be in the form of User Operations Manuals, copies of which shall be available from the office of the Head of Corporate Improvement and Finance or the Head of Service with responsibility for Human Resources respectively.

**22.3 SYSTEMS SECURITY ACCESS**

The Head of Corporate Improvement and Finance shall maintain a register of all allocated security accesses to the Integra and PECOS systems. The Head of Service with responsibility for Human Resources shall maintain such a register in respect of the ResourceLink system. Security access shall be issued to individual users only following written application. Proformas for this purpose are available on request from the Payments/Income manager via the contact noted at the end of this section, or the Payroll Manager in respect of ResourceLink.

It shall be the responsibility of the Chief Officer, or other officer he may authorise, to control applications for security access in order that compliance with the principle of appropriate separation of duties etc is ensured.

Additionally, employees should be aware that they have individual responsibilities in respect of basic Integra and ResourceLink security, and should recognise the confidential nature of the data held on these systems.

**23. INSURANCE AND RISK MANAGEMENT**

**23.1 HEAD OF SERVICE RESPONSIBILITIES**

The Service Manager (Governance & Consultancy) shall effect insurance cover and negotiate all claims in consultation with other officers as necessary. Such insurances as are required can be placed either with insurance companies or the risk carried in the Council's Insurance Fund within an assessed deductible level or the risk carried within the department's own budget for items not insured.

All relevant employees of the Council shall be included in a fidelity guarantee insurance policy as determined by the Policy and Resources Committee following advice from the Service Manager (Governance & Consultancy).

**23.2 CHIEF OFFICERS' RESPONSIBILITIES**

Each Chief Officer shall give prompt notification to the Service Manager (Governance & Consultancy) of potential liabilities, property or vehicles which require to be insured or affect existing insurance or funding arrangements.

Chief Officers shall immediately notify the Service Manager (Governance & Consultancy) of all incidents of loss, damage or injury (both insured and uninsured) which may give rise to a claim by or against the Council.

Chief Officers shall ensure that risk management initiatives are co-ordinated through the Governance section within the Chief Executive's Unit.

**23.3 REVIEW OF INSURANCES**

The Service Manager (Governance & Consultancy) shall annually or as necessary, review all insurances, in consultation with Chief Officers where necessary.

**23.4 INVESTMENT OF INSURANCE FUND MONIES**

All investments of monies for the Insurance Fund shall be made by the Head of Corporate Improvement and Finance in the name of the Council. Any investments made will be made in accordance with the policy determined by the Policy and Resources Committee following advice from the Head of Corporate Improvement and Finance.

In line with LASAAC guidance "Accounting For Insurance In Local Authorities In Scotland", it is good practice to obtain a regular independent valuation of the Insurance Fund. The guidance notes that the period of review is a matter for each local authority to determine.

In respect of the Angus Council Insurance Fund, the Service Manager (Governance & Consultancy) ensures that an independent valuation of the Insurance Fund is conducted periodically to ensure that fund balances are adequate to meet current and future projected liabilities.

### 23.5 RISK

The Chief Executive will ensure that there is a structured framework in place for ensuring the continuous identification, prioritisation and management of Council risks in terms of the Risk Management Strategy agreed by the Policy and Resources Committee. The Chief Executive will also be responsible for the continuous maintenance and management of the Corporate Risk Register and co-ordinated reporting of overall Council risks.

The Service Manager (Governance & Consultancy) will ensure that insurable risks faced by the Council are identified and quantified and that effective measures are taken to reduce, eliminate or insure against them.

Specific responsibilities will embrace:

- evaluating the possible impact of risk
- determining what must be done about risk
- applying measures to avoid or reduce risk

Key controls will ensure that there is an effective framework in which the Council can:

- identify and assess risk
- determine what steps should be taken to reduce or even eliminate risk
- make provision for losses that might result from the risks that remain
- monitor the effectiveness of risk reduction strategies

All Chief Officers will be responsible for the continuous maintenance, management and reporting of their departmental risk registers.

## 24. STORES, INVENTORIES AND ASSETS – CUSTODY AND CONTROL

### 24.1 CHIEF OFFICERS' RESPONSIBILITIES

Chief Officers are responsible for the safe-keeping and control of Council stocks, stores, furniture, fittings and equipment used within their departments. An inventory of furniture, fittings and equipment must be maintained within the department and made available as required for any audit inspection. On an annual basis, Chief Officers will be required as part of the Council's annual accounts process to provide a return to the Head of Corporate Improvement and Finance of all stocks and stores held.

Chief Officers are responsible for ensuring that:-

- a an efficient method of stocks and stores accounting is maintained and has been agreed with the Head of Corporate Improvement and Finance.
- b accounting for stocks is performed on a continuous records basis.
- c minimum economic levels of stock are maintained.
- d at least annually reconciliations of stocks and stores are carried out. Where there is a higher volume of movement of stocks in and out, more frequent reconciliations should be performed.
- e at least annually, a physical stock take is carried out by a person independent of the person responsible for the stocks on a day to day basis.
- f any items considered obsolete or surplus to requirements should be disposed of in accordance with the Other Assets provisions of Financial Regulation 17.3.
- g any discrepancies between actual physical and lists of stocks, stores, equipment or other assets must be notified immediately to the Head of Corporate Improvement and Finance.

### 24.2 USE OF COUNCIL ASSETS

Generally Council assets and resources must only be used in the course of Council business. In exceptional circumstances it may be permitted for an employee to use assets and resources for personal reasons but, in order to do so, permission must be obtained from their Chief Officer. It should be noted that permission for private use **will not** be granted in relation to other paid work an employee may have been permitted to do.

Chief Officers issuing permissions for private use must implement appropriate recording, monitoring and usage guidance arrangements agreed with the Head of Corporate Improvement and Finance and ensure employees make payment, where appropriate, for using the assets, equipment or resources.

### 24.3 SALE OF SURPLUS OR OBSOLETE STOCKS, STORES AND EQUIPMENT

All stocks, stores, equipment, furnishing, plant, etc. which a Chief Officer has declared, in consultation with the Head of Corporate Improvement and Finance, to be surplus to requirements or obsolete may be sold in accordance with the Other Assets provisions of Financial Regulation 17.3.

**24.4 AUDIT**

Stores and inventories will be periodically audited either by Internal or External Audit.

## 25. SECURITY

### 25.1 CHIEF OFFICERS' RESPONSIBILITIES

It is the responsibility of the Chief Officer to ensure the security of all buildings, furniture, equipment, cash, stocks and stores under their control. Additionally, the Strategic Director Communities and the Head of Legal and Democratic Services are responsible for the security of Local Offices (including ACCESS Offices) and HQ buildings respectively.

Chief Officers are required to consult with the Head of Technical and Property Services, and if necessary Head of Corporate Improvement and Finance, in all cases where it is felt that security is defective and where special arrangements are required.

### 25.2 CASH SECURITY

Each Chief Officer shall inform the Head of Corporate Improvement and Finance of all cash holdings within their department, whether this is departmental funds or funds held on behalf of third parties. For insurance purposes, cash holdings must not exceed such amounts as may be prescribed by the Head of Corporate Improvement and Finance.

Private funds held by employees for coffee, tea, gifts etc, are not classed as funds held on behalf of third parties, and consequently are not included in the Council's insurance arrangements.

### 25.3 KEYHOLDERS

Keys to safes or other secure receptacles containing valuables are the responsibility of the persons nominated by the Chief Officer as key holders. A register of key holders should be kept in each department and made available as required for any audit inspection. Any loss of keys should be reported to the Audit Manager.

### 25.4 INFORMATION SECURITY

Chief Officers are responsible for the security of, and access to, all information within their department in accordance with the Council's [Information Governance Strategy](#).



**26. IMPREST ACCOUNTS**

**26.1 IMPREST GUIDANCE**

The Head of Corporate Improvement and Finance shall provide imprest facilities to specific officers as considered appropriate and shall issue guidance notes as to the operation of the imprest system.

No changes to imprest facilities will be permitted without the express approval of the Head of Corporate Improvement and Finance.

**26.2 IMPREST PAYMENTS**

Payments from imprest accounts shall only be for minor items of expenditure and should be supported by receipts. The maximum limit for any one payment will be as determined by the Head of Corporate Improvement and Finance.

**26.3 INCOME RECEIVED**

No income collected shall be lodged in an imprest account but must be paid into the relevant bank account.

**26.4 OFFICERS' RESPONSIBILITIES**

Officers holding an imprest account are personally responsible for the security and correct operation of the account and shall, upon request, provide the Head of Corporate Improvement and Finance with a certificate of imprest held. Officers are also responsible for ensuring the timeous record keeping of the imprest and for performing frequent reconciliations of cash held.

**26.5 ACCEPTABLE USE OF IMPREST ACCOUNTS**

It is important to note that imprest accounts must only be used for purchases directly attributable to the Council and must not be used for private purchases made on behalf of individual employees.

**27. TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCES**

**27.1 ESTABLISHMENT OF ARRANGEMENTS**

The Head of Service with responsibility for Human Resources shall establish arrangements including a timetable to ensure the proper timeous payment of claims for travel, subsistence and financial loss allowances necessarily incurred in the carrying out of duties on behalf of the Council. In exceptional circumstances where a representative of the Council may be substantially out of pocket whilst carrying out official duties an appropriate cash advance may be considered by the relevant Officer, at third tier or above, and made available.

**27.2 CLAIMS PROCEDURES**

All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be completed in accordance with Personnel Advisory Bulletins 6, 9 and 37 and any other guidance as may be issued from time to time by the Head of Service with responsibility for Human Resources or the Head of Corporate Improvement and Finance.

All claims shall be submitted, duly certified and in a form approved by the Head of Service with responsibility for Human Resources, and made up to a specified day of each month. A register of authorised officers should be maintained in accordance with the requirements of Financial Regulation [20.4](#).

**27.3 CERTIFICATION OF CLAIMS**

The certification by or on behalf of the Chief Officer shall be taken to mean that the authorising officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council. In particular each Chief Officer shall ensure that all claims make proper distinction between taxable/non-taxable elements and that the prescribed appropriate rate (e.g. for mileage) has been used.

**27.4 EXPIRY PERIOD FOR CLAIMS**

Employees' claims submitted more than 3 months after the expenses were incurred will not be paid.

## **28. MEMBERS' REMUNERATION AND EXPENSES**

### **28.1 SCHEME OF MEMBERS' ALLOWANCES**

In terms of the Finance and Information Technology Committee decision of the 17 March 1998, the Head of Corporate Improvement and Finance has delegated authority to make appropriate technical amendments to the Scheme of Members' Allowances.

The Scheme will be in accordance with the regulations issued by the Scottish Government and Members will be paid in accordance with the Council's approved Scheme.

### **28.2 PAYMENT OF EXPENSES INCURRED**

Payment to Members of the Council in respect of expenses incurred will be made on receipt of the prescribed form duly completed and submitted within the agreed timetable, i.e. the tenth of each month for payment at the end of that month.

All claims for a financial year up to 31 March must be submitted by a specific date, as detailed in a report to the Policy and Resources Committee in the February / March committee cycle each year.

All claims submitted more than 3 months after the expenses were incurred will not be paid.

## 29. **GRANTS AND SUBSCRIPTIONS**

### 29.1 SCOPE

The Council provides financial assistance to outside bodies, usually voluntary or community organisations, in a variety of ways. These include:-

- Direct Grant Aid (known as the Angus Council Community Grant Scheme)
- Contracts or Service Level Agreements
- 50/50 grants to community councils
- Subscriptions

### 29.2 GRANT APPLICATION FORM

Any organisation seeking a grant must complete a grant application form.

Service Level Agreements and contracts will be arranged by mutual agreement and negotiation.

All applications for grants or subscriptions shall, unless in special circumstances, be accompanied by a copy of the group's constitution, an independently examined copy of the accounts of the organisation for the financial year immediately preceding, a copy of an original bank or building society statement for each account held and other supporting documentation as detailed in the guidance. New groups should provide an income and spending estimate for the next 12 months and a letter from their bank or building society on headed paper with the account details.

### 29.3 CONSIDERATION OF APPLICATIONS

All applications will be centrally co-ordinated by the External Funding Team. Applications will be assessed by representatives from one or more departments or services who form part of the Community Grant Scheme Working Group chaired by the Service Manager (Economic Development).

These officers will consider grant applications and make recommendations using the agreed assessment form within the stipulated timescale.

In order to ensure consistency and co-ordination, there will be one Report to the Development and Enterprise Committee which will include details of all applications assessed by the People and Communities Directorates, and which:-

- (a) advises the Development and Enterprise Committee of decisions taken by departments or by the Community Grant Scheme Working Group on applications up to, and including, £1,000, and/or
- (b) makes recommendations to the Development and Enterprise Committee on applications over £1,000;

The Community Grant Scheme Working Group will also consider all applications to the Council for Common Good Funds.

## 29.4 EXTERNAL FUNDING OPPORTUNITIES

All Angus Council Community Grant Scheme applications should be returned in the first instance to the Senior External Funding Officer. Applications will be checked for eligibility, allocated a specific reference number and logged on the funding database. This will also allow the external funding team to identify the potential availability of additional or alternative funds from sources other than the Council and draw this to the attention of the applicant.

## 29.5 CODE OF GUIDANCE ON FUNDING EXTERNAL BODIES

### National Guidance

The Council has adopted the Principles contained in the [Code of Guidance](#) on Funding External Bodies and Following the Public Pound which has been issued by the Accounts Commission and CoSLA.

Where a grant or subscription comes within the scope of this document, i.e. where:

- the amount of funding is likely to involve council expenditure equal to the product of at least £1 on the Band D Council Tax (at the time of writing this equates to approximately £45,864)
- or
- the absence of the council's financial contribution would affect the external organisation's capacity to continue
- or
- the council's financial contribution represents 30% or more of the organisation's funding.

the operational guidance issued by the Accounts Commission and Cosla should be adhered to.

### Angus Council Guidance

To aid implementation of the Guidance on Funding External Bodies and Following the Public Pound locally in Angus Council, the Legal and Democratic Service has published additional detailed guidance for Council officers to follow. This guidance provides clear advice on what is required and provides a model Service Level Agreement which should be adopted for those funding arrangements falling within the scope of the Code. The Angus Council Guidance is available on the Council's Corporate Intranet under "Policies".

## 29.6 CODE OF CONDUCT FOR COUNCIL EMPLOYEES

An Employee Code of Conduct for Council Employees was approved on 29 January 2004, and can be found on the Corporate Intranet under Employee Matters. This policy statement is designed to support the requirements of the Financial Regulations, and recognises that in addition to financial assistance, the Council may provide other support to voluntary and charitable organisations. Such support may include the provision of accommodation, equipment and staff resources.

The value of such assistance must be ascertained and authorised in advance by the relevant Chief Officer.

**29.7 AUDIT**

Every successful applicant for a grant is required to complete and return an end of project monitoring report within one year of the date of award letter. Any grant awarded must be spent within one year of award and any unused grant returned to the Council. Specific conditions regarding possible repayment of grant are set out in the Contract which forms part of the original application form.

The award of financial assistance by way of grants and subscriptions to outside bodies is subject to audit review to ensure the effective use of the public pound.

## **30. COMMON GOOD FUNDS**

### **30.1 POLICY GUIDELINES**

The Council's Policy Guidelines for accessing and maintaining the Common Good Funds are detailed in Report 555/04 to the Strategic Policy Committee of 22 June 2004, which approved the "Common Good Fund Policy Guidelines and Administrative Procedures". A copy of this document is attached at Appendix 5, as amended to reflect the changes in the Council's Committee and Management structures.

In addition, an application form and guidance notes were introduced for applications from community groups, in accordance with report 1286/05 to the Strategic Policy Committee of 25 October 2005.

### **30.2 REVENUE AND CAPITAL EXPENDITURE**

The provisions relating to the Council's main activities shall apply equally to the Common Good Funds.

### **30.3 PROCEDURES FOR INVESTMENT OF COMMON GOOD MONIES**

All investments of money under the control of the Council shall be made by the Head of Corporate Improvement and Finance in the name of the Council. Any investments made will be made in accordance with the relevant legislation and the Treasury Management Strategy determined by the Council.

### **30.4 CUSTODY OF COMMON GOOD SECURITIES**

All securities, which are the property of the Council or are in the name of the Council, shall be held in custody under the supervision of the Head of Corporate Improvement and Finance.

### **30.5 PROCEDURES FOR ACCESSING COMMON GOOD MONIES**

The administrative procedures for accessing Common Good Monies are detailed at Financial Regulation [29.3](#) within the previous Section on Grants and Subscriptions.

### **30.6 ASSETS OWNED BY COMMON GOOD FUNDS**

The Head of Corporate Improvement and Finance is responsible for the maintenance of an asset register in respect of the assets owned by the Common Good Funds.

### **30.7 MAINTENANCE OF PROPERTY AND REGULAR REVIEW OF RENT LEVELS**

The Head of Technical and Property Services is responsible for the maintenance of property owned by the Common Good Fund, and ensuring that where relevant, a reasonable rent is charged for the use of such assets. The level of rent charged will be subject to regular review. In respect of properties let to Council departments, this will be a five yearly review. Properties let to external parties will be subject to commercial lease agreements that will include provision for regular rent reviews of not more than five years.

**30.8 AUDIT**

The Common Good Funds shall be within the scope of Internal and External Audit Review.



**31. CHARITABLE TRUSTS AND OTHER FUNDS**

**31.1 CUSTODY AND CONTROL OF FUNDS**

The Head of Corporate Improvement and Finance, in conjunction with the Head of Legal and Democratic Services, shall ensure the proper and safe custody and control of all charitable trusts and other funds held by the Council and shall ensure that all expenditure is in accordance with the conditions of the trust.

**31.2 NOTIFICATION TO THE HEAD OF CORPORATE IMPROVEMENT AND FINANCE**

All charitable trusts and other funds shall, wherever possible, be in the name of the Council. All monies left in trust to the Council or to be administered by its officials shall be notified immediately to the Head of Corporate Improvement and Finance.

**31.3 DEPOSIT OF SECURITIES WITH HEAD OF CORPORATE IMPROVEMENT AND FINANCE**

All members or officers acting as trustees by virtue of their official position shall deposit all securities etc relating to the trust or charitable fund with the Head of Corporate Improvement and Finance.

**31.4 PROCEDURES FOR INVESTMENT OF ALL CHARITABLE TRUST AND OTHER FUND MONIES**

All investments of money under the Council's control shall be made by the Head of Corporate Improvement and Finance in the name of the Council or in the name of nominees approved by the Policy and Resources Committee. Any investments made will be made in accordance with the Treasury Management Strategy determined by the Council except where the trustees of a charitable fund or trust have approved their own separate investment policy.

**31.5 AUDIT**

All Funds may be subject to Internal or External Audit review.

**32. ALL VOLUNTARY AND UNOFFICIAL FUNDS**

**32.1 FORM OF BANK ACCOUNT (OR EQUIVALENT)**

Bank accounts (or equivalent) of all Funds relative to schools/residential homes and operated by officers of the Council by reason of their employment must be in the name of Angus Council (Name of School/Residential Home) (Name of Fund). The Rector / Head Teacher / Residential Manager together with one other teacher/employee will be the joint signatories for the operation of the account(s). In the case of one-teacher schools and in the absence of another employee (e.g. classroom assistant), the signature of the Head Teacher will suffice.

**32.2 COMFORT FUNDS**

Where comfort funds exist, each fund must have in place a constitution, and a management committee comprising staff, service users and carers/friends of service users. Cheques drawn from a fund bank account will require two signatures, one of which must be a member of staff. Any exception to this must be approved by the Head of Service with operational responsibility for the unit managing the fund.

Annual accounts must be prepared, and be audited by persons independent of the daily operation of the fund. Employees of the department responsible for the unit managing the fund cannot act as auditors. Audited accounts must be displayed or otherwise made readily accessible to the public.

If it is found that a fund is not being managed appropriately, or that controls are not being observed, or that the fund is not being used for the benefit of those it is supposed to serve, the Chief Officer of that department will arrange for the fund to be dissolved.

**32.3 REGISTER OF FUNDS**

Chief Officers shall ensure that a register of all Funds is maintained within their department. The register must be reviewed annually and must be made available for inspection by Internal and External Audit staff at all times.

The register must be kept up to date and therefore any additions, deletions and other changes to the register must be actioned timeously.

**32.4 ANNUAL ACCOUNTS**

Annual Accounts should be prepared in accordance with recognised accounting procedures and a copy sent to the Head of Corporate Improvement and Finance within 3 months of the accounting period end.

**32.5 VARIATIONS TO THE REGULATIONS**

Any proposed modification to the application of the above Regulations must be discussed and agreed with the Head of Corporate Improvement and Finance prior to implementation.

**32.6 AUDIT**

All Funds may be subject to Internal or External Audit review.

## 33. RECEIPT OF GIFTS, GRATUITIES AND HOSPITALITY

### 33.1 GENERAL GUIDANCE

Members and employees are personally responsible for their decisions in relation to the acceptance of gifts and hospitality and must always act in a manner which avoids damage to the reputation of the Council. Any offer of gift, hospitality or favour extended personally to a member or employee must be treated with caution as the person or organisation extending the offer may be doing business with or hoping to be doing business with the Council, or may have an interest in a decision the Council may make.

**Gifts or hospitality should only be accepted where a third party would see this as normal and reasonable and should not be of a value which might be perceived by a third party as casting influence on the member or employee.**

If any member or employee is in any doubt as to acceptance, advice should be taken from their Chief Officer or, if appropriate, the Chief Executive.

### 33.2 ACCEPTANCE OF GIFTS

While personal gifts should not be accepted, small value gifts of a promotional nature, e.g. diaries, pens, etc. are allowable and need not be declared. However, the frequency of receipt of gifts must also be taken into consideration and regular acceptance of these small value gifts is not permissible.

In some exceptional circumstances gifts of a higher value nature (valued in excess of £40) may be offered and may be accepted on behalf of the Council. In these circumstances permission of a Chief Officer or the Chief Executive is required prior to acceptance. The gift and the estimated value thereof must immediately thereafter be recorded in the Gifts and Hospitality Register kept by the Head of Legal and Democratic Services. The form for recording gifts in the register is attached at Appendix 6, and is available electronically on the Council's Intranet under "Employee Matters" – "Employee Code of Conduct".

Where an employee is the beneficiary of a gift or legacy from a service user, the matter must be referred to the Head of Legal and Democratic Services who shall decide if Committee approval is required for the employee to retain the gift.

### 33.3 ACCEPTANCE OF HOSPITALITY

Acceptance of reasonable hospitality as part of attendance at a meeting or conference in the normal course of Council business is acceptable.

Reasonable hospitality can also be accepted where it is extended only to Angus Council employees as part of a demonstration or inspection and the Council has paid the costs of the visit, e.g. travelling costs.

Reasonable hospitality in both the above circumstances is usually taken to mean morning / afternoon refreshments and / or lunch and does not require to be entered in the Gifts and Hospitality Register. Hospitality in excess of this requires prior permission of a Chief Officer.

Subject to the provisions of Financial Regulation 33.4 below, attendance at a social or sporting event may be permissible if authorised in advance by a Chief Officer who must assess the value of the hospitality and the benefit to the Council of attendance. If the value of the whole package (i.e. hospitality, ticket value, etc.) is considered by the Chief Officer to be within generally accepted limits, attendance is permissible so long as the appropriate entry is made in the Gifts and Hospitality Register maintained by the Head of Legal and Democratic Services. All attendances at social or sporting events require declaration in this Register. The form for recording hospitality in the register is attached at Appendix 13, and is available electronically on the Council's Intranet under "Employee Matters" – "Employee Code of Conduct".

For indicative purposes, hospitality valued significantly in excess of £150 would not generally be acceptable.

### **33.4 EXCLUDED HOSPITALITY**

There are specific circumstances where acceptance of hospitality, irrespective of value, is not permitted which are detailed within the employee Code of Conduct

Employees accepting hospitality in the above situations may leave themselves open to disciplinary action.

### **33.5 ACCEPTANCE OF FEES, COMMISSIONS, ETC.**

No person employed by the Council shall be entitled to retain any fee, commission or other payment collected or received as part of their office or employment except with the formal approval of their Chief Officer or Convener of the appropriate Service Committee.

Any employee who receives a fee, commission or other payment from a party who is, or may expect to be, under contract to the Council for provision of works, goods or services shall be liable to dismissal without notice.

The sections above should be read in conjunction with the relevant part of the [Employee Code of Conduct](#).

### **34. VEHICLE PURCHASES**

#### **34.1 COORDINATION**

All operational vehicle purchases should be undertaken through the Head of Regulatory & Protective Services who will arrange advice and procurement via Tayside Contracts.

#### **34.2 HEAD OF CORPORATE IMPROVEMENT AND FINANCE RESPONSIBILITIES**

The Head of Corporate Improvement and Finance will require to be consulted on appropriate funding routes – this is to be separate from procurement routes / consultations.

#### **34.3 DEPARTMENTAL RESPONSIBILITIES**

Service Departments should submit their operational vehicle requirements for the forthcoming year and later years to the Head of Regulatory & Protective Services. This will enable a planned programme of vehicle replacement for all departments of the Council to be considered for inclusion in the relevant financial budgets for the forthcoming financial year and subsequent years.

#### **34.4 OTHER CONSIDERATIONS**

It is recognised that not all vehicles are financed through the Council's Approved Annual Revenue and Capital Programmes and there are vehicles which may be funded by way of private donation, fund raising activities, Comfort Funds, School Funds, Lottery Funding etc. Although the Council cannot exert full control over the acquisition of such vehicles it is deemed advisable that, wherever possible, those responsible for the acquisition should contact the Head of Regulatory & Protective Services with a view to accessing professional advice and assistance. Liaison should also take place with the Insurance Section within the Governance section of the Chief Executive's Unit to ensure consideration is given to necessary insurance cover.

## Appendix 1 - Procurement Arrangements &amp; Delegated Authority

Area	Maximum Limit (VAT Exclusive)	Chief Officers can:	Comments
<b>Construction &amp; Civil Engineering Works</b>	£500,000	(A) <ul style="list-style-type: none"> <li>• Advertise for tenderers*</li> <li>• Select tenderers</li> <li>• Invite tenders</li> <li>• Open tenders</li> <li>• Accept tenders</li> <li>• Issue orders under Term Contracts/ menu pricing contracts</li> </ul> <p>*Required where outwith scope of Approved Lists.</p>	Note EU limits below regarding the advertising, selection and award of contracts.  All tenders to be lodged with Law & Administration, except "quotation" procedure.  Term contracts include Schedule of Rates, Urgent Repair & Jobbing.  Includes construction-related property infrastructure maintenance services but see Note 5 below re application of EU thresholds
<b>Services</b>	£50,000	<ul style="list-style-type: none"> <li>• As A above</li> </ul>	Through competitive tender including consultancy and transportation services.
<b>Transportation Services (Best Value Procedure)</b>	40%	<ul style="list-style-type: none"> <li>• Apply Best Value procedure</li> </ul>	Transportation services only (see FR 16.18). % is of the total local bus service subsidy budget per financial year.
<b>Supplies</b>	£50,000	<ul style="list-style-type: none"> <li>• As A above</li> </ul>	Including furniture, plant, vehicles, equipment, ICT hardware.
<b>Exempt Contracts</b>	£100,000	<ul style="list-style-type: none"> <li>• As stipulated in Exemption Approval</li> </ul>	Exemption Co-ordinator's limit. Beyond this limit, Committee authority is required.
	Low Value Threshold	<ul style="list-style-type: none"> <li>• As stipulated in Exemption Approval</li> </ul>	Chief Officers may grant their own exemption approvals up to and including the Low Value Threshold amount (see below).
<b>Emergency Contracts</b>	£50,000	<ul style="list-style-type: none"> <li>• Select provider(s), invite, open and accept Quotations</li> </ul>	Quotations may be sought verbally but must be confirmed in writing.
<b>Other Areas</b>	£20,000	<ul style="list-style-type: none"> <li>• As A above</li> </ul>	i.e. areas not covered above. Through competitive tender
<b>Low Value Threshold</b>	£50,000	<ul style="list-style-type: none"> <li>• Select bidders, invite, open and accept Quotations; grant their own exemptions</li> </ul>	Construction & Civil Engineering Works; and Supplies & Services
<b>Contract Variations</b>	40%	<ul style="list-style-type: none"> <li>• Vary by %age of awarded contract value</li> </ul>	Varying the scope, amount or quantity (cumulative). Note that exceeding this limit only requires consultation before approval. Necessary contract variations remain fully delegated. Note also, however the separate budget reporting requirements in FRs 3.8 and 7.6
<b>De Minimis Threshold</b>	£1,000	<ul style="list-style-type: none"> <li>• As A above</li> </ul>	

<p><b>Properties (Land &amp; Buildings)</b></p>	<p>£50,000</p>	<p>To encompass all property transactions including Common Good properties<sup>A</sup>, comprising new leases and rent reviews, lease renewals, appropriations, excambions, granting of wayleaves, servitude rights of access, management of dilapidations schedules.</p> <p>To encompass all property transactions for non – Common Good Properties<sup>B</sup> comprising appropriations excambion, disposals<sup>C</sup> and acquisitions (including through negotiation).</p>	<p>Also disposal through Auction when deemed appropriate and generally for the disposal of properties of a relatively low value (&lt;£10,000) which have been exposed to the market for a reasonable period of time without selling.</p> <p><sup>A</sup> These delegations will not be exercised should there be any objection from a Burgh Councillor to the proposal, but rather the matter will be addressed in a report to the Policy and Resources Committee for consideration.</p> <p><sup>B</sup> Such Property transactions for Common Good Properties will be addressed in a report to the Policy and Resources committee for consideration excepting where the disposals delegation applies.</p> <p><sup>C</sup> Disposal through Auction when deemed appropriate and generally for the disposal of properties of a relatively low value (&lt;£10,000) which have been exposed to the market for a reasonable period of time without selling.</p>
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**Notes**

1. All Chief Officers are required to establish a departmental / divisional Scheme of Delegation which clearly states limits of responsibility for all works within the Maximum Limit stated above. Above these limits, Committee authority is required.
2. All Chief Officers to exercise full procurement authority following Committee approval of the report detailing the proposed procurement method. The reporting requirements for "major procurements" do not limit that authority,
3. The Maximum Limits stated above are all up to and including the limits stated e.g. up to and including £500,000 (VAT Exclusive). The delegated authority limits apply on the basis of estimated contract values irrespective of whether or not the actual tendered price comes in over the limit.
4. Chief Officers have delegated authority to award term contracts for up to 6 years (the norm being 3). Any longer duration requires Committee authority.
5. EU Procurement Thresholds. Where a contract is in excess of the EU Procurement Thresholds, additional procedures may require to be undertaken in order to comply with EU Regulations. Guidance on the operation of the EU and general procurement process can be found in the [Corporate Procurement Manual](#) within the [Procurement](#) section of the Council's corporate intranet. The current EU Public Procurement Thresholds are available [here](#).



**VIREMENT LIMIT EXAMPLE (To be read in conjunction with Section 4)****COMMUNITIES DIRECTORATE**

<b><u>ACCESS</u></b>	<b><u>2013/2014</u></b>	<b><u>Total</u></b>	
	<b><u>Budget</u></b>	<b><u>Virement</u></b>	
	<b><u>£'000</u></b>	<b><u>Limit Per</u></b>	
		<b><u>Virement</u></b>	Note
		<b><u>£'000</u></b>	
<b>EXPENDITURE</b>			
Employee Costs	784	100	1
Property Costs	289	100	1
Supplies & Services	55	55	1
Transport Costs	4	4	1
Third Party Payments	0	0	
CFCR	0	0	
Recharge Costs (Internal)	0	0	
Support Services	62	0	2
<b>Total Expenditure</b>	<b><u>1,194</u></b>		
<b>INCOME</b>			
Specific Grant	0	0	
Other Grants	0	0	
Recharge Income (Internal)	786	100	3
Fees, Charges, etc	45	45	1
Other Income	0	0	
<b>Total Income</b>	<b><u>831</u></b>		
<b>NET EXPENDITURE</b>	<b><u><u>363</u></u></b>		

## Note

- 1 Per Financial Regulation 4.3, Communities is a category 2 directorate, with a maximum virement limit of £100,000 per subjective budget head level for each budget volume page and for each individual instance of virement, with the exception of those between elements of the same subjective budget head which are not subject to the virement limit. Virement cannot however be for more than 100% of the subjective budget head (Financial Regulation 4.4g refers).
- 2 Per Financial Regulation 4.4e, support service charges cannot be vired
- 3 Per Financial Regulation 4.4e Internal Recharge Income cannot be vired
- 4 Although not shown on individual pages of the budget volume, capital financing costs cannot be vired in line with Financial Regulation 4.4e.



## Angus Council Code of Practice on Data Matching

### Introduction

This Code of Practice (the Code) refers to all data matching carried out internally by Angus Council (the Council). Where data matching is carried out by a third party on behalf of Angus Council, the Council will take all reasonable steps to ensure that the standards applied conform to those contained within this Code.

The Council is aware of, and will comply with, its legal obligations under the terms of the appropriate legislation including the Data Protection Act 1998. The Council will continue to ensure that its procedures and policies reflect any changes to legislation and will monitor its practices against authoritative advice issued by the Information Commissioner and other relevant bodies.

This Code explains what is meant by data matching, why the Council uses data matching and the procedures involved. It also sets out the controls in place to ensure that the Council's data matching exercises comply with the standards set and what action can be taken by any individual who is dissatisfied with the results of a data matching exercise. The Code is not intended however to be a full and authoritative statement or interpretation of the law.

Council forms and leaflets including claim forms for Housing Benefit and Council Tax Reduction include an explanation of the main purposes for which information may be used.

The wording on the forms will vary depending on their purpose but may for example state:

"The information provided on this form and from supporting evidence, will be used by Angus Council (the "data controller for the purposes of the Data Protection Act 1998) in order to ..... The information will be held securely by the Council and will be treated as confidential except where the law requires it to be disclosed. The Council may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties or share your information with them including other bodies responsible for auditing or administering public funds in order to check its accuracy, prevent or detect crime, protect public funds or where required by law."

## Notification Under The Data Protection Act

The Information Commissioner, who promotes and enforces the Data Protection Act 1998, maintains a public register of Data Controllers. The Council has notified the Information Commissioner that it is a processor of personal data for certain purposes covering all its functions and, in particular, for the purpose of crime prevention and detection and apprehension or prosecution of offenders including data matching for protection against and detection of fraud. That registered purpose is Purpose 11 Crime Prevention and Prosecution of Offenders. A copy of the relevant section of the Council's notification can be obtained free of charge from the Council's Data Protection Officer or from the Information Commissioner's website at [www.ico.gov.uk](http://www.ico.gov.uk).

## Why Does The Council Use Data Matching?

Data matching is used primarily by the Council for the purposes of fraud detection or prevention, apprehension or prosecution of offenders. Such data matching exercises may include the matching of data held within one system with that of another internal or external system to ensure the accuracy of the data held.

## Definitions Used within this Code

**Data:** includes all automatically processed (i.e. computerised) information and some manual records.

**Personal Data:** information that affects a person's privacy, whether in his personal or family life, business or professional capacity.

**Data Subject:** an individual who is the subject of personal data.

**Processing:** essentially anything which may be done to personal data, including obtaining, holding, using, disclosing or destroying it.

**Disclosing:** in relation to data, includes disclosing information extracted from the data to other parties.

**Data Matching:** the computerised techniques whereby duplicates, near-duplicates and anomalies of data fields within and between computerised systems are identified for further investigation.

**Output:** the printed list and/or data file of reported matches resulting from processing the data.

**Auditor:** for the purpose of this code, a member of the Internal Audit Section of Angus Council.

**Angus Council External Auditor:** as appointed in terms of the Local Government (Scotland) Act 1973.

### **General Principles**

The general principles and practices governing the data matching exercise are set out below:-

- Data will only be obtained and used in accordance with the provisions of the Data Protection Act 1998.
- Data subjects will be notified in writing that their data may be used in matching exercises, for the purposes of fraud detection and prevention.
- To ensure the data is processed fairly, the software, techniques and algorithms used in the data matching exercise are those which are indicative of fraud, and will be refined in the light of practical experience.
- No assumptions will be made that the matches are fraudulent. Auditors will review output to eliminate coincidental matches, in order to concentrate exclusively on potentially fraudulent cases.
- The data obtained and processed will be current, adequate and relevant and will be the minimum required to undertake the matching exercise and report the results.
- At the conclusion of the exercise, the output data will be held for no longer than is necessary for the purpose of the exercise.
- Disclosure of the results of the exercises will be restricted to Angus Council, Angus Council External Auditor, the Department for Work and Pensions, HMRC and Police Scotland or such other bodies as may be required in law.
- Data will be held securely at all times.

### **Output Control**

The Council recognises the importance of ensuring that all output from the data matching exercise is subject to strict control to ensure its integrity and confidentiality is maintained. To that end the controls outlined below will be implemented:-

- All output from data matching exercises, both electronic and paper, will be stored securely.
- Test data will be disposed of securely.
- All intermediate data will be erased as soon as the next processing stage has been successfully completed.
- Only one set of the output will be held for a maximum period of two years from the conclusion of the matching exercise.
- A control register of output will be maintained.

### **Access Control**

The Council recognises the importance of ensuring that access to data and the systems which handle data are subject to appropriate controls designed to

prevent unauthorised access. To this end the procedures contained within the Council's IT security policy (as may be issued from time to time) will be followed and as a minimum the controls below will be put in place.

- All persons handling data as part of the data matching process will be made aware of their data protection and security obligations under the Data Protection Act and this Code. Such employees will be subject to strict access authorisation procedures.
- Access to data held in any form as part of the data matching process will only be granted to named individuals in the Internal Audit Section.
- All computers used to process the data will have appropriate physical and logical access controls so as to restrict access to the named individuals. These controls will be subject to independent scrutiny.
- Where any breach of security occurs, or is suspected, authorised users will be given new passwords or forced to change the password as soon as possible.

### **Data Back-up**

All data shall be backed up at appropriate intervals as reasonably necessary. Back-ups will be subject to the same security, destruction and access controls as the original data.

### **Monitoring of compliance with the Code**

An appropriate system will be implemented to monitor compliance with this code.

### **Review of Code**

This Code will be reviewed at least annually to reflect changes in legislation, perceived best practice and experience gained in the period following on from the previous review.

### **Appeals and Complaints**

Any queries about the content of this document or complaints should be sent to the Council's Data Protection Officer, Legal and Democratic Services, Angus House, Orchardbank Business Park, Forfar, Angus, DD8 1AN who will acknowledge receipt of the enquiry within 5 working days.

If an individual objects to their personal data being used for the purposes of fraud detection or prevention the Council will not assume they have something unlawful to hide or that they are dishonest. It may be that a legitimate reason exists why the details should not be processed in this way. Individuals who do not want their personal data to be used for these purposes can ask the Council not to use their personal data if it is likely to cause damage or distress. In these cases, individuals should write to the Council's Head of Legal and Democratic Services at Angus House, Orchardbank Business Park, Forfar, Angus, DD8 1AN setting out

the reason why use of their personal would cause damage or distress. The Council must respond within 21 days of receipt of the notice either that it will comply with the request or that it regards all or part of the request as unjustified and the extent to which it will comply with it.

Valid reasons for objection may include the following (the list is not exhaustive and the Council will consider all objections on individual merit):-

- Where the disclosure may inappropriately reveal a “safe house” or refuge address.
- Where the receiving body employs (in a capacity in which the data may be made available to them) a partner or ex-partner of the objector.
- Where the individual is under police protection or investigation.
- Where the Council is satisfied that the disclosure would lead to harm coming to the individual or their family.

Where the objection is considered unfounded by the Head of Legal and Democratic Services, the Council will include the personal data within the general disclosure for anti-fraud purposes.

### **Further Information**

More detailed information for Customers and Employees about their rights and obligations under the Data Protection Act 1998 is available from the Council's [Data Protection Intranet Site](#).

### **The Information Commissioner.**

Anyone who considers that there has been a breach of the principles of the Data Protection Act is entitled to complain to the Information Commissioner at the address shown below:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

**LOCAL BUS SERVICE PROVISION – Best Value**

(To be read in conjunction with Regulation 16.18)

Angus Council previously worked within the legislation of the 1985 Transport Act, which allowed for the award of contracts on a de minimis basis up to £12,000 per annum per contract up to a threshold of a total value of £70,000 per annum per operator.

The government's policy on transport has changed since 1985 and we are now being encouraged to enhance the commercial service network by increasing service frequencies throughout the day, providing additional journeys in the mornings, evenings and at weekends. In order not to undermine the commercial network by forcing Authorities to tender such enhancements, the Scottish Government and Department of Transport have chosen to review the 1985 Transport Act legislation, in particular the de minimis rules. In Scotland the de minimis legislation has been repealed and replaced by 'Best Value'. However, no specific guidance on the operation of 'Best Value' as appropriate to local bus service provision has been issued by the Scottish Government. In England the de minimis values have been changed to £25,000 per contract up to a threshold of such contracts accounting for 40% of the local bus service subsidy budget. No threshold per operator is applied.

The setting of a financial ceiling for 'Best Value' contracts, for example at £25,000 as in England, is not considered appropriate or indeed in the best financial interests of the Council. The setting of such a figure may only serve to fragment corridors into a number of smaller contracts to meet the threshold rather than to address the travel requirements of the corridor as a whole and achieve the most cost-effective transport solution.

In order to utilize the 'Best Value' legislation introduced in Scotland specific provision has been made within Angus Council's Financial Regulations. To award contracts outside the tendering process requires a clearly defined policy. The agreed course of action for Angus Council is detailed below:

**When will 'Best Value' be used as opposed to the normal tendering procedures?**

- To enhance frequencies on an otherwise commercial route e.g. two-hourly to hourly, hourly to half-hourly etc
- To provide off-peak journeys on a route that otherwise operates commercially. This can avoid ticketing issues for passengers should another operator win the contract. Also this ensures that where a high quality vehicle is used on the service during the daytime it is also used off-peak.
- To procure small amounts of work up to £12,000 per annum where it might not be cost effective to go through the tendering process.
- To procure emergency replacements for withdrawn services until they can go through the tendering process.
- To divert an existing commercial service to serve a settlement/area – the alternative being to provide a separate contract in order to provide the facility.
- To protect overall service provision within the corridor and maintain/improve links with other corridors.

**What checks will be put in place to ensure 'Best Value'?**

- Such contracts will be checked against other tendered services to see that the cost per mile is comparable. This will be checked against similar peak/off-peak operation and where possible for services in the same area.
- Scores attained in respect of the following criteria (as defined in Angus Council's Public Transport Policy Statement):
  - Subsidy per mile;
  - Subsidy per passenger; and
  - Percentage of workers using the service

should be comparable to existing contract scores.

- Most contracts will be awarded on 2 months notice of termination as they will be subject to change should the commercial timetables be reviewed by the companies concerned. The exception to this may be low value contracts of less than £12,000 which may be awarded for up to 3 years.
- Contracts will be reviewed on a 3 yearly basis and will only be renewed if they can be seen to be still providing 'Best Value'.
- Care will be taken to ensure fairness should the situation arise that more than one operator provides commercial services on a route.

**Award contracts under 'Best Value'**

- The maximum value of all contracts awarded under 'best value' will be 40% of the local bus service subsidy budget each year.
- For contracts of up to £12,000 then the Head of Technical and Property Services should have delegated power to approve that contracts meeting the criteria listed for award on a 'Best Value' basis are awarded as such.
- For contracts of more than £12,000 then the approval of the Chief Executive and Head of Corporate Improvement and Finance is also required to agree that contracts meeting the criteria listed for award on a 'Best Value' basis are exempted from the normal tendering process.
- Where practicable 'Best Value' contracts will be awarded following committee approval, however where this is not practicable for example where services are required to be introduced at short notice to coincide with changes to the commercial network or on an emergency basis then –

The Head of Technical and Property Services should have delegated power to award contracts up to a maximum annual subsidy of £12,000 per contract and will report such awards to the next meeting of the Communities Committee.

For contracts of more than £12,000 the award should be made by the Head of Technical and Property Services in consultation with the Head of Corporate Improvement and Finance, Chief Executive and Convener of the Communities Committee and reported to the next meeting of the Communities Committee.



Transportation Services - Best Value Pro Forma (to be read in conjunction with regulation 16.18)

1	<b>Contract: Route :</b>
2	<b>Current commercial service provision on corridor</b>
3	<b>Reason for recommended award of 'Best Value' contract</b>
4	<b>Consequences if contract is not awarded under the 'Best Value' regime</b>
5	<b>Financial implications</b>
6	<b>Recommendation</b>

- Approved by Committee.
- Approved under Head of Technical and Property Services delegated authority.
- Approved under delegated authority, in consultation with the Convener of Communities Committee, Chief Executive, Head of Corporate Improvement and Finance and the Head of Legal and Democratic Services.

Signed ..... Dated .....  
(Head of Technical and Property Services / Other Authorised Officer)

**COMMON GOOD FUNDS**  
**POLICY GUIDELINES AND ADMINISTRATIVE PROCEDURES (Revised)**

## 1. INTRODUCTION

Since April 1996 Angus Council has been responsible for the management and administration of five Common Good Funds, namely: -

- Arbroath
- Montrose
- Brechin
- Forfar
- Kirriemuir

In order to protect the Common Good Funds which Angus Council inherited, policy guidelines for the use of the Common Good were set out in report 1018/96 which was approved by the General Purposes Sub-Committee of the Policy and Resources Committee on 28 November 1996. A commitment was given in report 181/03 to the Policy and Resources Committee on 4 February 2003 to review the policy on the use of the Common Good Funds. Report 1240/03 (revised) was subsequently approved by the Strategic Policy Committee on 3 February 2004, wherein it was recommended that the amendments to the policy guidelines contained therein be reflected in a revised policy statement. The revised policy statement and administration procedures detailed below reflect these revisions.

## 2. POLICY GUIDELINES

The following policy for the use and access to the Common Good Funds has been developed having regard for the existing policy requirements and the need to ensure the proper stewardship of the Funds. The revised policy, arranged under pertinent headings, is set out below:-

### (A) Maintaining and Enhancing Common Good Assets

In order to ensure the long-term sustainability of the Common Good Funds the following policy requirements should be adhered to:-

- (i) Officers of the Council shall ensure that Common Good Funds are maintained and enhanced, wherever practicable, through the proper management of Common Good assets. This will include a five yearly review of Common Good rentals in respect of properties let to Council departments. Properties let to external parties will be subject to commercial lease agreements that will include provision for regular rent reviews.
- (ii) A minimum balance on each Common Good revenue account shall be maintained so that these are maintained at a level sufficient to ensure the sustainability of each Fund's activity in the medium-term. The balance on each Fund's revenue account will not fall below the sums detailed below without prior approval from the Council: -

- |              |          |
|--------------|----------|
| • Arbroath   | £300,000 |
| • Brechin    | £200,000 |
| • Forfar     | £300,000 |
| • Kirriemuir | £1,000   |
| • Montrose   | £100,000 |

- (iii) In order to ensure that the all Common Good heritable property is maintained to a satisfactory standard, the following procedures with regard to property maintenance should be adhered to: -
- The Common Good properties will be included in the property maintenance schedule managed by the appropriate section within Technical and Property Services for inclusion on the Council's property maintenance system. It should be noted the William Lamb Studio should also be included in this schedule as, under the terms of the Scheme of Administration, the costs associated with the Studio are met from Montrose Common Good Fund;
  - A schedule of all works which require to be undertaken will be produced during the annual budget setting process;
  - Property Maintenance should be the first call on available revenue account resources, particularly where these resources are limited; and
  - The Head of Technical and Property Services, in consultation with other appropriate officers of the Council, will prepare an annual maintenance programme in accordance with the available Common Good Fund revenue account resources.

#### (B) Common Good Capital Accounts

Each Common Good Fund is comprised of a revenue and capital account. In order to ensure no diminution of the capital account, which would result in a reduction in earned income to the revenue account, the following policy requirements should be adhered to :-

- (i) Expenditure from Common Good Funds to be restricted to expenditure from the revenue account of any given Common Good Fund.
- (ii) The proceeds from the sale of any assets to be retained and separately identified within the capital account.
- (iii) At the discretion of the Council and with the approval of the Policy and Resources Committee any proceeds from the sale of assets may be used to finance capital expenditure on suitable physical assets, should they become available, and which by their purchase would strengthen and maintain the capital account and its on-going value.
- (iv) The assets held on each Fund's capital account to be re-valued every five years.

#### (C) Restrictions on use of Common Good Funds within the local area

The Local Government (Scotland) Act 1973 requires the Council to have regard to the interests of the inhabitants of the area to which the Common Good formerly related when administering the Common Good Funds. The Act provides the Council with wide discretion over the use to which Common Good resources may be put. The Angus Council policy is that the use of Common Good Fund resources is to be restricted to that expenditure which will benefit the inhabitants of the specific burgh from which the Common Good was inherited.

#### (D) Common Good Fund Borrowing

Guidance issued by the Local Authority (Scotland) Accounts Advisory Committee (LASAAC) in December 2007, stipulated that although it is legally permissible to borrow

money for Common Good purposes, any such borrowing cannot be secured on the rates and revenues of the Council.

As the Council's Loans Fund is secured on the rates and revenues of the Council, following the LASAAC guidance means that Common Good borrowing cannot be taken from that source.

Borrowing could however be undertaken from other sources including the Council's General Fund and the commercial market. Such borrowing would be secured on the assets of the Common Good.

### 3. ADMINISTRATION PROCEDURES

The following administration procedures should be adhered to in the governance of the Common Good Funds:-

#### (A) Council/Member Involvement

- (i) The administration of the Common Good Funds should remain under democratic control, as agreed by the Council at its meeting on 18 September 2003.
- (ii) All Members must comply with the Councillors' Code of Conduct in respect of declarations of interest when taking part in discussion and taking decisions on matters relating to Common Good Funds. This provision applies equally to meetings of the local members (3A(iii) below), consultations with local members (3B(2)(v) below) and all Council or Committee meetings.
- (iii) Bi-annual meetings of Members will be held, one during the budget preparation process to provide the opportunity for discussion of issues relating to Common Good Funds and consideration of proposed one-off projects. A subsequent meeting will be held during the financial year to review project commitments and discuss other issues relating to the Funds.

#### (B) Revenue Account

##### (1) *Annual Budget*

- (i) The annual revenue account budgets for the Common Good Funds will be prepared in accordance with that process undertaken for other departments of the Council following the guidance issued by the Head of Corporate Improvement and Finance.
- (ii) As indicated in 3A(iii) above, a meeting of Members will be held to provide the opportunity for discussion of issues relating to the Common Good Funds and to allow Members to be formally consulted on the proposed one-off projects.
- (iii) The budget will be approved at the annual special budget setting meeting of the Council.

##### (2) *One-Off Projects*

The following procedures should be followed to obtain access to Common Good Fund resources for specific one-off projects:-

- (i) Angus Council departments should utilise a standard pro-forma to provide details of proposed projects (copy attached at [Appendix 12\(a\)](#)). The pro-

forma will be issued to departments with the annual revenue and capital budget guidance for return to the Common Good Fund Accountant.

- (ii) The process outlined in (i) immediately above will also apply to those organisations/Committees responsible for the administration of Common Good assets with which the Council has a close working relationship and who may be anticipated to seek access to the Funds. Departments should, therefore, consult with any such organisations during the budget preparation process.
- (iii) External parties should refer to the Council's Grant Aid guidance booklet, which contains information on the detailed criteria for external parties seeking to access the Funds. All applications should then be submitted using the Council's grant aid form.
- (iv) The proposals will be submitted to the Community Grant Scheme Working Group (CGSWG) for consideration. The CGSWG will consider all proposals i.e. proposals submitted both by the Council itself and external parties. The CGSWG will consider, inter alia: -
  - The benefit that the project would provide to the local community;
  - That other funding options have been explored;
  - The sum sought from the Common Good vis-à-vis resources available, after allowing for all other on-going expenditure e.g. property maintenance;
  - The sustainability of any ongoing commitments sought.

It should be noted that in order to carry out this assessment process on projects proposed by Angus Council departments it may be necessary for the CGSWG to request further information beyond that detailed in the pro-forma from the proposing department.

- (v) Local Members require to be consulted on each application approved by the CGSWG above a de minimis level of £500.
- (vi) Projects agreed to proceed will, thereafter, be formally approved at the annual special budget setting meeting of the Council together with the annual revenue account budget.
- (vii) Subsequent to the setting of the budget, accessing of the Funds for any further one-off projects or matters of urgency e.g. to purchase an item of local interest/importance which has appeared at auction, the following process should be adopted:-
  - The members of the Community Grant Scheme Working Group will be consulted;
  - The CGSWG will thereafter consult with the Head of Corporate Improvement and Finance, the appropriate Local Members and the Leader of the Council; and
  - A report seeking approval or, in the case of urgent projects only, homologation should be submitted to the Policy and Resources Committee.

### (C) Capital Account

Use of the proceeds of asset sales, in accordance with paragraph 2B(iii) above, will require to be the subject of consultation with Local Members and require the approval of the CGSWG and the Policy and Resources Committee.

**ANGUS COUNCIL**

**PRO-FORMA TO BE UTILISED BY DEPARTMENTS SEEKING TO ACCESS COMMON GOOD FUNDS**

<b>Proposing Department:</b>			
<b>Common Good Fund seeking to be accessed:</b>			
<b>Project description:</b>			
<b>Perceived benefit to the Community:</b>			
<b>Measurable outputs/impact:</b>			
<b>Total cost of the project:</b> (where this is split over a number of financial years, please specify the years).	<u>20xx/20xx</u> £	<u>20xx/20xx</u> £	<u>20xx/20xx</u> £
<b>Funding secured:</b> (please specify each funding source and the amount secured in each of the relevant financial	£	£	£
<b>Funding sought from the Common Good Fund:</b> (split over the relevant financial years).	£	£	£
<b>Exit Strategy, if applicable:</b> (Is the project one-off or on-going? If on-going how will it be financed in the future ?)			

**RECEIPT OF GIFTS AND HOSPITALITY**



I declare the following gift/hospitality:-

<b>Details of gift/hospitality:</b>	
<b>Details of person/body giving gift/hospitality:</b>	
<b>Date of hospitality or of receipt of gift:</b>	
<b>Approximate value of gift/hospitality: (see note 2)</b>	
<p><b>Signed:</b> _____ <b>Date:</b> _____  <b>Print Full Name:</b> _____  <b>Department:</b> _____ <b>Email Address:</b> _____</p> <p><b>Head of Department approval:-</b></p> <p>I confirm my approval of the decision to accept the above gift/hospitality.</p> <p style="text-align: right;">Date: _____</p> <p><b>Signed:</b> _____  <b>Print Full Name:</b> _____  <b>Designation:</b> _____</p>	

- Notes:**
1. Guidance on the receipt of gifts/hospitality can be found in the Employee Code of Conduct and Section 33 of Financial Regulations.
  2. If you are unaware of the value of the gift or hospitality, and it is not practical to obtain a valuation, please state this.

**PLEASE RETURN TO: Head of Legal and Democratic Services, Angus House**

<b>For Legal and Admin use only:</b>	
Unique Reference Number	____/____/____
Form Received	Date: ____/____/____
E-mail confirmation sent to Employee	Date: ____/____/____

WP Ref: s:\legal\ld\ma16595.doc

MINUTE OF AGREEMENT

among

ANGUS COUNCIL, DUNDEE CITY COUNCIL  
AND THE PERTSHIRE AND KINROSS COUNCIL

("The Constituent Councils")

1995

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Subject: Tayside Contracts Joint  
Committee

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## MINUTE OF AGREEMENT

among

ANGUS COUNCIL, DUNDEE CITY COUNCIL  
AND THE PERTHSHIRE AND KINROSS COUNCIL

("The Constituent Councils")

## WHEREAS:-

FIRST The Constituent Councils are local authorities established under Section 1 of the Local Government Etc (Scotland) Act 1994 ("the 1994 Act").

SECOND It is provided by Section 56(5) of the Local Government (Scotland) Act 1973 ("the 1973 Act"), that two or more local authorities may discharge any of their functions by a joint committee of theirs.

THIRD The Constituent Councils wish to appoint a Joint Committee under Section 57(1) of the 1973 Act for the discharge of certain of their functions as authorities maintaining Direct Labour and Service Organisations under Part III of the Local Government Planning and Land Act 1980, and carrying out works contracts or functional work under the Local Government Act 1988 together with certain non statutory work, which functions each of the Constituent Councils would discharge separately and on its own but for these presents;

## NOW THEREFORE:

ONE Commencement

This Agreement shall commence and have effect from the date of its last execution. Any administrative schemes, orders or regulations made by the Constituent Councils or their predecessors and in operation at the commencement of this Agreement shall, so far as inconsistent herewith, cease to have effect on 1 April 1996.

TWO Constitution

There is hereby constituted a Joint Direct Labour and Service Organisation Committee to be known as "the Tayside Contracts Joint Committee" and hereinafter referred to as "The Joint Committee" for the administration of the functions of the Constituent Councils delegated to the Joint Committee in terms of this Agreement.

The Operations under the control of the Joint Committee shall be carried out by a Joint Direct Labour and Service Organisation which shall be known as Tayside Contracts.

THREE Members

The Joint Committee shall consist of eighteen members appointed having regard, so far as possible, to the principle of political balance, by the Constituent Councils from among their own members. The number of members to be appointed by the Constituent Councils shall be:- 5 by Angus Council; 6 by Dundee City Council; and 7 by the Perthshire and Kinross Council.

FOUR Period of Office

The members appointed by the Constituent Councils to the Joint Committee shall, subject to the provisions of Clause FIVE hereof, hold office, during the pleasure of the Council by which they were appointed, until the next ordinary election of Councillors for the Constituent Councils. Immediately after such election, each Constituent Council shall again appoint its number of members to the Joint Committee.

FIVE Vacancies in Membership

A member ceasing to be a member of the Constituent Council which appointed him/her shall cease to be a member of the Joint Committee as at the same date. In that event, or any other time the Constituent Council by which a member was appointed may appoint

a member, to take his/her place for the remaining part of his/her period of office.

SIX

Quorum

A quorum of the Joint Committee shall be ten members appointed by and representing no less than two of the three Constituent Councils, except in the case of special meetings in terms of Clause EIGHT at which all three Constituent Councils must be represented by at least one member.

Should the Joint Committee appoint a Sub-Committee, such Sub-Committee shall be as near as may be proportionately representative of the Constituent Councils as the Joint Committee is, and the membership of the Sub-Committee and its quorum shall be determined by the Joint Committee.

SEVEN

Standing Orders

The Joint Committee shall adopt its own Standing Orders.

In the event of any inconsistency between Standing Orders and the provisions of this Agreement, the provisions of the Agreement shall prevail.

EIGHT

Meetings

The Joint Committee may meet as often as it sees fit prior to 1 April 1996 for the purpose of establishing the arrangements necessary for fulfilling the functions delegated to it in terms hereof. The Joint Committee shall hold an ordinary meeting thereafter on four occasions in each year commencing 1 April, the first year commencing at 1 April 1996, in the months of May, August, November and February and may meet on such other occasions as may be necessary when a special meeting may be called in terms of Standing Orders.

The venue for ordinary meetings shall be on a rotational basis with a suitable venue in each of the Constituent Council's areas being agreed by the Joint Committee.

Other than as provided for at Clause ELEVEN hereof at all meetings of the Joint Committee, or duly appointed Sub-Committees, a three-quarters majority of those members present and voting shall be required in all voting procedures.

Copies of notices, agendas and minutes of all meetings of the Joint Committee shall be transmitted to the Constituent Councils for their information as soon as practicable.

At any meeting of the Joint Committee a member may be replaced by a substitute, authorised in writing by the Convener or, whom failing, the Chief Executive or other appropriate officer of that member's Constituent Council, to replace that member at that meeting and having the same powers and duties in every respect at that meeting as that member.

NINE

Powers and Duties of Joint Committee

Without prejudice to the foregoing provisions and subject always to the following provisions hereof the Joint Council shall have the power to undertake any function as referred to in Clause Third hereof which any of the Constituent Councils might lawfully undertake (having regard to any statutory restriction on the manner in which any such function might be exercised and in particular the provisions of the Local Government Planning and Land Act 1980 and the Local Government Act 1988).

Provided always that:

- (1) Work of types previously undertaken by Tayside Contracts as a department of Tayside Regional Council for the purposes of

functions previously vested in Tayside Regional Council, and which can competently be undertaken by a DLO or DSO, shall unless unanimously agreed otherwise by the constituent Authorities be undertaken solely by the Joint Committee.

- (2) Work of types previously undertaken by a DLO or DSO maintained by a former District Council shall be undertaken by such DLO/DSO or otherwise as the appropriate successor Constituent Council shall determine and the Joint Committee shall have no power to discharge any such work on behalf of such Constituent Council except at the express request of that Council.
- (3) In relation to work not falling within either of the preceding paragraphs it shall be open to both the Joint Committee and the individual Constituent Council commissioning the work to submit proposals for the execution of that work and the individual Constituent Council shall then determine who shall execute the work.
- (4) Nothing herein shall prevent the Joint Committee lawfully undertaking any work on behalf of a third party.
- (5) The Managing Director (or Chief Executive) of Tayside Contracts shall be responsible to the Joint Committee for the undertaking of the above works and shall exercise that responsibility according to the instructions of the Joint Committee.
- (6) Subject to Clause FIVE above the Joint Committee may appoint from its members such Sub-Committees as it may from

time to time consider necessary or desirable for the exercise of its functions and may, subject to such limitations as it may impose, delegate or refer to such Sub-Committees, any of the functions delegated to the Joint Committee under this agreement. The Joint Committee shall appoint the Convener of any Sub-Committee appointed under this paragraph.

TEN

Interim Clerk

The Chief Executive of Tayside Regional Council or such other person as may be agreed by the Leaders of the Administration of the three Constituent Councils shall be appointed as Interim Clerk to the Joint Committee for the purposes of convening the first meeting of the Joint Committee at which the Convener and Vice Conveners shall be appointed.

ELEVEN

Convener, Vice-Conveners and Clerk to the Joint Committee

Prior to the first meeting of the Joint Committee, and again immediately after each ordinary election of councillors to the Constituent Councils, each Constituent Council shall determine from within its Joint Committee members representing its Council, a person to be appointed by the Joint Committee as its Convener, Vice Convener or Vice-Convener Elect.

At the first meeting of the Joint Committee, and again following intimation, by the Constituent Councils after such ordinary elections, or the persons so determined, the Joint Committee shall appoint from those three members determined by the Constituent Councils, a Convener, Vice Convener and Vice Convener Elect - such appointments being made by the procedures specified in Section 43 of and Schedule 7 to the 1973 Act.

The Convener'ship of the Joint Committee shall then be rotated on a yearly basis on 1 April in each year in which there are no ordinary elections of Councillors to the Constituent Councils, with the Vice Convener being elevated to Convener, the Vice Convener Elect to Vice Convener and the Convener reverting to Vice Convener Elect. The first such rotation shall take place on 1 April 1997 notwithstanding that the previous periods of office have been more than one year. If the Convener, Vice Convener or Vice Convener Elect ceases for any reason during his or her period of office to be a member of the Joint Committee, the resulting vacancy in that office may be filled by his or her Constituent Council nominating either an existing member of the Joint Committee, or the member appointed by it in terms of Clause FIVE above to replace the person who has ceased to be a member, to fill that office for the remainder of its current term.

The Convener, when present, shall preside at all meetings of the Joint Committee. In the absence of the Convener the Vice Convener shall preside, and in the absence of both, the Vice Convener Elect shall preside. In the absence of all three, such other member shall preside as the members present appoint.

A Clerk to the Joint Committee who shall be the Monitoring Officer as defined in the Local Government and Housing Act 1989, shall be appointed by the Joint Committee from the Constituent Council to which the Convener belongs.

TWELVE (1) Officials

The Joint Committee shall appoint a Managing Director (or Chief Executive) of Tayside Contracts who shall report to the Joint Committee and be responsible for carrying out the functions delegated to the Joint Committee, and also such senior staff as are considered necessary who shall be appointed within the terms of

Standing Orders and pay them such reasonable remuneration as the Joint Committee may determine.

(2) Staff and Employees

Those members of staff and employees of Tayside Regional Council forming part of the Direct Labour and Service Organisation trading until 31 March 1996 as "Tayside Contracts" and transferred to Dundee City Council (to be known as "the Employing Council") in terms of an order or scheme under Section 8 of the 1994 Act (no staff or employees being transferred to the other two Constituent Councils) shall be placed by the Employing Council at the disposal of the Joint Committee in terms of Section 65 of the 1973 Act. The Joint Committee shall in all respects act as though it were the sole employer of said staff and employees.

The Managing Director (or Chief Executive) of Tayside Contracts shall have delegated responsibility for the said staff and employees and shall have power to appoint such additional staff and employees as considered necessary to carry out the relevant functions of the business of Tayside Contracts, within the terms of Standing Orders. Such staff and employees as appointed shall become employees of the Employing Council.

(3) Property

All heritable property currently owned by Tayside Regional Council and used by Tayside Contracts shall be transferred to the Constituent Councils within the terms of the Local Authorities (Property Transfer) (Scotland) Order 1995 according to location and shall be applied to and made continuously available for use by the Joint Committee in carrying out the functions hereby delegated to it, and a list of these properties shall be prepared together with such other information as is deemed necessary.



In the event of any of the Constituent Councils wishing to take over or develop a property on the list for some other function they would require to provide a suitable alternative facility at a location acceptable to the Joint Committee with the new facility being operational prior to the Joint Committee vacating the property taken over.

Any developments required by the Joint Committee at any of the properties on the list shall be funded by the Constituent Council in whose ownership the property is vested, when financial resources are available.

The Joint Committee shall be responsible for the management and maintenance of all the properties on the list and shall delegate to the Managing Director (or Chief Executive) of Tayside Contracts the responsibility for this, their fitness for purpose and their compliance with all relevant statutory legislation.

All moveable property shall be transferred to and vested jointly in the Constituent Councils in terms of the said Order and shall be applied to and made continuously available for use by the Joint Committee in carrying out the functions hereby delegated to it.

Moveable property shall, for the purposes of this Agreement include all buildings, plant and machinery at Collace Quarry.

A valuation of every item of moveable property shall be agreed by all the Constituent Councils as at 1 April 1996 and placed on a list.

The Joint Committee shall have power to purchase moveable property which will belong to the Constituent Councils jointly and subject to the terms of this Agreement and shall be added to the list.

(4) Entitlement of the Business

Prior to 1 April 1996 the Constituent Councils shall agree among themselves a percentage share attributable to each Council

representing the value of the interest of that Council in the moveable assets and the business employed in carrying out the functions and hereby appointed to be managed by the Joint Committee - "the agreed percentage".

The factors to be taken account of are the turnover of the business in respect of each Division of Tayside Contracts.

THIRTEEN Provision of Work

Each of the Constituent Councils shall include Tayside Contracts on all tender lists so far as they can lawfully do so.

FOURTEEN Financial Year

The Financial Year of the Joint Committee shall end on 31 March or such date as the Secretary of State for Scotland directs for the Constituent Councils.

FIFTEEN Financial Administration

The Joint Committee shall secure the proper administration of its financial affairs and of the financial affairs of Tayside Contracts.

Without prejudice to the foregoing generality the day to day financial administration of Tayside Contracts shall be undertaken by an employed officer assigned to Tayside Contracts and answerable to the Joint Committee directly through the Managing Director,

The Joint Committee will obtain Treasury services from one of the Constituent Councils.

SIXTEEN Accounts and Audit

The Joint Committee shall secure the keeping of accounts of all financial transactions, such accounts to comprise current, capital and borrowing accounts and the preparation of an annual abstract of accounts and annual report in accordance with all applicable legislation. Further there may be kept Reserve Funds, a Capital Fund and a Repairs and Renewals Fund in accordance with the Local

Government (Scotland) Act 1975 as necessary to assist the Joint Committee. Such accounts and funds shall be submitted to annual audit by an auditor appointed by the Secretary of State for Scotland for one of the Constituent Councils and the provisions of Part VII of the 1973 Act and all subsequent legislation relating to matters of finance and so far as relevant to the functions delegated to the Joint Committee, which are applicable to the Constituent Councils, shall, subject to any necessary modifications, apply to such accounts and audit as they apply to the accounts and audit of a Local Authority. The Clerk to the Joint Committee shall provide each of the Constituent Councils and the Secretary of State annually with a copy of the unaudited and audited accounts of the Joint Committee in accordance with the statutory dates for completion.

SEVENTEEN Financial Estimate

The Joint Committee shall ensure the preparation of estimates of capital and revenue expenditure and a prediction of income from all available sources in each year upon and incidental to the functions delegated to it by this Agreement which shall be submitted to the Joint Committee for approval by 28 February for the next financial year.

EIGHTEEN Financial Arrangements

- (1) The financial affairs of the Joint Committee shall be set up so as to ensure a trading organisation as required in terms of the relevant competitive legislation which shall meet internally all revenue expenditure through income generated from its trading activities in accordance with the functions delegated to it.
- (2) The financial records of the Joint Committee shall maintain Reserve Funds for each Constituent Council as allowed in the

terms of the Local Government (Scotland) Act 1975 for such funds. These funds shall commence with the balance of the Reserve Fund at 31 March 1996 in the financial records of Tayside Contracts allocated in the proportion of the "agreed percentage" (reference Clause TWELVE (4)). Any surplus or deficit from the annual trading activities of Tayside Contracts after agreed capital financed from current revenue (CFCR) shall be shared between the three Constituent Councils on the basis of the "agreed percentage" and shall be adjusted against each Constituent Council's appropriate Reserve Fund. Any deficit in excess of the balance on a reserve fund shall be funded by the appropriate Constituent Council.

The use of any remaining surplus in the Reserve Funds after the legislative criteria is met, shall be available at the discretion of each of the Constituent Councils, being either disbursed or held in the appropriate Reserve Funds. The monthly balances on the Reserve Funds shall receive interest based on the average annual loans interest rate.

- (3) The Joint Committee's annual Revenue Budget shall include a provision in respect of purchase of plant, vehicles and equipment and in respect of Collace Quarry buildings, plant, vehicles and equipment (reference Clause TWELVE (3)) and shall require the approval of the Joint Committee and the Constituent Councils within the agreed budget timetable.
- (4) Any capital expenditure in respect of heritable property shall be funded by the particular Constituent Council which owns or will own the property (reference Clause TWELVE (3)). Where it is considered that funding of moveable property (including plant, vehicles and equipment at Collace Quarry) should be by loan

capital then the Joint Committee shall fund the purchase having obtained consent in terms of Section 94 of the 1973 Act for the purchase from any source available (including where necessary the Constituent Councils on the basis of their "agreed percentage").

NINETEEN Amendment of Agreement

These presents may be amended but only by a further Minute of Agreement executed by the Constituent Councils in the same fashion as these presents.

TWENTY Revocation of Agreement

If any Constituent Council wishes to withdraw from this Agreement it may do so with effect from the end of any of the Joint Committee's financial years by giving to the Clerk to the Joint Committee not less than 9 months' notice in writing to that effect prior to the end of that financial year, and the following provisions shall apply as at the end of that financial year.

Firstly, the staff and employees whose work is wholly or predominantly attributable to the geographical area of that Constituent Council shall return to the employment of the Employing Council as defined in Clause TWELVE above, but in that event the Constituent Council so withdrawing shall indemnify the Employing Council against any unavoidable employment or redundancy costs resulting from that return to its employment by those staff and employees and shall so indemnify the Employing Council by reimbursing any redundancy costs relating to that Constituent Council. Immediately thereafter the staff and employees so returned to the Employing Council shall be transferred to the Constituent Council so withdrawing from its operation through the Joint Committee as though they had transferred under an Order or Scheme under Section 8 of the 1994 Act.

The entitlement of the Constituent Council so withdrawing (whether credit or debit) shall be paid to it or paid by it on an equitable basis in moveable property, or money, or both, to meet the full financial value of the percentage share attributable to that Council in terms of Clause TWELVE (4).

TWENTY ONE Difference or Dispute

Any difference or dispute between the Joint Committee and any of the Constituent Councils or among the Constituent Councils concerning the interpretation or any matter arising out of this agreement or any dispute thereanent shall be referred to the arbitration of the Sheriff Principal of the Sheriffdom of Tayside, Central and Fife or any person appointed by him, whose decision shall be final and binding: IN WITNESS WHEREOF