

ANGUS COUNCIL

FINANCIAL REGULATIONS

SEPTEMBER 2021(revised March 2023)

ANGUS COUNCIL FINANCIAL REGULATIONS

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FOREWORD

Angus Council is a public body specifically created to provide essential services to local citizens and businesses. The Council is funded almost 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 the Director of 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. Directors 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 at the heart of the Council's financial arrangements which ensure the proper and efficient use of resources and set the framework 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 employees 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 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 (with the subject "Financial Regulations") or discuss the matter with your finance contact. Where different interpretations of any point arise, the Director of Finance will be the final arbiter.

IAN LORIMER
DIRECTOR OF FINANCE

ANGUS COUNCIL FINANCIAL REGULATIONS

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 Director of 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 Council/Committee for approval prior to implementation.

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

- 1.4 Elected Members and all employees of the Council shall observe the Financial Regulations in performing their duties. Directors 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** employees.

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 Director of Finance.

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

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For the observance and implementation of: (i) Standing Orders relating to finance; (ii) these Financial Regulations; and (iii) any accounting instructions given by the Director of Finance, each Director shall appoint a budget holder within their service. (Refer to 1.12 below).

Director of Finance Responsibilities

- 1.5 The Director of 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 Section 95 Officer 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 2014 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. The Director of Finance will be referred to the Section 95 Officer hereafter.
- 1.6 The Section 95 Officer 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 Section 95 officer shall liaise with and consult as necessary with Directors 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 Section 95 Officer.

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 Services 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 Director 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, Director includes the Section 95 Officer, the Director of Legal and Democratic Services (Monitoring Officer) and Director of Children, Families & Justice (Chief Social Work Officer), who have specific assurance statements to return in their roles under Standing Orders. The Director of Legal and Democratic Services will be referred to as the Monitoring Officer and the Director of Children, Families & Justice will be referred to as the Chief Social Work Officer hereafter.

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Definition of Director, etc.

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

- Chief Executive
- Depute Chief Executive
- Director of Finance (defined as Section 95 Officer)
- Director of Legal & Democratic Services (defined as Monitoring Officer)
- Director of Strategic Policy, Transformation and Public Sector Reform
- Director of Children, Families & Justice (defined as Chief Social Work Officer)
- Director of Vibrant Communities and Sustainable Growth
- Director of HR, Digital Enablement, IT and Business Support
- Director of Infrastructure Services
- Director of Education & Lifelong Learning

It is the responsibility of each Director to ensure that any matters falling within their jurisdiction are addressed by appropriate employees within their service and that such employees are properly empowered to do so through their Service's scheme of delegation.

Extended Definition of Chief Officer for Adult Care Procurement & Exemptions

1.11 For the sole purposes of (1) authorising delegated level procurement under Financial Regulation 16.8.2 and Appendix 1; and (2) determining exemption requests made under Financial Regulation 16.22, both only insofar as relating to adult care procurement within the jurisdiction of the Angus Integration Joint Board under the Public Bodies (Joint Working) (Scotland) Act 2014, the definition of Director in Financial Regulation 1.10 is extended to include:

- the Chief Officer of the Angus Integration Joint Board.

Definition of Budget Holder

1.12 Budget holder as contained within Financial Regulation 4.1 and 4.2 shall mean a line manager, nominated by the Director, with responsibility for discrete elements of the budget.

1.13 Each Director shall maintain a list of Budget holders detailing the budget areas they are responsible for and their delegated financial authority levels. Remits and authority levels should also be contained within the Service's schemes of delegation.

1.14 This definition excludes capital projects where the Council uses Designated Accountable Managers, and this is dealt with within Financial Regulation 7.6.

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

1.15 Reporting Officer as contained within Financial Regulation 16.12 shall mean an officer nominated by the Director to take delivery of opened tenders for the purpose of checking and examination. The Reporting Officer must be a person

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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 Director grade and consistent with this, reference to officers at "fourth tier" level shall mean the next again grade.

Definition of Finance Contact

- 1.16 Finance Contact as contained within Financial Regulation 3.7, 4.4, 7.3 and 9.3 shall mean a designated contact within the Finance Service who can be contacted for support and advice regarding financial matters.

Employee Code of Conduct

- 1.17 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 Section 95 Officer, 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 full Council for reasons of expediency.

- b **Special Meeting of Angus Council** – A Special Meeting of Angus Council is required to approve all items relevant to the setting of Services provisional revenue budgets and the level of Council Tax at Valuation Band D for the forthcoming financial year. A meeting of the Council to set the Council Tax 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 provided by the Section 95 Officer in this regard.

2.3 SECTION 95 OFFICER RESPONSIBILITIES

On the basis of the Policy and Resources Committee's instructions, the Section 95 Officer shall request that each Director prepare a Service revenue budget for expenditure and income. This "provisional base budget" will be submitted in accordance with a timetable and detailed guidance issued by the Section 95 Officer.

The Section 95 officer shall be responsible for ensuring that appropriate professional support and advice is provided by Finance to Directors to assist in the preparation of their revenue budgets.

The Section 95 Officer shall be responsible for ensuring that sufficient, relevant information is made available to all members to facilitate their decision-making process.

The Section 95 Officer shall be responsible for ensuring that appropriate reports are submitted to the Special Budget Meeting of the Council to permit a decision regarding Service's provisional base budgets and the level of the Council Tax at Valuation Band D to be made.

The Section 95 Officer, in conjunction with the Director of Vibrant Communities and Sustainable Growth, 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 Section 95 Officer will periodically submit a report detailing forward years' budget projections to Angus Council to inform medium and longer term financial planning arrangements.

The Section 95 Officer shall also be responsible for providing Members, the Chief Executive and other Directors 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.

2.4 DIRECTORS' RESPONSIBILITIES

Each Director shall be required to prepare revenue budget estimates within a timetable and in a form as directed by the Section 95 Officer. In this respect, it is the responsibility of each Director to ensure that the detailed annual guidance issued by the Section 95 Officer is followed and professional support and advice available from Finance is requested as necessary.

Where appropriate, Directors 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 service would have a direct impact on service provision in another service e.g. budget issues.

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

Each Director, in conjunction with the Section 95 Officer, 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, the Special Budget Meeting of the Council and Communities Committee, as appropriate.

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

The Section 95 Officer 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.

2.5 POLICY AND BUDGET SETTING STRATEGY

The Council's Policy and Budget Strategy will ultimately be determined by the Council. Two member/officer working groups are part of the process of budget strategy formulation being the Policy and Budget Strategy Group (PBSG – Administration) and the Shadow Budget Group (SBG – Non Administration), the membership of which includes members and appropriate officers. The PBSG / SBG have no formal decision making roles.

The PBSG / SBG remit in its broadest terms is to help shape respective budget strategies over the short, medium and longer term in the context of the agreed corporate priorities of the Council ahead of formal consideration via Council meetings. They will also: make proposals for an overall revenue and capital budget strategy over the short, medium and long term; propose an overall strategy for reserves; consider the policy and financial implications of key initiatives and developments identified in the Council's planning and budgeting processes; provide input and direction to the Council's change programme; provide input and direction with the production of the Council Plan and Workforce Plan.

The PBSG / SBG will meet as required throughout the budget setting process, with the initial meeting at the start of the budget setting process where agreement will be reached on the overall strategy.

2.6 AUTHORITY TO IMPLEMENT BUDGET / AUTHORITY TO INCUR EXPENDITURE

Approval of the revenue budget for the financial year provides authority to the Service Committee, Sub-Committee, Director 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 within this budget to deliver the Council's agreed priorities.

It is highlighted that this authority ultimately resides with individual budget holders to provide approval of spend within their discrete area of service provision. **In this regard, it should be ensured that the budget holder, or their delegated representative, is consulted prior to the commitment of any expenditure from their budget.**

The Policy and Resources Committee or the Council may place a reservation on an element of the budget, barring the incurring of any expenditure until the reservation has been removed.

2.7 MOTIONS INVOLVING INCREASED EXPENDITURE BEYOND THE AGREED BUDGET

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.

2.8 TREATMENT OF REVENUE BUDGET DEFICITS

Where a service has incurred an annual budget deficit, this will unless otherwise agreed by the Council or Policy & Resources Committee be deducted from the revenue budget of the immediately following financial year (e.g. a deficit in 2020/21 will be deducted from 2021/22 budgets). This deduction will be applied in the form of a management adjustment to the approved budget for monitoring purposes.

2.9 FINAL BUDGET VOLUME

The Revenue Budget process is concluded with the production of a Final Budget Volume which provides detailed information for Council Officers within Services to monitor and control expenditure.

The detailed Services revenue budgets contained in the Final Budget Volume constitute the agreed cash limited budget of each Council service, on a cost centre 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.

2.10 PARTICIPATORY BUDGETING

Budget holders must ensure that the Scottish Government guidance and best practice is followed along with any internal guidance which may be developed to ensure appropriate governance and stewardship of Council funds. The monitoring of expenditure allocated through participatory budgeting approaches will, unless otherwise agreed, be managed in accordance with the Council's standard budget monitoring procedures as set out in Sections 3 and 7 of these Financial Regulations.

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

3.1 **RESPONSIBILITY**

The primary responsibility for detailed monitoring and control of Services revenue budgets lies with each Director. This responsibility covers revenue expenditure and income, 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 services contain their expenditure within the budget set for a particular financial year. In this regard, no anticipated use of future years' resources is permitted.

3.3 **ADDITIONAL EXPENDITURE**

A service's expenditure will be restricted to that set within its revenue budget, detailed within the Final Budget Volume unless approval to vary that budget has been agreed by the Council or the Policy & Resources Committee.

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, Directors 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.

3.4 **MONITORING/OUTTURN REPORTING**

The Section 95 Officer provides budget holders with access to monthly and year to date expenditure and income actuals within the Council's financial system, which allows them to monitor these actuals against budget and in turn produce an accurate projected outturn for the year. It shall be the responsibility of each Director however to ensure that all the relevant financial information which they administer e.g. contractor invoices is processed timeously within the financial system to enable accurate reporting of actual expenditure and income against the budget.

3.5 **SECTION 95 OFFICER RESPONSIBILITIES**

The Section 95 Officer has a responsibility to ensure that revenue monitoring by Director (Service) is carried out and that relevant financial information is provided in a format and within a timetable to allow such monitoring.

The Section 95 Officer shall be responsible for ensuring that appropriate professional support and advice is provided by Finance to Directors to assist with revenue monitoring.

3.6 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 Section 95 Officer in consultation with Directors. The content of the report in respect of individual services budgets and expenditure should be determined after close liaison between finance contacts and the Designated Officer for the relevant service. 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

Directors 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 Director subject to the content not conflicting with corporate monitoring information.

For the purposes outlined above, Designated Officer is defined at paragraph 1.12.

3.7 BUDGETARY CONTROL

The regular examination of actual financial performance and preparation of year end projections for management use and for the purposes of reporting to Committee as set out in Sections 3.4 and 3.6 of this Regulation are the primary means through which budgetary control is exercised. Directors may wish to adopt additional budgetary control measures to suit their Service's needs but these should not conflict or duplicate the corporate approach set out in this Regulation.

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 the budget holder 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 the budget holder 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 deficits and lower than anticipated income within individual budget heads are identified at the earliest possible opportunity.

Before applying virement, the budget holder 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.

The budget holder should be realistic when utilising virement to ensure that projected expenditure deficits or projected additional income are capable of being delivered.

For the purposes outlined at 4.1 and 4.2 above, budget holder is defined at paragraph 1.12.

4.3 PERMITTED LIMITS OF VIREMENT

Budgets must be broken down and entered on to the corporate financial system (Integra). Budget detail on integra should enable meaningful information to be provided about financial performance and budget control. Virement must be targeted at the detailed budgets.. Virement limits (subject to the Virement Guidelines at paragraph 4.4 below) apply at subjective budget head level (e.g. Supplies & Services) for each Final Budget Volume page and to each individual instance of virement (i.e. virements are not counted cumulatively). Virements between codes within one subjective budget head are not subject to the virement limits.

The budgets of Council Services vary significantly and the limits of virement delegated to relevant Directors have been appropriately varied to reflect this. Prior approval of the relevant service committee or of the Policy & Resources Committee is required for any proposed virement above the limits indicated below.

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Service	Limit
Education & Lifelong Learning	200
Vibrant Communities and Sustainable Growth	150
Children, Families & Justice	150
Infrastructure	150
Strategic Policy, Transformation and Public Sector Reform	100
Human Resources, Digital Enablement, Information Technology & Business Support	100
Other Services	100
Finance	50
Legal & Democratic	50
Facilities Management	50

Virement between the Housing Revenue Account and any General Fund Service 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 current financial year 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.
- 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 Vacancy Sub-Group and confirmation that this is affordable within the Council existing budget. Where such changes relate to posts on a director grade, the approval of the appropriate Service Committee is required.
- d No virement proposal shall affect amounts to be paid to another service of the Council without the agreement of the Director of that other service.
- e No virement shall take place in respect of employee costs due to the policy on the corporate management of staff cost budgets and the associated budget slippage target.
- f No virement shall take place in respect of:
 - Capital financing costs;
 - Assets Recharge (Maintenance);
 - Assets Recharge (Energy);

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- Assets Recharge (Water);
 - Support service and internal recharge costs / income; and
 - Specific Grants.
- g No virement will be permitted in the first three calendar months of a financial year without the express agreement of the Section 95 Officer.
- h No individual virement can exceed the virement limit without approval by the appropriate Committee.
- i All virement proposals should be agreed with the Services finance contact for monitoring purposes. All virement proposals shall be processed using the virement eForm which requires authorisation by the appropriate budget holder.
- j **No changes to the final approved budget of each service (as contained in the Final Budget Volume) should be made without the necessary virement eForm documentation being prepared.**

4.5 DEVOLVED SCHOOL MANAGEMENT

The Council has adopted a scheme of Devolved School Management (DSM) based on National Guidance.

The scheme is managed by the Director of Education & Lifelong Learning and any amendments to the financial responsibilities therein shall be subject to Section 95 Officer 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 Director of Education & Lifelong 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 Service not being exceeded.

All virement proposals shall be recorded on the appropriate virement eForm and submitted to the Section 95 Officer, in line with section 4.4 (i) above

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.

4.6 BUDGET FLEXIBILITY BETWEEN FINANCIAL YEARS - 100% CARRY FORWARD

Requests by Services to carry forward revenue budget resources in full between financial years will be subject to specific procedures and criteria which will be contained in guidance to be issued by the Section 95 Officer. The procedures and criteria will be determined in consultation with the Corporate Leadership Team. This 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 Section 95 Officer in consultation with the Corporate Leadership Team, recommendations for 100% budget carry forwards will be presented to the relevant committee for approval. The Section 95 Officer has delegated authority to approve individual carry forward requests up to £20,000.

CAPITAL BUDGET AND CAPITAL PLAN (General Fund & Housing)

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 Capital 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 Capital Plan should be produced.

Instructing the Section 95 Officer, after considering appropriate advice, on the procedures to be adopted in the preparation of the Capital Plan and for monitoring the approved capital budget.

- 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 General Fund 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. A capital strategy report also needs considered and approved.

- c **Special Meeting of the Communities Committee** – A special Meeting of the Communities Committee is required to consider the Housing capital programme and approve the programme to be progressed for the forthcoming financial year, taking account of any advice issued by the Section 95 Officer in this regard. The special meeting of the Communities Committee 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 Housing capital budget is being set.

5.3 SECTION 95 OFFICER RESPONSIBILITIES

The Section 95 Officer shall request that each Director prepare a departmental Capital Plan proposal, to be submitted in accordance with specific guidance and a timetable issued annually by the Section 95 Officer.

The Section 95 Officer shall be responsible for ensuring that appropriate professional support and advice is provided by the Finance Service to Directors to assist in the preparation of their capital budgets.

The Section 95 Officer shall be responsible for ensuring that sufficient, relevant information is made available to members of the policy and budget setting strategy groups to facilitate decision-making by these forums.

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The Section 95 Officer shall also be responsible for providing Elected Members, the Chief Executive and other Directors as necessary with information on external factors affecting the Capital Plan.

The Section 95 Officer 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 is ordinarily progressed within the Council's Capital Plan and accordingly decisions regarding funding options will form part of the normal Capital Plan budget setting process. Should any such plans be progressed outwith the normal Capital Plan route however, the Section 95 Officer 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 Section 95 Officer 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 DIRECTORS' RESPONSIBILITIES

Each Director shall be required to prepare Capital Plan submissions within a timetable and in a form as directed by the Section 95 Officer. In this respect, it is the responsibility of each Director to ensure that the detailed annual guidance issued by the Section 95 Officer is followed and to draw on the professional support and advice available from the Finance Service as necessary.

Each Director is responsible for ensuring that full cognisance is taken of any Asset Management Plans within their services, when preparing their Capital Plan proposals.

Following approval of the Capital Plan by Council, no new capital projects can be introduced to the approved Capital Plans without prior approval of the appropriate Committee.

Before applying for any external funding the Section 95 Officer and the Monitoring Officer should be consulted, and each Director shall be responsible for ensuring that the obligations and conditions of the funding criteria can be met, including seeking approval for any match funding that may be required.

Directors should ensure that 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 DEFICITS / SAVINGS

Any in-year savings 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 Section 95 Officer. Deficits 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 Section 95 Officer.

Directors are directed to the specific section within the Financial Regulations (i.e. section 9) on Committee Report Preparation.

5.6 TECHNICAL VALIDATION PROCESS

Each service's Capital Plan submission shall be subject to an informal validation process to confirm that key figures are verified and the Section 95 Officer's budget guidance has been followed. The Service Lead (Finance) will be responsible for co-ordinating this process and in this role may organise meetings between services and Finance representatives to clarify key issues. This will ensure that the information which is submitted to subsequent policy and budget setting strategy groups (see below) is as accurate and comprehensive as possible.

5.7 POLICY AND BUDGET SETTING STRATEGY

The Council's Policy and Budget Strategy will ultimately be determined by the Council. Two member/officer working groups are part of the process of budget strategy formulation being the Policy and Budget Strategy Group (PBSG – Administration) and the Shadow Budget Group (SBG – Non Administration), the membership of which includes members and appropriate officers. The PBSG / SBG have no formal decision making roles.

The PBSG / SBG remit in its broadest terms is to help shape respective budget strategies over the short, medium and longer term in the context of the agreed corporate priorities of the Council ahead of formal consideration via Council meetings. They will also: make proposals for an overall revenue and capital budget strategy over the short, medium and long term; propose an overall strategy for reserves; consider the policy and financial implications of key initiatives and developments identified in the Council's planning and budgeting processes; provide input and direction to the Council's change programme; provide input and direction with the production of the Council Plan and Workforce Plan.

The PBSG / SBG will meet as required throughout the budget setting process, with the initial meeting at the start of the budget setting process where agreement will be reached on the overall strategy.

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 revised Capital Plan submissions as necessary.

The PBSG / SBG will make recommendations regarding the detailed capital budget and Capital Plan to the Policy & Resources Committee / Council.

All 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 Capital Fund as a contingency resource;
- c) Increase budget levels for one or more services, to facilitate advancement of priority projects reflected in the Capital Plan; and
- d) Allow projects not reflected in the Capital 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 Council 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 Director consider that ring-fencing of a capital receipt is appropriate, agreement from the PBSG is required in the first instance. Such requests should be made via the Section 95 Officer who will consult with the other PBSG members. Thereafter the approval of the Policy and Resources Committee must be sought.

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 budget 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, Director 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 within this budget to Council's agreed priorities.

It is highlighted that this authority ultimately resides with individual budget holders to provide approval of spend within their discrete area of service provision. **In this regard, it should be ensured that the budget holder, or their delegated representative, is consulted prior to the commitment of any expenditure from their budget.**

The Policy and Resources Committee or the Council may place a reservation on an element of the budget barring the incurring of any expenditure until the reservation has been removed.

5.11 FINAL CAPITAL BUDGET VOLUME

The Capital Plan preparation process is concluded with the production of a Final Capital Budget Volume which details for Council Officials the agreed services capital budgets for the forthcoming financial year. Separate final capital budgets are presented to the Policy and Resources Committee for the General Fund and the Communities Committee for HRA, 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 services capital budgets may be revised by the Policy and Budget Setting Strategy Group and reported for approval 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 deficit or saving on the Council's capital budget has a material impact on the presentation of the Capital Monitoring Statements.

6. CAPITAL PROJECT BUSINESS CASE

6.1 INTRODUCTION

All new projects being proposed for inclusion in the capital plan must be presented to the Council's budget setting groups for consideration. Some of these proposed projects, particularly those of high value or complexity, may require to be accompanied by a business case. The Council has adopted a business case process to ensure a robust assessment is made of the costs and benefits of proposed capital projects. Requirements with regard to the preparation of business cases are issued annually by the Section 95 Officer within the capital budget preparation guidance.

6.2 DIRECTORS' RESPONSIBILITIES

Each Director is required to have prepared a business case, in line with the guidance issued by the Section 95 Officer, for those capital projects above the de minimis cost level within the latest capital plan. Each Director shall be responsible for ensuring the robustness of the information contained within the business case and must ensure a thorough consultation exercise is undertaken prior to its formal submission.

6.3 DE MINIMIS COST LEVEL

Whilst each proposed capital project will require to be taken on its own merit, in general a business case 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 services capital budgets lies with each Director.

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 as set out in section 7.3.

The Policy & Budget Strategy Group, in consultation with Conveners of such Committees as appropriate may consider it necessary to vary the services capital budgets, as contained in the Final Budget Volume, to protect the Council's position and in accordance with the provisions of paragraph 5.10. Any such proposed variations will be reflected in the Capital Monitoring Statement which will be submitted to the appropriate Service Committee and the Policy and Resources Committee for formal 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 services resources, then except with the authority of the Policy and Resources Committee or through the annual budget process:

- 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 (General Fund) and the Communities Committee (HRA), shall be determined by the Section 95 Officer in consultation with Directors. The content of the report in respect of individual services budgets and expenditure should be determined after close liaison between a services finance contact and the Designated Officer for the relevant service.

Directorate Reports

Directors 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 Director subject to the content not conflicting with corporate monitoring information.

For the purposes outlined above, Designated Officer is defined at paragraph 1.12.

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 capital programmes and subsequently suggest any corrective action which may be required. The CPMG has no formal decision making powers.

Membership of the CPMG comprises both elected members and relevant officers, the latter being required to attend as necessary to provide information on individual capital projects and address any issues raised.

The CPMG undertakes an overview role in the overall monitoring of the capital programme which supplements other monitoring arrangements as detailed above; investigating with relevant officers the issues and reasons for identified areas of substantial potential deficits/savings and agreeing corrective action as appropriate.

The CPMG largely performs a monitoring role but may make recommendations to the council's Policy and Budget Strategy Group in terms of the development or funding of individual capital projects or the capital programme as a whole. Any such proposals require the formal approval of the Policy & Resources Committee.

7.5 SECTION 95 OFFICER RESPONSIBILITIES

The Section 95 Officer has a responsibility to ensure that capital monitoring by Directors 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 Section 95 Officer also has a responsibility to ensure that the CPMG and Policy & Resources Committee are provided with suitable information to allow the Council's capital budget to be monitored/scrutinised.

7.6 DESIGNATED ACCOUNTABLE MANAGERS

Each Director shall ensure that an appropriate Designated Accountable Manager (DAM) is identified for each capital project within their capital 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 SECTION 95 OFFICER RESPONSIBILITIES / PROCEEDS OF CRIME REPORTING OFFICER

The Section 95 Officer is responsible for ensuring that Council services 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 Section 95 Officer shall also make arrangements for staff training in this regard where considered necessary. The Section 95 Officer 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 Section 95 Officer is the nominated Proceeds of Crime Reporting Officer. The Section 95 Officer will implement an [Anti Money Laundering Policy](#) to meet legislative requirements and to mitigate the risk of money laundering to the Council.

8.3 DIRECTORS' RESPONSIBILITIES

Directors shall ensure that their employees are aware of their obligations under the Council's Anti-Money Laundering Policy and assist the Section 95 Officer 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 employees – 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 SECTION 95 OFFICER RESPONSIBILITIES

The Section 95 Officer shall ensure that Committee reports contain a section outlining the financial implications of the matter being reported upon. Additionally, the Section 95 Officer 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 48(4) relating to Planning and Licensing matters, all Directors are obliged to consult in good time with the Section 95 Officer on all matters which are likely to result in a report to Committee.

9.2 DIRECTORS' RESPONSIBILITIES

With regard to reports prepared for consideration by Committee, Directors shall follow the expected format and guidance notes for ensuring all financial implications are identified and recognised. Further, Directors shall ensure that the Section 95 Officer 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 Section 95 Officer'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;
- d Implications for the revenue budget should identify where provision exists within the Council's revenue budget. It is not sufficient to merely

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indicate that any increase in expenditure will be contained within the services 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 the services finance contact;
- g No budgetary implications which cannot be contained within existing services 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 deficits 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 finance contact 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 Section 95 Officer.

9.4 LONGER TERM PLANNING & BUDGETING

Directors shall comply with any guidance issued by the Section 95 Officer 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 Section 95 Officer, and all accounts and accounting records of the Council shall be compiled by the Section 95 Officer 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 Director shall ensure observance by his or her service of year end instructions issued by the Section 95 Officer to properly determine the accurate accounting of expenditure and income in the proper financial year.

10.2 **SECTION 95 OFFICER RESPONSIBILITIES**

The Section 95 Officer 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. This includes those Charities and Common Good Funds the Council is custodian of.

The Section 95 Officer shall ensure Annual Accounts are submitted timeously per statutory timeframes.

The Section 95 Officer shall ensure that the audited copy of the Annual Accounts, together with the Auditors Report to Members, is laid before a meeting of the Council within the statutory timescales.

The Section 95 Officer shall be responsible for providing all information required to allow members to be satisfied with the accuracy and adequacy of the Annual Accounts.

10.3 **RESPONSIBILITY OF COUNCILLORS FOR FINANCE MATTERS**

In addition to the responsibilities of the Section 95 Officer, the Councillors sitting on the Scrutiny and Audit Committee shall oversee the provision of financial information and ensure they are provided with all information from the Section 95 Officer which they feel is necessary to ensure that they are satisfied with the accuracy and adequacy of the Annual Accounts. Appropriate training shall be provided to enable Councillors to fulfil this responsibility.

10.4 ASSET REGISTER

Section 95 Officer Responsibility

The Section 95 Officer shall maintain a Financial Asset Register which shall record the assets of the Council as required per the Accounting Code of Practice. This register needs to 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;
- heritage assets;
- any assets which have become surplus to requirements and
- assets which are being held for sale.

Director's Responsibility

Directors are responsible for ensuring that the Section 95 officer is supplied with all the information necessary to maintain the Financial Asset 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.

Other services of the council also hold Asset Registers for their own specific use, these being:

- Infrastructure Services, all council Properties, owned, leased in or out
- Communities, Housing Revenue Account Council Dwellings & Garages

10.5 FUNDS

The Section 95 Officer 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 latest Treasury Management in the Public Services Code of Practice.
 - 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).

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- 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
- 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 Services Revenue Budget deficits, prevailing at the end of the financial year, approved by the Section 95 Officer in consultation with the Chief Executive and relevant Directors.
- 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 5 such Funds.

Policy Statements are in place for the guidance of Directors 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/Section 95 Officer 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.
- 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.

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

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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 DIRECTORS' RESPONSIBILITIES

Each Director shall be required to appoint a Designated Officer who shall provide all necessary information requested by the Section 95 Officer to enable the compilation of the Annual Accounts.

This will include information on stocks, debtors, creditors, petty cash and any other areas deemed necessary by the Section 95 officer in order to fulfil their duties.

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

In consultation with the Section 95 Officer, each Director 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 1.12.

10.7 PERIODIC REVIEWS OF FUNDS

To ensure the continuing relevance and adequacy of the Funds, the Section 95 Officer, in conjunction with the Director responsible for each Fund, shall undertake periodic reviews of these Funds.

11. VALUE ADDED TAX (VAT)

11.1 SECTION 95 OFFICER RESPONSIBILITIES

It shall be the responsibility of the Section 95 Officer 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 DIRECTORS' RESPONSIBILITIES

Each Director shall keep records, as determined by the Section 95 Officer, 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. The preference for electronic retention is through our corporate financial system or subsidiaries of this.

11.3 DIRECTION AND ADVICE

The Section 95 Officer will nominate one Finance officer as the contact point for enquiries regarding any VAT matter. Each Director shall fully observe any direction and advice regarding VAT as may be issued by the Section 95 Officer 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 Director of Strategic Policy Transformation and Public Sector Reform will arrange for the provision of a continuous internal audit function, overseen by a suitably qualified and experienced individual (the Service Leader Internal Audit), to review the governance, risk and internal control arrangements of the Council in accordance with the Public Sector Internal Audit Standards.

The Service Leader (Internal Audit), 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 Leader (Internal Audit).

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.

12.2 **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](#)

13. CORPORATE GOVERNANCE

13.1 INTRODUCTION

The Council has adopted its own Local Code of Corporate Governance based on national guidelines and best practice. This Local 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 employees 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 DIRECTORS' RESPONSIBILITIES IN RELATION TO THE LOCAL CODE

Directors are responsible for ensuring:-

- a employees 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 service area 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 banking services provider shall be made by the Section 95 Officer who shall engage services that are considered appropriate in order to allow the Council to deliver its services effectively. No bank account (or equivalent) in the Council's name shall be opened without the express formal consent of the Section 95 Officer. The Section 95 officer shall ensure that monthly bank reconciliations are drawn up for all corporate bank accounts.

14.2 CONTROL OF CHEQUES

Blank cheques, shall be ordered only on the authority of the Section 95 Officer who shall make proper arrangements for their safe custody.

14.3 SIGNATURE ON CHEQUES

All cheques shall be signed as the Section 95 Officer may determine.

14.4 BANKING OF MONIES

Each Director shall fully observe directions issued by the Section 95 Officer 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 Section 95 Officer.

14.5 ELECTRONIC PAYMENT TRANSFER

The Section 95 Officer 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 Section 95 Officer. Such Deposit Receipts that are arranged shall be kept under review by the Service Lead (Finance).

15. TREASURY MANAGEMENT

15.1 ADOPTION OF CIPFA'S CODE OF PRACTICE

The Section 95 Officer and his employees shall observe the guidance laid down in the latest version of CIPFA's Treasury Management in the Public Services – Code of Practice and Cross Sectoral Guidance Notes. 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 for the execution and administration of treasury management decisions to the Section 95 Officer, who will act in accordance with the Council's agreed treasury strategy and treasury management practices (TMPs).

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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 Section 95 Officer 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 3 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 Section 95 Officer.

15.6 DELEGATED TREASURY MANAGEMENT POWERS

All executive decisions on borrowing, investment or financing are delegated to the Section 95 Officer 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 Section 95 Officer wish to depart in any material respect from the main principles of the Code or the Council's 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. They have been revised to align fully with the current suite of Scottish procurement legislation:

- Procurement Reform (Scotland) Act 2014 (the "2014 Act", as amended or re-enacted from time to time)
- Public Contracts (Scotland) Regulations 2015 (the "2015 Regulations", as amended or re-enacted from time to time)
- Procurement (Scotland) Regulations 2016 (the "2016 Regulations", as amended or re-enacted from time to time)

16.1.2 This Section of Financial Regulations also forms 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 Services by Directors. 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 supplies (incl. services, etc.) necessary to undertake its functions.

"commodity" – this means, for present purposes, a discrete type of supply. Various "categories" of commodity exist under collaborative procurement arrangements (see the 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, awarding, ordering from and managing contracts.

"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 and civil engineering (build or design and build or other) of physical infrastructure such as buildings and roads.

See also Financial Regulations 1.10 (director) and 1.15 (4th tier officer) for additional definitions used both in this (and other) Sections of Financial Regulations. Additional

explanations of specific procurement 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.
- **Public Contracts Scotland (PCS)** refers to the Scottish Government’s online electronic tendering portal (**PCS Portal**). Together with Public Contracts Scotland – Tender these are the required online portals for public sector procurement exercises.
- **Procurement Journey** refers to the Scottish Government’s online tool providing guidance and documentation for Scottish public sector procurement which is updated on a continual basis with any changes in legislation, policy to facilitates best practice and consistency.

- 16.1.6 Throughout this Section, mandatory Financial Regulation text appears in ordinary type while non-mandatory guidance is shown boxed off and in italics.

The Corporate Procurement Manual is available on the Corporate Intranet Procurement <https://anguscouncil.sharepoint.com/SitePages/Procurement.aspx> site. The Corporate Procurement Manual aligns to and incorporates as far as possible the Scottish Government’s Procurement Journey as well as containing procurement guidance and model documents supplementing Procurement Journey content. This is available to employees undertaking procurement for the council. It is intended to be the primary source of corporate reference material for Angus Council employees undertaking

procurement activity for the council. The Procurement Journey is primarily aimed at goods and services (including care) procurement. Although much of it is relevant to construction as well, a construction-specific tool is under development.

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.

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:
- The statutory duty to secure Best Value under the Local Government in Scotland Act 2003 and all related Best Value Guidance;
 - European Union Public Procurement regime and associated UK/Scottish legislation. The current primary suite of procurement legislation in Scotland is the 2014 Act, the 2015 Regulations and the 2016 Regulations; and
 - 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 Procurement & Commissioning Manager is available to assist in cases of difficulty. Directors are responsible for ensuring that the procurement carried out within their services 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. Contact details are given at the Contact Us page on the the Procurement site. It is ultimately a question of law, however, so in difficult cases, the Monitoring Officer will require to rule on this.

16.3.2 In carrying out tendering and contract arrangements, Directors shall arrange for regard to be had to relevant general or contract-specific procurement guidance issued by the Section 95 Officer or on his behalf by the Procurement & Commissioning Manager. Directors are responsible for ensuring that their employees are familiar with and follow guidance contained within the Corporate Procurement Manual, subject to commodity-specific variations put in place within services by Directors.

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 Procurement & Commissioning 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 Directors 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 Directors 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 Procurement & Commissioning Manager will develop guidance and policy on delivering community benefits and sustainability through the council's

procurement activity jointly with Directors. The guidance and policy will sit within the Corporate Procurement Manual and Directors 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.

Note: policy and guidance on Community Benefits in Procurement has been developed by the Corporate Procurement team to support the functions referred to at FR 16.4. This is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 35](#) "Community Benefits in Angus Council Procurement"

Appendix 1 to Financial Regulations also sets out the relevant thresholds as per that approved policy and guidance.

Further relevant guidance on sustainability and equalities duties has also been prepared. These are also available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 28](#) "Sustainable Public Procurement – An Introduction For Purchasers"
- [PGN 36](#) "Equalities and Procurement"

16.5 CODE OF CONDUCT FOR COUNCIL EMPLOYEES

16.5.1 The Council has developed an Employee Code of Conduct which includes employee behaviour requirements on "Relationships – With Contractors". This Code 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 Employee Code of Conduct also stresses the need for **impartiality** in officers dealings with contractors and potential contractors, and sets out a policy on the acceptance of gifts and / or hospitality offered by contractors or potential contractors. Directors are responsible for ensuring that employees undertaking procurement on their behalf are specifically aware of and follow the terms of the Employee Code of Conduct relating to Relationships with Contractors.

Note: The Employee Code of Conduct is available on the intranet under Employee Matters <https://anguscouncil.sharepoint.com/sites/HR/SitePages/Employee-Code-of-Conduct.aspx> Joint procurement / legal guidance on the implications of the Bribery Act 2010 for staff undertaking procurement functions is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 30](#) "Guidance On The Bribery Act 2010 - What Does It Mean For You as a Council Purchaser?"

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 as mandatory 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 Director proposes not to use an approved contract, he or she shall provide

the Procurement & Commissioning 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, Financial Regulation 16.8 and Appendix 1b (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 the PCS Portal (or approved equivalent alternative mechanism) shall be used to manage any such mini competition by the Council unless the Director is satisfied, after consultation with the Procurement & Commissioning Manager, that there are compelling reasons why not.
- 16.6.6 Where TPC has formally approved a contract, a framework agreement or any other purchasing mechanism for use by Angus Council (whether mandatorily or not) then procurement authority will be deemed to be delegated to Directors to purchase from that contract or to award a call off contract under the framework agreement, etc. without further reporting to Committee for procurement authority. For the avoidance of any doubt any such procurement authority is subject always to budget approval being in place for the whole spend value committed under the anticipated contract and/or purchase order.

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.

Guidance on collaborative procurement arrangements in Scotland is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 7](#) "Collaborative Procurement Agreements – Category A and B Commodities"
- [PGN 9](#) "Strategic Sourcing & Commodity Procurement"

16.7 STANDING CONTRACT ARRANGEMENTS

- 16.7.1 Suitable contract arrangements shall be established by each Director 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 Director to ensure that those contracts

are fully utilised, and to report any specific difficulties to the manager of that contract.

16.7.4 Directors shall maintain a register of all employees 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 (authorised purchase order approvers) required to be kept in terms of Financial Regulation 18.6.

16.7.5 Directors shall be responsible for ensuring that employees in their service are sufficiently qualified and knowledgeable to undertake the procurement tasks required of them and to ensure fulfilment of Director'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 has been developed by the Corporate Procurement team to support the functions referred to at FR 16.7.4 and 16.7.5. This is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 20](#) "Register of Authorised Procurement Officers"
- [PGN21](#) "Guidance on Carrying Out Development Needs Assessment of Authorised Procurement Officers"

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 equal to or above the Director Delegated Threshold stated in Appendix 1. Authority for proposed procurements:

- (a) below the Director Delegated Threshold; or
- (b) devolved to Directors in terms of FR 16.6.6 (TPC approved); or
- (c) devolved to Directors in terms of FR 16.24.6 (Exemption Co-ordinator approved);

is delegated to Directors.

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 Director 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 1b, 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 Directors to ensure that all delegated contract award decisions so made are subsequently reported to the appropriate Committee at least annually.

Note: FR 16.8.3 (a) – (j) sets out the mandatory minimum content for a Committee Report seeking procurement authority to assure scrutiny of the "sourcing strategy" underpinning the procurement and its alignment to / compliance with relevant law and council policy / organisational procurement strategy. It is therefore recommended that the same content is used for a report (or equivalent, e.g. a business case) for director approval of a delegated procurement, for the same reasons.

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 consideration given to compliance with the sustainable procurement duty (section 8(2) of the 2014 Act). This requires that, before the Council procures anything, it must think about how it can do so in a way which improves the social, environmental and economic wellbeing of the Angus area, with a particular focus on reducing inequality. It also requires the Council to consider how its procurement processes can facilitate the involvement of SMEs, third sector bodies and supported business and how public procurement can be used to promote innovation. Consideration must also be given to the relevance and proportionality to the contract of (a) fair work practices and (b) the deliver community benefit and for their inclusion in the award criteria and performance conditions of the contract, where relevant;
- (c) the planned procurement start / finish dates, including start of supply;
- (d) the proposed duration (including any options to extend) for a term contract;
- (e) the total estimated value on a whole life cost basis (including operating, maintenance and disposal costs, where applicable);
- (f) the procedure to be followed (e.g. 2-stage, restricted or single-stage, open procedure);
- (g) the proposed evaluation and contract award basis (including price / quality split criteria and weightings), unless (and only to the extent that) there are practical reasons these cannot be expressed at the point of reporting;
- (h) the assessed procurement risks and a risk management strategy insofar as this is pertinent to the proposed contract;
- (i) if the procurement is considered to be a "major procurement" within the meaning of Regulation 16.8.4; and
- (j) 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.

Note: FR 16.8.3 (a) – (j) sets out the mandatory minimum content for a Committee Report seeking procurement authority to assure scrutiny of the "sourcing strategy" underpinning the procurement and its alignment to / compliance with relevant law and council policy / organisational procurement strategy. The following Council and/or national guidance is relevant to (b) in particular:

- [PGN 28](#) "Sustainable Public Procurement – An Introduction For Purchasers"
- [PGN 35](#) "Community Benefits in Angus Council Procurement"
- Scottish Government statutory guidance under the 2014 Act on the sustainable procurement duty, Community benefit requirements in procurement, Selection of tenderers and award of contracts,

Procurement for Health or Social Care services and Addressing fair work practices, including the living wage, in procurement (published as a separate document)
(See <http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform/ProcReformAct/sta-tutoryguidance>)

16.8.4 Notwithstanding the grant by Committee of authority to procure, in the case of a Major Procurement, Directors 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 Director'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 Section 95 Officer has issued guidance in consultation with Directors 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.

This is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 23](#) "Financial Regulations Guidance on 'Major Procurement'"

16.8.5 Authority to procure from such Committee Reports is subject always to the overall costs (on a whole-life basis if appropriate) assessed following receipt of tenders being contained within the approved budgets. If the overall post-tender costs are outwith the approved budget, Directors 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 3.7 or 7.6 as the case may be.

16.8.6 Directors 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. Directors will also provide such additional post-tender information and reports as the Section 95 Officer 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 Regulated Threshold set out in Appendix 1b shall be publicly advertised. This must be via the PCS Portal (or equivalent alternative mechanism if any) in accordance with the 2014 Act. This may be together with any additional publicity as is considered to be required in Directors' 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 Section 95 Officer is required. Unless all legal publicity requirements for the procurement are met by the advertising as referred to above, 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 the use of PCS for such advertising (including OJEU) is available from the Procurement Journey website (<https://www.procurementjourney.scot/>) and on the PCS website (<https://www.publiccontractsscotland.gov.uk/default.aspx>)

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. Directors 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 6 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 Directors must comply with the Council’s policy on use of the Digital Reprographics Unit (formerly 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 Services 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 Place Directorate).

16.9.5 Directors 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 for values of contract up to the Regulated Threshold, 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 annually. Directors may use external sources of qualification assessment, such as Constructionline, as criteria for determining admission to an approved list.

Note: guidance on the use of approved lists has been developed by the Corporate Procurement team. This is available under the “Procurement Guidance Notes” section of the Corporate Procurement Manual:

- [PGN 12](#) “Using Approved / Standing Lists”

- 16.10.2 The Council may maintain term contracts or framework agreements, including schedule of rates contracts, for specified works, supplies or services. Term contracts shall normally be renewed at least every four years following public advertisement and the submission of competitive tenders. However, Directors shall have the discretion to provide for term contracts to endure for up to ten years (including any option to renew as well as early break options to accommodate changing circumstances). Term contracts for periods longer than ten years, even if of a value less than the Director Delegated Threshold will require Committee approval.
- 16.10.3 Directors shall have power to select tenderers from approved lists and award contracts of a value up to the Director Delegated Threshold only.
- 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 Director 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 Director fairly and without discrimination. The Director 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. dynamic purchasing agreement, 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 Section 95 Officer. Where tenderers are registered with Constructionline, the Section 95 Officer 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 Section 95 Officer 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 Section 95 Officer before that tenderer may be selected for invitation to tender or have its tender evaluated, as the case may be.

Note: Authorised Procurement 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 Section 95 Officer 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: guidance on the financial evaluation of tenderers has been prepared and approved by the Section 95 Officer and is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 26](#) "Financial Regulations Guidance on Financial Evaluation of Suppliers"

16.11 LODGING OF TENDERS

16.11.1 All tenders will be lodged using the "e-Tender Mailbox" electronic tender submission functionality of the PCS Portal unless the Corporate Procurement Manager approves otherwise. Such approval may be given specifically or generally. If paper tenders are to be sought, lodging arrangements must be in accordance with guidance issued by the Procurement & Commissioning Manager and approved in advance by the Monitoring Officer.

16.11.2 Tenders received after the time fixed for lodging through no fault of the Council's shall not be considered. Tenders submitted by fax or ordinary e-mail (outwith an approved e-Tendering system, including for this purpose PCS's e-tender mailbox system) shall not be considered, except in an emergency (which may include an unavailability issue with PCS) at the sole discretion of the Council. 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 Monitoring Officer or by the Director concerned if the tender value is below the relevant Director Delegated Threshold 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.

Note: In general terms, use of e-Tender Mailbox of PCS will only be unsuitable where there is a serious legal risk to the Council from its use or where a genuine barrier to its use by a bidder exists and the barrier has been properly and fully explored with the bidder but no reasonable resolution has been found. A bidder unreasonably refusing to use PCS is not a good enough reason for reverting to the cost and risk of paper tenders.

Technical guidance on the procedures for the use of PCS e-Tender Mailbox is available from the Procurement Journey website (<https://www.procurementjourney.scot/>) and on the PCS website (<https://www.publiccontractsscotland.gov.uk/default.aspx>).

16.12 OPENING OF TENDERS

16.12.1 The level of authority required for opening the e-Tender mailbox shall be determined by the Director concerned. It is recommended however that Tender mailbox opening is carried out by or under the direction of staff at a grade of not less than a 4th Tier Officer or otherwise in terms of the Director's Scheme(s) of Delegation).

16.12.2 Where paper tenders have been approved to be used, tender opening arrangements for that procurement must be in accordance with guidance issued by the Procurement & Commissioning Manager and approved in advance by the Monitoring Officer.

Note: For the purposes outlined above, 4th 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 Director 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 Director 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. If it is considered that a tenderer has made a significant rating error in his tender then Directors may ask the tenderer to confirm the tender price as it stands, subject to arithmetical correction, or withdraw its offer.

16.13.4 If it is considered that a tenderer has made an arithmetic error in its tender, then Directors 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 stipulated 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 Director 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 Director. That conclusion may only be reached after the Director 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 Director must first consult the Monitoring Officer/Director and the Procurement & Commissioning Manager with full background information to allow verification that the grounds for doing so appear sound. The Director 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 Directors seek the advice of the Procurement & Commissioning Manager first before any decision is made.

16.14 TENDER EVALUATION

16.14.1 All tenders received shall be evaluated and contracts awarded on the basis of the most economically advantageous tender ("MEAT") which will include price or cost and quality criteria. The basis selected will be set out in the invitation to tender documents which will also specify the financial / 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, Directors may apply a minimum quality score threshold below which tenders will not be accepted.

*Notes: The rules in the 2015 Regulations (i.e. for EU Regulated Threshold value and above) legally require that all tender evaluation / contract award must be on a MEAT basis and that lowest price or lowest cost is not longer valid (although 100% quality is).
The rules in the 2014 Act and the 2016 Regulations do not specify the basis of tender evaluation / contract for Regulated procurements. However, the principles of best value and sustainability and proportionality do apply as a matter of law. The work done on preparing a sourcing strategy for the procurement Addressing all the factors set out at FR 16.8.2 (a) – (j) should form the basis of the decision on whether or not to seek lowest price or MEAT tenders for regulated procurement and category / commodity approaches should be reviewed for applicability for each new procurement.
Lower value procurement below the Regulated Threshold are more justifiable on a lowest price basis. Good practice dictates again though that the bid evaluation / contract award basis is tailored to the procurement in question and in particular how outcome / output / performance –v- input the Specification is.
Attention is drawn to the provisions of FR 16.16.1(b)(v) relating to the tender evaluation consequences of waiving a performance bond requirement for a DSO / DLO in a formal competition.*

16.14.2 Directors will prepare robust and comprehensive specifications such that compliance will achieve a level of quality to at least a fit for purpose standard. In addition, Directors will seek to apply independent challenge and demand management principles to the requirement to reduce the purchase need wherever and insofar as is possible. The evaluation criteria and methodology for quality evaluation shall be determined by the responsible Director unless it is proposed that the price / quality split percentage will be less than 70/30% in favour of price in which event the evaluation criteria and methodology shall require to be approved by the Procurement & Commissioning Manager on behalf of the Section 95 Officer.

Note: When approved frameworks are used the price/ quality split arrangements contained in the framework conditions must be used. See FR 16.6.4.

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 Director 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 Procurement & Commissioning Manager and the Monitoring Officer; 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 Director is satisfied following appropriate market investigation that the above issues cannot be re-addressed to make the tender process viable, then the Director 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 either:

- (a) by the Monitoring Officer in the case of Tenders which are equal to or above the relevant Director Delegated Threshold set out in Appendix 1b; or
- (b) by the appropriate Director where the tender is below that Director Delegated Threshold.

Electronic signature and authentication of a contract on behalf of the Council is permitted provided it is in line with guidance which may be issued from time-to-time by or with the approval of the Monitoring Officer (either generally or specific to a particular contract).

16.15.2 Contract award information (including the name and address of the successful bidder and the contract value) will be published by the Director on behalf of the Council on the PCS Portal and intimated to all bidders with an opportunity provided for a post-tender debrief, where sought within a reasonable period after contract award.

Note: the 2014 Act rules on contract award, publicity and notification and the EU rules in the 2015 Regulations on the same along with "standstill") must be understood and complied with. They are not set out fully in FRs (FRs is not a procurement manual).

These FR requirements re contract award publicity apply to all procurement contracts the Council enters into (whether or not they are called "contracts") - see FR 16.2 above. So, they apply to:

- *EU Regulated contracts*
- *Regulated contracts*
- *For the avoidance of any doubt, exempted / "directly awarded" contracts too*

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 either:

- i) an industry standard form (e.g. National Engineering Contract or NEC terms) approved by the Director as relevant to the subject matter of the procurement and with only minor amendments by the Director such as do not fundamentally alter the balance of risk allocation in the industry standards terms; or
- ii) in a form and contain terms approved by the Monitoring Officer, either generally from time to time or specifically.

The Council's contract terms shall, where appropriate, include the following terms:

- (a) That the contract shall, unless the Monitoring Officer approves otherwise, be subject to the Laws of Scotland.

(b) That in respect of all construction works and civil engineering works contracts of a value of the Performance Bond Threshold Value or above (see Appendix 1b):

(i) the contractor shall be required to enter into an appropriate Performance Bond of an amount not less than either:

- 10% of the total contract value; or
- Such lesser % as the Section 95 Officer in consultation with the appropriate Director may approve

with a reputable Bank or Insurance Company.

The form of Bond and the Bank or Insurance Company shall require to be approved by the Section 95 Officer in consultation with the Monitoring Officer and the appropriate Director.

Any relaxation in Bond value % from the "normal" 10% contract value referred to will require demonstration that the effect will be a proportionate balance between risk to the Council and increased opportunity of access to Council contracts, particularly for locally-based SMEs. This issue must be addressed in advance of invitation of tenders.

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

(iii) Directors in consultation with the Section 95 Officer 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 Director, 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 Monitoring Officer (either generally from time to time or specifically); and

(v) The requirement for a Bond may be waived at the request of the relevant Director 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 Section 95 Officer in consultation with the Monitoring Officer.

(c) That the contractor shall be insured with an approved insurance company against the following risks and at the Contract Insurance Indemnity Minimum Limits set out in Appendix 1b or such other limits as the Director in consultation with the may determine to be reasonable and proportionate to the risks and requirements of the given procurement:

(i) liability to workpeople under statute (employer's liability) to a value of at least the Contract Insurance Indemnity Minimum Limit – Employer's Liability 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 (public liability) to a value of at least Contract Insurance Indemnity Minimum Limit –

Public Liability 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 Director in consultation with the determines are necessary 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 corporate standard sets of contract conditions are available on the Council website - Procurement Page (<https://www.angus.gov.uk/business/procurement>)

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 Section 95 Officer 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 Directors 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 Director, 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 Director; 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 Monitoring Officer and authorised by the relevant Committee as appropriate, except insofar as the Director of Children, Families & Justice or the Chief Officer of the Angus Health & Social Care Partnership 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 council 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 set annually by the the Council 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 set annually by the the Council 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 Scottish Government's "Social Care Procurement Scotland Guidance" as now embedded in the Procurement Journey 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 16.24.8(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 2(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 2(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 1b to these Financial Regulations;
- (b) The Director of Infrastructure 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 1b 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 Section 95 Officer; 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 Director of Infrastructure having delegated power to award contracts up to and including a maximum value equal to that detailed following consultation with the Section 95 Officer, 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 Directors 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 Director 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 (including where the terms of the contract require immediate a specific / immediate decision / action), the Director in consultation (where practicable) with the Procurement & Commissioning 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 Directors 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 3.7 (revenue) and 7.6 (capital). Without prejudice to these reporting arrangements for budget monitoring purposes, Directors 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 Director shall first consult with the Section 95 Officer, the Monitoring Officer and the Procurement & Commissioning 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 Directors' 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 Section 95 Officer and all other Directors involved in procurement shall be jointly responsible for the accurate, complete and up-to-date maintenance of contracts information on the Council's published register of contracts in accordance with the 2014 Act.

16.20.2 Where applicable, the exercise of extension options must be recorded in the contracts register by Directors 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 the De Minimis Threshold do not need to be recorded in the contracts register but may be so recorded at the discretion of the responsible Director.

These FR requirements re the contracts register apply to all procurement contracts the Council enters into (whether or not they are called "contracts") - see FR 16.2 above. Maintenance of a contracts register is a legal duty under the 2014 Act.)

Guidance on the procurement officers' responsibilities for the maintenance of the contracts register has been prepared and is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 11](#) "Angus Council Contracts Register"

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 Section 95 Officer, the Monitoring Officer and (where applicable) the Director of Infrastructure, shall be consulted prior to any proposal to commission works or services by any method other than a conventional approach. The Director of Infrastructure 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 Section 95 Officer and the Monitoring Officer.

16.22 DE MINIMIS THRESHOLD

16.22.1 For one-off procurement of a value up to the De Minimis Threshold stated in Appendix 1b, no formal procedure will be required at all. However, Directors making use of this facility must however 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) Directors 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. Directors are reminded of their obligations to ensure compliant use of mandated contracts in terms of Regulation 16.6.2.

- (d) Directors 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 Procurement & Commissioning Manager to achieve this, where appropriate.

16.23 LOW VALUE PROCEDURES

16.23.1 In the following circumstances:

- (a) for contracts of a value above the De Minimis Threshold up to and including the Regulated Threshold defined in Appendix 1b; 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 may be on the basis of either the lowest price or the most economically advantageous tender (MEAT), applying price / cost and quality 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 up to the Regulated Threshold.
- (f) The "Quick Quote" function on the PCS Portal (or approved equivalent alternative mechanism) shall be used to manage the process for seeking quotations unless the Director is satisfied, after consultation with the Procurement & Commissioning 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 Procurement & Commissioning 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 Procurement & Commissioning Manager, the Service Leader (Finance) 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 Director Delegated Authority as set out below. This role will include consultation with the Chief Executive, the Section 95 Officer, the Monitoring Officer and other Directors as necessary.

16.24.5 The limit of the Exemption Co-ordinator's authority is set out in Appendix 1b, 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.

Director Delegated Exemptions

16.24.8 Directors 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 for contracts of a value up to the Director Exemption Threshold as set out in Appendix 1b. Notwithstanding this provision, Directors may

contact the Exemption Co-ordinator for advice in respect of the application of exemption criteria as required. In all circumstances where Directors 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 an Exemptions Request form is recommended to capture such decisions and the grounds for them properly.

The exemption criteria for Directors under this Regulation 16.24.8 are (given that they are not regulated under the 2014 Act) as follows:

- (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 Director of Infrastructure, 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 2(a) to these Regulations; or
- (g) the Director 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.

Where it becomes apparent during consideration of Director exemption request that the contract value is likely to equal or exceed the Director Exemption Threshold set out in Appendix 1b, the Exemption Co-ordinator must be contacted at an early stage in the process to decide on the applicability of the exemption criteria noted at Regulation 16.24.10 below and certainly prior to any decision being taken to proceed with a contract on an exempt basis.

Other Exemptions / Criteria

16.24.9 A contract whose value is equal to or exceeds the Director Exemption 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 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 grounds:

- (a) for contracts of a value equal to or greater than the Director Exemption Threshold but less than the EU Regulated Threshold, where Sections 12 and 13 of the 2014 Act or Regulation 6 of the 2016 Regulations permit the contract to be awarded without competition, i.e. under one of exemption grounds (1) – (7); or
- (b) for contracts of a value equal to or greater than the EU Regulated Threshold where Regulation 33 of the 2015 Regulations permit the contract to be negotiated without prior publicity, i.e. under one of exemption grounds (2) – (7).

In summary, from the relevant legislation, the exemption grounds for this Regulation 16.24.10 are where:

- (1) the contract is for a health or social care service (as defined) and Scottish Ministers' guidance supports that approach;
- (2) no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to the publication of a contract notice, provided that the initial conditions of the contract are not substantially altered;
- (3) the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons—
 - i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;
 - ii) competition is absent for technical reasons;
 - iii) the protection of exclusive rights, including intellectual property rights; but only, in the case of paragraphs ii) and iii), where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;
- (4) (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the authority considers it must proceed to award a contract without delay;
- (5) the following conditions apply—
 - i) it is for new works, services or both, consisting of the repetition of similar works or services entrusted to the economic operator to which the contracting authority awarded an original contract, provided that such works or services are in conformity with the project for which the original contract was awarded;
 - ii) the project indicated the extent of possible additional works or services and the conditions under which they would be awarded;
 - iii) the possible use of this procedure was disclosed in the procurement documents and the total estimated cost of subsequent works or services was taken into consideration by the contracting authority when determining the estimated value for the purpose of applying section 3(1)(b) of the Act in relation to the original contract; and
 - iv) not more than three years has elapsed following the conclusion of the original contract.
- (6) the proposed contract is a public supply contract and—
 - (a) the products involved are manufactured purely for the purpose of research, experimentation, study or development, but a contract awarded under this sub- paragraph shall not include quantity

- production to establish commercial viability or to recover research and development costs;
- (b) for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;
 - (c) for supplies quoted and purchased on a commodity market;
 - (d) for the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.

For the purposes of this item (6) the duration of such a contract, as well as that of recurrent contracts must not, save in exceptional circumstances, exceed three years.

- (7) the proposed contract is a public service contract and—
 - (a) it follows a design contest organised in accordance with the 2015 Regulations; and
 - (b) it is to be awarded, under the rules provided for in the design contest, to the winner or one of the winners of the design contest.

The exemption grounds are set out here for ease of reference but they are subject to some other qualifications in the legislation which may therefore still have to be referred to for matters of detail.

Post Exemption Process

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 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.

16.24.12 Where the Exemption Co-ordinator has approved an exemption request up to the Exemption Coordinator Delegated Threshold then procurement authority will be deemed to be delegated to the relevant Director to purchase from the contract to be awarded following the exemption request approval without further reporting to Committee for procurement authority. For the avoidance of any doubt any such procurement authority is subject always to budget approval being in place for the whole spend value committed under the anticipated contract and/or purchase order.

Exemptions Register and Reporting

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

General Provision For Emergencies - Public Safety

16.24.14 Notwithstanding the foregoing contract exemption provisions, Directors 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, Directors 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. Directors will be held accountable for providing full and transparent support information to justify any such exceptions. Any such exceptions applied by Directors will be subject to review by the Procurement & Commissioning Manager or Committee, as appropriate.

16.24.15 Where such emergencies arise, Directors are required to advise the Chief Executive, Section 95 Officer and the Monitoring Officer 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 services revenue and capital expenditure positions.

Standing Exemptions

16.24.16 The Section 95 Officer in consultation with the Exemption Co-ordinator may 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 directors 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, directors 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 annually 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 Section 95 Officer is available under the "Procurement Guidance Notes" section of the Corporate Procurement Manual:

- [PGN 33](#) "Financial Regulations Standing Exemptions: (1) Statutory Utility Services And (2) PRS For Music Performance Licenses"

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 INTRODUCTION

Regulations 17.2 and 17.3 apply, unless otherwise stated, to all proposals and transactions regarding the acquisition, demolition, development, disposal or change of use of land or buildings in connection with the provision of Council services.

Disposal of assets subject to a Community Asset Transfer application are subject to a separate process. See 17.3.5 below.

Guidance on procedural matters relating to the Disposal of Land & Property is attached as Appendix 1(a).

17.2 APPLICATION – LAND AND PROPERTY

- 1 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.
- 2 Subject to the specific delegation to the Service Leader Vibrant Communities 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 service, the matter shall be referred to the Director of Infrastructure who shall advise all other services of the Council to ascertain whether the land or building can be appropriately used by any other service.

The Director of Vibrant Communities and Sustainable Growth, through the Service Leader (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 service concerned has had the opportunity to present recommendations regarding its future use to the Director of Infrastructure.

The Director of Infrastructure 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 by the Vibrant Communities and Sustainable Growth for development of affordable housing;
- 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 Director of Infrastructure shall utilise the Exit Strategy for Council Buildings to ensure consistency and traceability. Particular reference is made to the requirements of Community Empowerment (Scotland) Act 2015.

- 3 Where power is delegated under the Scheme of Delegation to Directors, the Director of Infrastructure shall have powers to make decisions which are otherwise the responsibility of the Policy and Resources Committee. This will be in accordance within the maximum values stated in the Scheme of Delegation and as summarised in Appendix 1(b)., This is 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.
- 4 For the purposes of 17.2.2 above, the value of a lease should be calculated as the product of the annual rental and the period of the lease.

17.3 TRANSACTIONS – DISPOSAL OF LAND AND PROPERTY

- 1 Subject to 17.3.3 and 17.3.4 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, offers 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 Director of Infrastructure 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 offer 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

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the highest bid must be subject to the approval of the Policy and Resources Committee.

- 3 The Director of Infrastructure shall, in conjunction with the Monitoring Officer and the Section 95 Officer, 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 Where a request is made by an eligible community body to take over any land or buildings within Council ownership, such requests are classed as a Community Asset Transfer (CAT) under the Community Empowerment (Scotland) Act 2015. Such requests are not dealt with as normal disposals in line with the above provisions, but are instead assessed against specific criteria by the Community Asset Transfer Group (CATG) – a group of officers from various Council services which assesses CAT requests and makes recommendations to the Policy & Resources Committee. In this regard the group applies the policy and criteria agreed at the Council meeting of 22 March 2018 (report 105/18 refers).
- 6 Other than in the circumstances detailed at 17.3.4 and 17.3.5 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.
- 7 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.

17.4 APPLICATION – OTHER ASSETS

- 1 Regulations 17.2 and 17.3 apply, unless otherwise stated, to all Council assets not covered under paragraph 17.2.1 above.

17.5 TRANSACTIONS – DISPOSAL OF OTHER ASSETS

- 1 Subject to the provisions of Regulations 17.5.3 to 17.5.6, 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

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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, Directors may offer these for sale to employees at a reasonable amount set by the Director, 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 Leader (Digital Enablement & 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 service, however the Service Leader (Digital Enablement & Information Technology) should still be involved to ensure that any potential issues (e.g. compatibility) are properly addressed.
- 4 Directors may, with the agreement of the Section 95 Officer, 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 Director delegated low value threshold for supplies and services as detailed in Appendix 1a, the relevant Director may apply, in writing or by e-mail, to the Exemption Co-ordinator for an exemption from the requirements of Regulation 17.5.1, 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.

17.6 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.

17.7 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 - "Procurement Arrangements", and Appendix 1b.

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 Section 95 Officer for that purpose.

18.2 RESPONSIBILITY FOR ORDERS

Each Director shall be responsible for all orders issued by their service, 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 Section 95 Officer.

18.3 PURCHASE OF SECOND HAND GOODS FROM EMPLOYEES

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

18.4 FORM OF OFFICIAL ORDERS

All orders shall be issued in a form approved by the Section 95 Officer. All orders issued shall only be raised by officers authorised by the appropriate Director.

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.

18.5 AUTHORISED OFFICERS

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

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;
- Where manual / paper orders will be undertaken:
 - The employee's network login to facilitate electronic approval e.g. by PDF stamp;
 - A sample of the authorised signatory's initials; and
 - A specimen signature.

The financial threshold of each signatory should be reviewed and agreed by the relevant Director, in consultation with the Section 95 Officer as necessary, to ascertain reasonableness and consistency. The financial threshold should reflect the grade, 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.

18.6 PROCEDURES FOR ISSUE OF ORDERS

An official order must be issued in advance 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 Section 95 Officer may approve.

18.7 USE OF CORPORATE CREDIT CARD TO RAISE ORDERS

It is recognised that in some circumstances, services may wish to apply to use the corporate credit card to order goods or services where 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 19.10.

19. PAYMENT OF ACCOUNTS

19.1 INTRODUCTION

Anything authorised or required to be done under this Financial Regulation may be so done electronically by use of an e-procurement system approved by the Section 95 Officer for that purpose.

Where the term invoice is used within this Financial Regulation 19, this should be taken to also include other monies due such as refunds and payments to individuals.

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 Director to inform partner organisations of this requirement.

19.2 CERTIFICATION FOR PAYMENT

The Director 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 service. Purchase invoices received by email are an acceptable method of submitting accounts from suppliers but must be in a secure format approved by the Section 95 Officer.

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

The Director is also responsible for ensuring that all instructions given by the Section 95 Officer in respect of procedures for certifying payment are fully observed within their service.

Certification should be by the appropriate officer's signature or their electronic PDF stamp. The PDF stamp will ensure it is the appropriate officer who is authorising the documents as it is unique to their personal network login.

19.3 AUTHORISED OFFICERS

Directors shall ensure that a register of officers permitted to authorise payments/refunds is maintained within their service and that this is in accordance with the service'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;
- Where manual / paper payment authorisation will be undertaken:

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

The financial threshold of each signatory should be reviewed and agreed by the relevant Director, in consultation with the Section 95 Officer 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 Director for the separation of the duties of ordering goods, receiving goods and certifying invoices for payment.

Where an electronic ordering system is in use, as approved by the Section 95 Officer, 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 Section 95 Officer.

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 Section 95 Officer 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 Section 95 Officer 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 Section 95 Officer, has been given to invoices subject to the Constructure Industry Tax Deduction Scheme (CIS).

19.6 PASSING INVOICES FOR PAYMENT

Directors shall be responsible for ensuring that duly certified payments/refunds are passed for payment without delay.

Payments shall be passed for payment via the Council's Purchase Ledger system in accordance with the instructions contained in the Integra user

operations manuals available from the office of the Section 95 Officer. The Purchase Ledger is the principal means of payment of accounts.

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

19.7 YEAR END LIST OF OUTSTANDING ACCOUNTS

Each Director shall, as soon as possible after each 31st March, and not later than a date to be intimated by the Section 95 Officer, 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 Directors shall comply with all instructions issued by the Section 95 Officer.

19.8 PERIODIC PAYMENTS

Where a service makes periodic payments which are not subject to orders/invoices in the normal way, the Director 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.

19.9 ADVANCE PAYMENT OF GOODS AND SERVICES USING A PROFORMA INVOICE OR QUOTATION

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. In some cases, payment for goods or services may be requested in advance based on a proforma invoice or quotation. Unless provided for otherwise by specific guidance as may be issued from time to time by the Section 95 Officer, all requests for payment based on proforma invoices or quotations **must be subject to the prior approval of the Section 95 Officer** 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 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 Section 95 Officer will indicate how VAT on such purchases is to be dealt with.

19.10 USE OF CORPORATE CREDIT CARD TO MAKE PAYMENTS

It is recognised that in some circumstances, services 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 Section 95 Officer.

A formal procedure for the use of the corporate credit card is in place and entails the submission of an application form to the Section 95 Officer which can be requested via finance@angus.gov.uk.

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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 DIRECTOR WITH RESPONSIBILITY FOR HUMAN RESOURCES

The Director 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 and remuneration payments to elected members shall be made by the Director with responsibility for Human Resources or under arrangements approved and controlled by them.

20.3 DIRECTORS' RESPONSIBILITIES

Each Director, as determined by the Director 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 Director shall fully observe all directions and advice in respect of payroll administration issued by the Director 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 Director with responsibility for Human Resources and shall be certified by or on behalf of the Director.

Directors shall ensure that officers authorised to raise and/or sign official documentation is set within the service's Scheme of Delegation.

21. INCOME

21.1 CHARGES FOR GOODS OR SERVICES SUPPLIED BY THE COUNCIL

Not less frequently than once a year, each Service Committee and Director shall, in consultation with the Section 95 Officer, prepare schemes of charges to be made for goods supplied or services rendered. Any changes made to charges will be based on policy to be agreed by Policy & Resources or the Council from time to time. 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 Section 95 Officer.

21.2 VARIATION OF CHARGES

Charges for goods or services shall be varied only with the authority of the Council. .

21.3 RAISING INVOICES

Where possible payment for services rendered by the Council should be made in advance and/or by electronic means such as Direct Debit based on the Council's payment preference hierarchy. Where it is necessary to raise an invoice to achieve payment Directors 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 Council's Sales Ledger system in accordance with the instructions contained in the Integra user operations manuals available from the Section 95 Officer.

Directors shall ensure that a register of officers authorised to raise invoices is maintained within their service and that this is in accordance with the service'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;
- Where manual / paper invoices will be undertaken:
 - The employee's network login to facilitate electronic approval e.g. by PDF stamp;
 - A sample of the authorised signatory's initials; and
 - 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

Directors shall ensure that the collection, custody, control and banking of all monies arising in their Service are secure with all risks minimised. They shall observe all directions issued by the Section 95 Officer in this regard.

The Section 95 Officer 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 Section 95 Officer and shall be ordered, controlled and issued to Services 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 Service shall be deposited promptly with the Section 95 Officer or the Council's Bankers in accordance with arrangements made with the Section 95 Officer 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 Section 95 Officer 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 Section 95 Officer. 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 Services concerned by the signature of the receiving officer.

21.10 BAD DEBTS

The Section 95 Officer 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 8(9) refers).

22. FINANCIAL SYSTEMS

22.1 GENERAL

The Section 95 Officer shall make such rules and set out such procedures as they consider should be followed by all Services of the Council in order to provide and maintain satisfactory financial systems. It shall be the duty of the Director of each Service 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 Section 95 Officer.

22.2 CORPORATE FINANCIAL SYSTEMS

The Section 95 Officer shall issue detailed rules and procedures for the operation of the Council's corporate financial systems. The Director of Service with responsibility for Human Resources shall issue such rules and procedures for the integrated payroll and personnel system. These rules and procedures shall be available on the Intranet.

22.3 SYSTEMS SECURITY ACCESS

The Section 95 Officer shall maintain a register of all allocated security accesses to the corporate financial systems. The Director of Service with responsibility for Human Resources shall maintain such a register in respect of the integrated payroll and personnel system. Security access shall be issued to individual users following application to the appropriate Director.

It shall be the responsibility of the Director, or other officer they 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 the security of these financial systems and should recognise the confidential nature of the data contained therein.

The S95 Officer and Director of HR, Digital Enablement, IT & Business Support shall be responsible for providing information to Services for the system they are responsible for, so that periodic reviews can be carried out by the Services to ensure officers who have authorisation to access the system are still appropriate. The S95 Officer and the Director of HR, Digital Enablement, IT & Business Support will review access rights of superusers periodically.

23. INSURANCE AND RISK MANAGEMENT

23.1 SERVICE LEAD RESPONSIBILITIES

The Manager – Risk, Resilience & Safety shall arrange 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 service'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 Manager – Risk, Resilience & Safety.

23.2 DIRECTORS' RESPONSIBILITIES

Each Director shall give prompt notification to the Manager – Risk, Resilience & Safety of potential liabilities, property or vehicles which require to be insured or affect existing insurance or funding arrangements.

Directors shall immediately notify the Manager – Risk, Resilience & Safety of all incidents of loss, damage or injury (both insured and uninsured) which may give rise to a claim by or against the Council.

Directors shall ensure that risk management initiatives are co-ordinated through the Risk, Resilience & Safety section within the Strategic Policy, Transformation & Public Sector Reform Directorate.

23.3 REVIEW OF INSURANCES

The Manager – Risk, Resilience & Safety shall annually or as necessary, review all insurances, in consultation with Directors where necessary.

23.4 INVESTMENT OF INSURANCE FUND MONIES

All investments of monies for the Insurance Fund shall be made by the Section 95 Officer 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 Section 95 Officer.

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 Manager – Risk, Resilience & Safety 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 Manager – Risk, Resilience & Safety 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; and
- 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; and
- monitor the effectiveness of risk reduction strategies.

All Directors will be responsible for the continuous maintenance, management and reporting of their services risk registers.

24. STOCK/STORES, INVENTORIES AND ASSETS – CUSTODY AND CONTROL

24.1 DIRECTORS' RESPONSIBILITIES

Directors are responsible for the safe-keeping and control of Council stocks, stores, furniture, fittings and equipment used within their service.

INVENTORY

An inventory of furniture, fittings and equipment must be maintained within the service for each establishment and made available as required for any audit inspection. Guidance on the management and recording of inventories can be found on the Council's intranet at the following link;

[Inventory guidance & Forms](#)

STOCK/STORES

Directors are only required as part of the Council's annual accounts process to provide a return to the Section 95 Officer of stocks if there has been a significant change in value and further guidance on the proper management and recording of stocks and stores can be found on the Council's intranet at the following link:

[Stocks/Stores guidance & forms](#)

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 Director. 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.

Directors issuing permissions for private use must implement appropriate recording, monitoring and usage guidance arrangements agreed with the Section 95 Officer 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 Director has declared, in consultation with the Section 95 Officer, to be surplus to requirements or obsolete may be sold or disposed of 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 and guidance on both can be found on the Council's Intranet at the links provided above.

25. SECURITY

25.1 DIRECTORS' RESPONSIBILITIES

It is the responsibility of the Director to ensure the security of all buildings, furniture, equipment, cash, stocks and stores under their control. Additionally, the Manager – Elections, Commercialisation & Facilities is responsible for the security of Locality Hubs and HQ buildings.

Directors are required to consult with the Director of Infrastructure, and if necessary the Section 95 Officer, in all cases where it is felt that security is defective and where special arrangements are required.

25.2 CASH SECURITY

Each Director shall inform the Section 95 Officer of all cash holdings within their service, whether this is services' 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 Section 95 Officer.

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 Director as key holders. A register of key holders should be kept in each service and made available as required for any audit inspection. Any loss of keys should be reported to the Audit Manager.

25.4 INFORMATION SECURITY

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

26. PETTY CASH

26.1 PETTY CASH GUIDANCE

Imprest and petty cash have the same meaning for the purpose of this Financial Regulation.

The Section 95 Officer shall provide petty cash facilities to specific officers as considered appropriate and guidance notes as to the operation of the petty cash systems can be found on the Council's intranet [here](#).

No changes to petty cash balances will be permitted without the express approval of the Section 95 Officer.

26.2 PETTY CASH PAYMENTS

The main purpose of Petty Cash is to pay for minimally priced business transactions in a cost effective way and where other payment options do not meet specific requirements, such as Council credit cards or corporate contracts. The maximum limit for any one payment will be as determined by the Section 95 Officer and is detailed in the guidance (see link above) and each payment must be accompanied by a receipt

26.3 INCOME RECEIVED

No income collected shall be added to a petty cash balance, all income must be paid into the relevant Council bank account.

26.4 OFFICERS' RESPONSIBILITIES

The responsibility for petty cash should be delegated to an appropriate officer, who is then personally responsible for the security and correct operation of it and shall, upon request, provide the Section 95 Officer with a certificate of the balance held. Officers are also responsible for ensuring there is robust record keeping and that regular reconciliations and reimbursements are carried out.

26.5 ACCEPTABLE USE OF PETTY CASH

It is important to note that petty cash 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 Director of the 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 submitted in accordance with Personnel Advisory Bulletins 6, 9 and 37 and any other guidance as may be issued from time to time by the Director of the Service with responsibility for Human Resources or the Section 95 Officer.

Claims must be submitted monthly. Claims can now be submitted, authorised and processed via the HR system. Manual claims must be duly certified and in a form approved by the Director of the 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 Director 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. Expense receipts are required as part of the process to support each monthly claim, this includes a vat receipt for fuel purchase. In particular each Director 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 Section 95 Officer 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 on or before the agreed date issued by the Director of the Service with responsibility for Human Resources.

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

29. GRANTS

29.1 SCOPE

The Council provides or supports the provision of financial assistance to outside bodies, usually voluntary or community organisations, in a variety of ways. This can also be assistance in kind. These include:

- Grants to voluntary organisations whose sole or primary object is to promote social welfare;
- The Angus Council Community Grant Scheme;
- The Out of School Care fund;
- The Youth Work fund;
- 50/50 grants to community councils.

This Section of Financial Regulations applies to all financial assistance by way of grant or in kind (all referred to as "grants" in this Section) provided or supported by the Council.

29.2 ADMINISTRATION

Council Services who manage grant funds will prepare, publish and maintain grant schemes setting out the principles and terms of the arrangements for the grant funds concerned and with the following core content:

- The purpose and statutory basis of the grant scheme;
- The application and renewal (if applicable) process;
- The terms of the grant, the purposes for which it may be used, any publicity requirements if grant is approved and any other conditions or restrictions applicable; and
- Grant payment arrangements and evidence required to claim payment.

Grant schemes must be consistent with this Financial Regulation Section 29 and the core guidance referred to in this Section. Grant schemes will therefore be subject to review and approval on behalf of the Section 95 Officer to that end.

Council Services managing grant funds will also identify nominated grant officer(s) in their Service who will be responsible for administering those grants in accordance with this Section of Financial Regulations and applicable Council guidance issued from time-to-time on grants.

Council Services will keep under regular review the terms of the grant schemes or grant funds which they manage.

29.3 GRANT APPLICATION AND RENEWAL

New Applications

Any organisation seeking to access a Council grant must complete a grant application form.

All new 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;

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- a copy of an original bank or building society statement for each account held;
- other supporting documentation as detailed in Council grants 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.

Renewals

Applications for renewals of recurring grants may be made on a shortened form but their assessment will:

- take into consideration any issues highlighted during monitoring of the existing grant agreement;
- address why / whether grant support is still required, and the value of the grant required.

The Council Service will be responsible for issuing grant renewal reminder and forms. The normal timescale will be around 6 months prior to expiry of the grant agreement.

29.4 CONSIDERATION OF APPLICATIONS

Grant applications will be assessed under the supervision of nominated grants officers who will be responsible for keeping adequate records demonstrating the objective assessment of applications in line with the terms of the grant scheme or fund concerned.

Determination of grant applications will be delegated in line with Annex 1(b) to Financial Regulations. Otherwise, grant applications must be reported to Committee for determination by elected members. This would be the Committee with oversight of the pertinent service budget.

All grant applications should be referred to the External Funding Team to allow consideration of 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 was issued by the Accounts Commission and CoSLA (Council Reports [508/96](#) and [664/99](#) refer). The code is set out at in Appendix 1 to Audit Scotland's report "[Following the Public Pound](#)", March 2004. That Code was The Code was supplemented by operational guidance issued by COSLA in 1998.

Where a grant or subscription comes within the scope of the Code of Guidance and operational guidance documents, 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
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

then the Code and the operational guidance must be followed by Council Services.

Angus Council Guidance

To aid implementation of the COSLA / Accounts Commission Code and the operational guidance, the following suite of core grants governance documents has been developed:

1. Angus Council's **Grant Award** guidance & documents suite:-
 - SLA/Grant Award Guidance
 - SLA/Grant Award Agreement
 - SLA/Grant Award Mini DPIA
 - SLA/Grant Award Monitoring Checklist
2. This **Section 29 "Grants"** of Angus Council Financial Regulations,
3. Angus Council **Procurement Guidance Note PGN 31** "*Guidance on Award of Grants -v- Procurement of a Service – When Do Each Apply?*"

This is supplemented and collected into core operational grants guidance:

- (a) Key Principles and Core Operational Guidance
- (b) Three-Stage Contracts -v- Grants Checklist
- (c) Corporate Grants Register all of which is available on the Council's Corporate Intranet under a single "Grants" page.

Council Services must ensure that officers administering grants on their behalf are aware of and follow / apply the core grants governance and core operational grants guidance in administering their grants schemes.

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 PERFORMANCE MONITORING AND AUDIT

As a minimum, every successful applicant for a grant (supported body) will be required to complete and return an end of project monitoring report within either:

- (1) three months of the date of completion of the service or provision of the asset to which the grant relates,
- (2) three months of the date of request by the Council (which may not be made earlier than one year of the date of award letter), or
- (3) three months of the end date of the grant agreement (where the agreement has a duration)

whichever occurs first.

Further periodic performance monitoring reporting may be required as set out in the grant agreement.

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Any performance monitoring reporting required by the Council will:

- (a) relate the outcomes required from the grant as set out in the grant agreement
- (b) seek assurance on the formal, non-outcome specific aspects of the grant agreement by way of self-certification by the supported body
- (c) attempt to harmonise with other reporting required of the supported body to other public funding organisations so as to minimise the administrative burden on the supported body
- (d) be proportionate and relevant to the grant purpose, and
- (e) be set out clearly in the grant agreement.

Any grant awarded must be spent within one year of payment and any unused grant returned to the Council. Specific conditions regarding possible repayment of grant will be set out in the grant agreement.

The award of financial assistance by way of grants to supported bodies will be 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 138/21 to the Angus Council meeting of 13 May 2021 which approved the "Common Good Fund Policy Guidelines and Administrative Procedures". A copy of this document is attached at Appendix 3a & 3b.

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 Section 95 Officer 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 Section 95 Officer.

30.5 PROCEDURES FOR ACCESSING COMMON GOOD MONIES

Common Good Monies can be accessed by two routes depending on whether the applicant is external or internal.

External applicants should follow the process set out on the [Councils website](#). Applications will then be considered by the external funding team.

Council services make applications, including via the annual budget process, which are considered by local elected members before reporting to P&R Committee for a decision.

30.6 ASSETS OWNED BY COMMON GOOD FUNDS

The Section 95 Officer is responsible for the maintenance of a valuation register in respect of the assets owned by the Common Good Funds. The Monitoring Officer is responsible for maintaining the register of Common Good property assets in accordance with Section 102 of the Community Empowerment (Scotland) Act 2015.

30.7 MAINTENANCE OF PROPERTY AND REGULAR REVIEW OF RENT LEVELS

The Director of Infrastructure is responsible for the maintenance of property owned by the Common Good Fund, and ensuring that where relevant, an appropriate 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

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services, 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. Funding requirements above the approved existing budget for maintenance should be accessed as per section 30.5 above.

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 Section 95 Officer, in conjunction with the Monitoring Officer, 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 SECTION 95 OFFICER

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 Section 95 Officer.

31.3 DEPOSIT OF SECURITIES WITH THE SECTION 95 OFFICER

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 Section 95 Officer.

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 Section 95 Officer 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). Head Teachers / 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 an employee. Any exception to this must be approved by the Director with operational responsibility for the unit managing the fund.

Debit cards can be considered as an option for managing comfort funds and advice can be requested from Finance, Corporate Support Team 1 on setting these up but they require to be managed by the service with operational responsibility for the unit managing the fund. Two signatures will be required when requesting that debit cards be set up on Comfort Fund bank accounts.

Annual accounts must be prepared and be audited by persons independent of the daily operation of the fund. Employees of the service 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 Director of that service will arrange for the fund to be dissolved.

32.3 REGISTER OF FUNDS

Directors shall ensure that a register of all Funds is maintained within their service. 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 RECONCILIATION OF FUNDS

It is the responsibility of the establishment manager to ensure regular reconciliations are undertaken by nominated employees for each fund to ensure that all balances held on each fund are correct and these reconciliations should be reviewed by another employee from the establishment.

32.5 VARIATIONS TO THE REGULATIONS

Any proposed modification to the application of the above Regulations must be discussed and agreed with the Section 95 Officer 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 Director 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 Director 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 Monitoring Officer. 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 Monitoring Officer 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 Director.

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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 Director 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 Director 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 Monitoring Officer. All attendances at social or sporting events require declaration in this Register. The form for recording hospitality in the register is attached at Appendix 6, 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 EXPENDITURE ON HOSPITALITY

Any Standing Committee may incur expenditure within the approved Revenue Budget for the Service or function in question as follows:

- on the provision of hospitality consisting of the reception and entertainment by way of official courtesy, of distinguished persons and persons representative of or connected with local government or other public services whether within or outside the United Kingdom where the occasion giving rise to such hospitality relates mainly to the function of that Committee;
- on the provision of hospitality in connection with any inspection or ceremony affecting any service controlled by that Committee;
- on the provision of hospitality to persons who may be interested in the promotion of industrial or commercial developments or other activities which may create employment opportunities in Angus;
- to persons who are assisting or co-operating with the Council or its officers in relation to the functions of the Committee

The Convener of any Standing Committee may authorise the provision of hospitality in the circumstances specified above and related to the functions of a service under the control of the Committee (or in the case of the Policy and Resources Committee to the functions of the Council), provided that the expenditure on any one occasion does not exceed £400 and that the expenditure can be met out of the sum provided in the appropriate budget for that purpose.

33.5 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.

33.6 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 Director or Convener of the appropriate Service Committee.

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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 CO-ORDINATION

All operational vehicle purchases should be undertaken through the Director of Vibrant Communities and Sustainable Growth who will arrange advice and procurement via Tayside Contracts.

34.2 SECTION 95 OFFICER RESPONSIBILITIES

The Section 95 Officer will require to be consulted on appropriate funding routes i.e. purchase or lease – this is to be separate from procurement routes / consultations.

34.3 SERVICES RESPONSIBILITIES

Services should submit their operational vehicle requirements for the forthcoming year and later years to the Director of Vibrant Communities & Sustainable Growth. This will enable a planned programme of vehicle replacement for all services 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 Director of Vibrant Communities & Sustainable Growth with a view to accessing professional advice and assistance. Liaison should also take place with the Insurance Section within Strategic Policy, Transformation & Public Sector Reform Directorate to ensure consideration is given to necessary insurance cover.

34.5 ALTERNATIVE VEHICLE ACQUISITIONS

The purchase of vehicles via a different process must be approved by the Service Director, the Section 95 Officer and the Monitoring Officer.

GUIDANCE ON PROCEDURAL MATTERS RELATING TO THE DISPOSAL OF LAND AND PROPERTY

Land and property are corporate assets and, subject to a few specific exceptions such as those held on the HRA and the Common Good accounts, the proceeds from disposals go to the corporate general fund. Although services are deemed to hold and deploy property assets, this is simply an internal management and accounting arrangement and should not be considered as conferring some form of departmental ownership.

In order to acknowledge this corporate policy interpretation and provide the clarity, consistency and traceability of the disposals process the following procedures should be adhered to:-

1. The Director of Infrastructure be added as a routine consultee to all committee reports with identified property implications. The Director of Infrastructure has overall responsibility for the maintenance and management of the corporate property estate and accordingly must be consulted whenever there are any such implications.
2. Directors are authorised to declare surplus to their services' requirements any land and/or property no longer required for their services' operational purposes (excluding property held under the Housing Acts), such declaration is by way of written notification to the Director of Infrastructure and by submission of bi-annual reports to their own Service Committee - summarising land and/or property declared as surplus under delegated authority. This simplifies the disposals procedure by removing the requirement to obtain service committee approval.
3. Land/property held by one service but occupied by another outside party cannot be declared surplus before arrangements have been made to terminate the tenancy/alternative management arrangements are in place. This is to ensure property holding services do not apply actions at the expense of other services or which ignore wider socio-economic implications.
4. A record of all applications to purchase land/property held under the Housing Acts and those held on the Economic Development account will be maintained by the Vibrant Communities and Sustainable Growth Service, and for all others by the Infrastructure Service. This helps provide clarification in the disposal process by identifying which directorate deals with particular disposals.
5. All external applications to purchase Council-owned land/property received will be referred as applicable to the Vibrant Communities and Sustainable Growth Service or the Infrastructure Service, dependent on the account the land/property is held on. There are therefore only three permissible routes/destinations for all applications to purchase land/property, thus providing simplification and clarification while increasing traceability.
6. Where an external application is received to purchase Council-owned land/property which is of significant importance to the Council either strategically or operationally, this will be reported to the Chief Executive and the Director of Vibrant Communities and Sustainable Growth. This is to ensure that significantly important matters are considered at the appropriate level.
7. Proposals to dispose of land/property held under the Housing Acts, are to be reported to the Communities Committee. The Vibrant Communities and Sustainable Growth Service has an established and identifiable process which provides the necessary consistency, clarity and traceability, and the Director of Infrastructure has overall responsibility for the maintenance and management of the corporate property estate and accordingly must be consulted whenever there are any such proposals.
8. Proposals to dispose of land/property held on the Economic Development Account to be reported by the Chief Executive for approval to the Policy and Resources Committee. The delegated authority of the Service Leader – Strategic Policy and Economy will continue to be

exercised but also reported to the Policy and Resources Committee, the same as any exercise of the Director of Infrastructures' delegated authority.

9. Procedures for disposal of land/property held on the Economic Development Account. Almost by definition, all land/property held on the Economic Development Account could be considered as being on the market and available for disposal. There is therefore no need for further advertising/marketing in the event of an application to purchase being received. After the application has been recorded, the Chief Executive is to consider the appropriateness of any disposal and if deemed acceptable the request is to be referred to the Infrastructure Service to provisionally agree a selling price. If agreement cannot be reached then currently the matter ends, but if agreement can be reached then a report is to be made to the Policy and Resources Committee. Thus with the recommendation being made by one directorate, the disposal price provisionally agreed independently, and the final decision made by committee, the disposal can be tracked and shown to be open and above board.
10. Procedures for disposal of land/property held on all other accounts including Common Goods. The procedures for the disposal of land/property previously declared surplus to Council requirements but held on all other accounts shall be managed by the Infrastructure Service and reported for approval/noting to the Policy and Resources Committee only. The Infrastructure Service shall utilise its approved Disposal Procedure Checklist to ensure consistency and traceability.
11. The Director of Vibrant Communities & Sustainable Growth shall report to the Communities Committee all cases where it is proposed that there shall be:
 - appropriation by the Vibrant Communities & Sustainable Growth service for development of affordable housing in accordance with the Council policy;
 - disposal to a local Housing Association for the development of affordable housing; and
 - disposal by negotiation at less than best value in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010.
12. The Director of Vibrant Communities and Sustainable Growth shall report to the Policy and Resources Committee cases where it is proposed that there will be Community Asset Transfer in accordance with the Council policy.

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Appendix 1(b) - Delegated Limits and Thresholds (notes 8 & 9)

Section 16 – Procurement Arrangements

	<i>De Minimis Threshold</i>	<i>Director Delegated Threshold (note 1)</i>	<i>Director Exemption Threshold (note 2)</i>	<i>Exemption Coordinator Delegated Threshold (note 3)</i>	<i>Regulated Threshold (note 4)</i>	<i>EU Regulated Threshold (note 5)</i>
Goods & (General) Services	Up to £5,000	Up to £50,000	Up to £50,000	Up to £100,000	£50,000 and above	£181,302 and above
Social Care / Health Services	Up to £5,000	Up to £300,000	Up to £50,000	Up to £200,000	£50,000 and above	£615,278 and above
Construction Works (incl. civil engineering) (Note 6)	Up to £5,000	Up to £2,000,000	Up to £50,000	Up to £300,000	£2,000,000 and above	£4,551,413 and above

<i>Area</i>	<i>Maximum Limit / Minimum Limit / Threshold</i>	<i>Delegated Authority:</i>	<i>Comments</i>
Transportation Services (Best Value Procedure) (FR 16.18)	40% (max)	To apply Best Value procedure	Transportation services only (see FR 16.18). % is of the total local bus service subsidy budget per financial year.
Emergency Contracts (FR 16.24.14)	£50,000 (max)	To select provider(s), invite, open and accept Quotations	Quotations may be sought verbally but must be confirmed in writing.
Contract Variations (FR 16.19.3)	40% (max)	To vary by %age of awarded contract value	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
Price / Quality Split (FR 16.14)	Up to 70% / 30% price / quality	Directors can set and calibrate as they see fit	See PGN 24
	Less than 70% price / more than 70% quality	CPM to be consulted on P/Q Split and criteria	

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Area	Maximum Limit / Minimum Limit / Threshold	Delegated Authority:	Comments
Community Benefits in Procurement (CBiPs)- Thresholds (FR16.4)	(Thresholds) £2,000,000 – Construction £50,000 – supplies and services (including social care)	At / above threshold value – mandatory to consider and seek CBiPs inclusion in contract Below threshold value (construction only) – only consider CBiPs exceptionally	the inclusion of Community Benefits must be considered on a case by case basis during planning of each procurement process unless clearly not appropriate on an exceptional basis,
Performance Bond Threshold Value (FR 16.16.1)	(Threshold) £2,000,000	To seek a performance Bond for 10% of the contract value; Or A lesser % as approved by HoCF	Construction (incl. civil engineering) only
Contract Insurance Indemnity Minimum Limits (FR 16.16.1)	Employer's Liability - £10,000,000 (Min) Public Liability - £5,000,000 (Min)	To set the appropriate indemnity level - the Director in consultation with the Service Leader (Governance & Change) or relax the % on same as basis	Other insurances / limits to be determined, case-by-case

Section 17 - Acquisition and Disposal of Assets

Area	Maximum Limit / Minimum Limit / Threshold	Delegated Authority:	Comments
Properties (Land & Buildings) (Note 7)	£100,000 – fully delegated £250,000 – fully delegated following initial committee approval ^D	To encompass all property transactions including Common Good properties ^A , comprising new leases and rent reviews, lease renewals, appropriations, excambions, granting of wayleaves, servitude rights of access, management of dilapidations schedules. To encompass all property transactions for non – Common Good Properties ^B comprising	Also disposal through Auction when deemed appropriate and generally for the disposal of properties to the value (<£100,000) which have been exposed to the market for a reasonable period of time without selling. ^A 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. ^B 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.

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Area	Maximum Limit / Minimum Limit / Threshold	Delegated Authority:	Comments
		appropriations excambion, disposals ^C and acquisitions (including through negotiation).	^C Disposal through Auction when deemed appropriate and generally for the disposal of properties to the value (<£100,000) which have been exposed to the market for a reasonable period of time without selling. ^D No requirement to refer back to committee providing bid is + / - 10% of the value and does not exceed £250,000 threshold.
Economic Development Leases and Disposals	Size limit: <ul style="list-style-type: none"> • sites of up to 1 hectare • premises of up to 500 m² (no financial limit)	Leases and disposals - Service Leader (Strategic Policy and Economy only) and in consultation with the Director of Infrastructure. Leases and disposals outwith those limits can be determined in cases of urgency by the Service Leader (Strategic Policy and Economy) in consultation with the Convener of the Policy and Resources Committee and the Director of Infrastructure.	This is in line with paragraph 5(a)(i) and (ii) of the Scheme of Delegation to Officers.

Notes

1. Where delegated or authorised by Committee, Directors can do everything required to undertake the procurement, including:

- Advertise for tenderers* or distribute quotation request (including mini-competitions under Framework Agreements)
- Select tenderers / bidders
- Invite tenders / bids
- Open tenders / bids
- Accept tenders / bids
- Issue orders under Term Contracts/ menu pricing contracts

Term contracts include Schedule of Rates, Urgent Repair & Jobbing.

*Required where outwith scope of Approved Lists.

All Directors are required to establish a Scheme of Delegation for their Service which clearly states limits of responsibility / authority and aligns to their Service's authorised procurement officer register.

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Directors have delegated authority to award term contracts for up to 10 years maximum (the norm being 3). Any longer duration requires Committee authority.

All Directors 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.

Note however that the Chief Executive of AHSCP is a director for this purpose but only for delegated authorisations of procurement, not for executing Committee authorisations.

2. Note that the Chief Executive of AHSCP is a director for this purpose but only for delegated procurement authority and delegated exemptions approval of adult social care contracts.
 3. From the Exemption Coordinator Delegated threshold and above, Committee authority is required
 4. The thresholds for "regulated procurements" are set by law (Procurement Reform (Scotland) Act 2014)
 5. The EU thresholds are those as currently set with effect from 1st January 2018. They are set by law and updated every 2 years to take account of the movement in value between the £ and the € / maintain € alignment with the World Trade Organisation (WTO) Government Procurement Agreement (GPA).
 6. Construction includes construction-related property infrastructure maintenance services. See Sch 2 of the Public Contracts (Scotland) Regs 2015 for more definition on the meaning of "works".
 7. Application of the Land & Buildings delegated threshold is based on a valuation of the land transaction at the time of the transaction and irrespective of the actual value realised. For leases this is the projected rental value over the "natural" duration of the lease, i.e. excluding any early termination or annual renewal by "tacit relocation" and also excluding the effect of any rent reviews. Lease renewals are to be valued for this purpose (delegated authority) as if they are the fresh grant of a lease.
 8. All sums are exclusive of VAT
 9. All thresholds stating "up to" do not include the threshold figure itself, i.e. the Director Delegated Threshold for Goods stops at £49,999.99. Thresholds stating "and above" do include the threshold figure itself, i.e. the Regulated Threshold for Construction starts at the figure of £2M.
- 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.

Section 29 – Grants

Nature of Grant	Level of Delegation
Small Council grant funds – with an annual budget of less than £50K	up to £5K
Other Council grant funds (i.e. with an annual budget of £50K and above)	up to £50K or 10% of the annual grant budget, whichever is the lower amount
Notes	
1. Grant value will be determined over the whole period of the grant agreement.	
2. Adult care grants determined by AHSCP – all delegated to the IJB chief officer (in line with special delegations for adult care)	

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 Director of Infrastructure 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 the Section 95 Officer 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 Director of Infrastructure 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 Director of Infrastructure in consultation with the Section 95 Officer, 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	Contract: Route :
2	Current commercial service provision on corridor
3	Reason for recommended award of 'Best Value' contract
4	Consequences if contract is not awarded under the 'Best Value' regime
5	Financial implications
6	Recommendation

- Approved by Committee.
- Approved under Director of Infrastructure delegated authority.
- Approved under delegated authority, in consultation with the Convener of Communities Committee, Chief Executive, Section 95 Officer and the Monitoring Officer.

Signed Dated
(Director of Infrastructure / Other Authorised Officer)

COMMON GOOD FUNDS - POLICY GUIDELINES AND ADMINISTRATIVE PROCEDURES
(Revised May 2021)

1. INTRODUCTION

Angus Council has been responsible for the management and administration of five Common Good Funds, since local government reorganisation in April 1996, namely: -

- Arbroath
- Montrose
- Brechin
- Forfar
- Kirriemuir

In order to ensure appropriate stewardship of the Common Good Funds inherited by Angus Council, policy guidelines for the use of the Common Good are set out below. These guidelines form part of Angus Council's Financial Regulations. It is highlighted that overriding anything set out in these guidelines will be compliance with relevant legal or accounting requirements which may develop over time. For example, the CIPFA Code of Practice on Local Authority Accounting details the methodology that the Council must comply with in the preparation of its accounting statements and is revised annually. This may for, example, determine which Account an asset should reside on from an accounting perspective.

2. POLICY GUIDELINES

(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 leased to Council General Fund services. 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 to ensure that these are 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 through a report to Council:-

• Arbroath	£300,000
• Brechin	£200,000
• Forfar	£300,000
• Kirriemuir	£1,000
• Montrose	£100,000
- (iii) In order to ensure that 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 Infrastructure Services for inclusion on the Council's property maintenance system. A schedule of all works which require to be undertaken in the forthcoming 3 years 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 Director of Infrastructure, 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 account and capital account (except Kirriemuir). 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 asset is to be retained and separately identified within the capital account.
- (iii) Provided it is legally competent at the discretion of the Council, and with the approval of the appropriate 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 etc (Scotland) Act 1994 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

The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 confers the power for local authorities to borrow through the Loans Fund to advance money to a Common Good Fund. Such advances can only be made in respect of expenditure which would have been classified as capital expenditure had the local authority incurred it itself. Such advances from the Loans Fund are secured on the rates and revenues of the Council (excluding that in relation to the Common Good Funds).

(E) Asset transfers between the General Fund / Common Good Fund

The Council has the following existing policy within its annual accounts which notes with regard to such transfers:-

"Following exercises to review legal titles, etc. there are occasions when it is necessary for the transfer of assets between the General Fund and Common Good accounts and vice versa. Each transfer between the Common Good and the General Fund, and vice versa, will be considered on a case by case basis. For current year transfers, accounting adjustments will be made effective on the date of the transfer. Where the actual transfer has occurred in a previous year but has not been identified until a later year, the accounting adjustments will be made on 1 April in the year that the asset transfer is identified. Prior year financial adjustments will only be made if they are considered material in relation to the Common Good assets for the relevant Fund."

(F) Common Good Fund and General Fund Interaction - Assets

There are 4 scenarios where a financial interaction can take place between the Common Good and the Council's General Fund (which also includes the Housing Revenue Account). It is highlighted that Common Good assets are vested with the Council and a legal entity cannot have a contract with itself. Thus, while the term lease is used, these will not take the form of formal lease agreements:-

- 1) Buildings always treated as vested in the Common Good and being used by General Fund operationally.
- 2) General Fund creates a new building on Common Good land or a building created by the General Fund is reassessed as belonging to a Common Good Fund. The building is used by the General Fund operationally.
- 3) General Fund creates a new building on Common Good land or a building is reassessed as belonging to a Common Good Fund. The building is not used by the General Fund operationally.
- 4) Common Good Fund building reassessed as belonging to the General Fund.

The policy approach in each of these scenarios is set out below and summarised in Appendix 3(b):-

- (i) **Buildings always treated as vested in the Common Good and being used by General Fund operationally**
- Ground and building will be subject of a commercial lease payment.
 - The General Fund is responsible for all costs for the building i.e. any capital and revenue costs applicable to the building occupied. General Fund tenant investment in the asset will not thus result in an increase in the commercial lease payment.
 - The Common Good retains the risks and rewards of asset ownership including, for example, asset demobilisation costs e.g. demolition and sale proceeds.
 - Sub-lets or licence to occupy provided by the General Fund will be on terms for the General Fund to determine.
- (ii) **General Fund creates a new building on Common Good land or a building created by the General Fund is reassessed as belonging to a Common Good Fund. The building is used by the General Fund operationally**
- Ground only will be subject of a commercial lease payment.
 - The General Fund is responsible for all costs relating to the building i.e. any capital and revenue costs applicable to the building occupied.
 - The General Fund will maintain tenant financial responsibility for a period of one calendar year (the "transfer period") following a building no longer being used for service provision and this being reported to elected members. This will provide a period during which consideration can be given to the future use of the building. It will be for the General Fund to meet the costs of demobilisation e.g. demolition, should this be the preferred option. The applicable Common Good Fund will receive any sale proceeds (net of any related costs) should this be the preferred option. No rental will be payable during this period.
 - Following this one calendar year, all financial responsibility for the asset will revert to the applicable Common Good Fund.
 - Sub-lets or licence to occupy provided by the General Fund will be on terms for the General Fund to determine.
 - Any Balance Sheet transfer of asset valuation will be undertaken in accordance with the accounting policy noted in Section 2E above.

(iii) General Fund creates a new building on Common Good land or a building created by the General Fund is reassessed as belonging to a Common Good Fund. The building is not used by the General Fund operationally

- No lease payment will be made for the ground or building.
- The General Fund will maintain tenant financial responsibility for a period of one calendar year ("the transfer period") following a building being reassessed as belonging to a Common Good Fund. This period will commence from the point at which the reassessment is reported to elected members.
- This will provide a period during which consideration can be given to the future use of the building. It will be for the General Fund to meet the costs of demobilisation e.g. demolition, should this be the preferred option. The applicable Common Good Fund will receive any sale proceeds (net of any related costs) should this be the preferred option.
- Following this one calendar year, all financial responsibility for the asset will revert to the applicable Common Good Fund.
- Any Balance Sheet transfer of asset valuation will be undertaken in accordance with the accounting policy noted in Section 2E above.

(iv) Common Good Fund building reassessed as belonging to the General Fund

- Any Balance Sheet transfer of asset valuation or responsibility for recurring costs will be undertaken in accordance with the accounting policy noted in Section 2E above.

(G) Third Party Interactions

- Land and buildings will generally be subject of a commercial lease payment on a "full repairing and insuring" basis, subject to review as set out in Section A above.
- There will be exceptions to this general approach where other Council policies and procedures are applicable e.g. reduced rental payments for community groups, voluntary groups, food banks, clothing banks and assets subject of Community Asset Transfer.
- Where Common Good Fund buildings are being used by the General Fund operationally, the term "sub-let" is used to indicate the asset use/payment relationship between the General Fund and the Third Party.

(H) Transfer Period Extension

- The one calendar year transfer period noted in scenarios (ii) and (iii) above can be extended with the approval of Council. This would be appropriate in circumstances where extension would be mutually beneficial to both the Common Good Fund and General Fund e.g. where there is the potential to avoid demolition and the related cost.

3. ADMINISTRATION PROCEDURES

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

(A) Council / Elected 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 any meetings of the local members, consultations with local members (and all Council meetings).

- (iii) Meetings of local Members (those whose constituency falls within the geographical boundary of the Common Good Fund) will be held as necessary to provide the opportunity for consultation of issues relating to each Common Good Fund, consideration of proposed one-off projects, review project commitments and discuss other issues relating to the Funds.
- (iv) Determination of the use of Common Good Fund resources and assets must be undertaken through consideration at an appropriate Council meeting.
- (v) Where decisions relate to Common Good buildings or buildings on Common Good land members of the relevant area covered by the Common Good Fund should be consulted beforehand and their views taken into consideration. This requirement is part of the Council's Standing Orders.

(B) Community Empowerment (Scotland) Act 2015

Where appropriate, the requirement of the Community Empowerment (Scotland) Act 2015 for consultation should be considered particularly in relation to any proposed disposal or change of use.

(C) Revenue Account

(i) Annual Budget

- 1) The annual revenue account budget for the forthcoming financial year for the Common Good Funds will be prepared in accordance with that process undertaken for services of the Council following the budget preparation guidance issued by the "Section 95 Officer" (as defined in Section 95 of the Local Government (Scotland) Act 1973).
- 2) 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.
- 3) The budget for the forthcoming financial year will be approved at an appropriate Council meeting in advance of the commencement of the financial year. This will include indicative budget projections for the following two financial years also e.g. income generation and maintenance costs so that members will have 3 year financial information.

(ii) One-Off Projects

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

- 1) Angus Council services should utilise a pro-forma issued with the annual revenue and capital budget guidance for return to the Common Good Fund Accountant.
- 2) 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. Services should, therefore, consult with any such organisations during the budget preparation process.
- 3) External parties should refer to the Council's Common Good / Grant Aid guidance, 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 Common Good / Grant Aid application form. The proposals will be submitted through the Council's grants administrator for consideration by the grants assessors of, 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.

Local Elected Members require to be consulted on each application approved by the assessors above a de minimis level of £500.

- 4) Projects agreed to proceed will, thereafter, be formally approved with the annual Common Good Fund budgets.
- 5) 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:-
 - Submission through the Council's grants administrator for consideration by the grants assessors;
 - Consultation with the Section 95 Officer, appropriate local Elected Members and the Leader of the Council with a recommended approach; and
 - A report seeking approval to the appropriate Council committee.

(D) 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 thereafter approval of the appropriate Committee.

(E) Inalienable Common Good

A particular category of common good asset (known as inalienable) is subject to a restriction on disposal (e.g. sale, lease, or demolition), which means court consent may be required. The expense of going to court will be met by the Common Good Fund responsible for the sale/lease or demolition costs unless the Council or relevant Committee agrees otherwise because of the circumstances of the asset in question e.g. if a Community Asset Transfer is proposed.

Appendix 3(b)

Summary Guide to Revised Common Good Policy - Common Good Fund and General Fund Interaction

Key:-

CG = Common Good Fund

GF = General Fund

Issue	Scenario 1 – Buildings always treated as vested in the CG and being used by GF operationally	Scenario 2 – GF creates a new building on CG land or a building created by the GF is reassessed as being CG (operational)	Scenario 3 – GF creates a new building on CG land or a building created by the GF is reassessed as being CG (non-operational)	Scenario 4 – CG building reassessed as belonging to the GF
Common Good Policy Reference	2F1	2F2	2F3	2F4
Rental of Ground	GF pays commercial rate for ground and buildings	GF pays commercial rate for ground	No rental paid by GF	No rental paid by GF
Rental of Buildings / Equipment	GF pays commercial rate for ground and buildings	GF pays no rent but is responsible for building maintenance and running costs	GF pays no rent but remains responsible for building maintenance and running costs until end of transfer period	GF pays no rent
Running Costs	GF	GF	GF for 1 year then CG once transfer period has elapsed	GF
Dilapidation Repairs and Costs (Note 1)	GF to meet if such spend is necessary to enable sale or re-let by CG. Where to be demolished, then dilapidation repairs would not be required	CG to meet if such spend is necessary to enable sale or re-let by CG. Where to be demolished, then dilapidation repairs would not be required	CG to meet if such spend is necessary to enable sale or re-let by CG. Where to be demolished then dilapidation repairs would not be required	GF to meet if such spend is necessary to enable sale or re-let by GF
Investment / Asset Enhancement works	GF (Note 3)	GF (Note 3)	CG	GF
Asset Demobilisation Costs (removal / demolition) (Note 1)	CG	GF	GF	GF
Depreciation Costs	Met by the Fund whose Balance Sheet holds the asset valuation i.e. may be GF if tenant related	Met by the Fund whose Balance Sheet holds the asset valuation i.e. may be GF if tenant related	Met by the Fund whose Balance Sheet holds the asset valuation i.e. may be GF if tenant related	GF
Asset owned by	CG	CG albeit any tenant works undertaken will appear on GF	CG albeit any tenant works undertaken will appear on GF	GF

		Balance Sheet	Balance Sheet	
Proceeds from asset sale	CG (net of sale costs)	CG (net of sale costs)	CG (net of sale costs)	GF (net of sale costs)
Proceeds from asset re-let (if no GF operational use)	CG	CG	CG	GF
Proceeds from asset sub-let	GF while still in GF operational use	GF while still in GF operational use	CG	GF
Transfer Period	Not applicable. No change in current approach proposed	Note 2	Note 2	Not applicable. No change in current approach proposed

Note 1 – in scenarios 2, 3 and 4 it is possible that a situation arises whereby it would be better value from both a GF and CG perspective for the GF to pay for dilapidation repairs instead of incurring demobilisation costs. In other words if asset demobilisation would cost more to the GF than dilapidation repairs so that a building could be reused by the CG and the CG wished to take on the building thereafter for sale or lease then the policy could be flexed to allow that on best value grounds. A high level of certainty about the re-use of the building would be required in such an instance so that dilapidation costs were not expended on a building which then proved difficult to sell or re-let.

Note 2 - Where a building is no longer required by the GF for operational use, a one year transfer period applies during which the GF continues to hold tenant financial responsibility. During this period the future use will be determined through consultation / reporting to council and a decision made on what the Common Good wishes to happen with the asset. After this period all financial responsibility reverts to the applicable CG.

Note 3 – there may be instances where the nature of a proposed investment would merit a financial contribution from the Common Good Fund if this enhanced the value or life of the asset in question and was of direct benefit to the Common Good Fund. Such instances have occasionally arisen in the past and would be considered on their merits should such circumstances arise again in future.

RECEIPT OF GIFTS AND HOSPITALITY



I declare the following gift/hospitality:-

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

- Notes:**
- Guidance on the receipt of gifts/hospitality can be found in the Employee Code of Conduct and Section 33 of Financial Regulations.
 - 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: Director of Legal and Democratic Services, Angus House

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

P Ref: s:\Jegal\ld\ma16595.doc

MINUTE OF AGREEMENT

among

**ANGUS COUNCIL,
DUNDEE CITY COUNCIL
and
PERTH AND KINROSS COUNCIL
("The Constituent Councils")**

2017

Subjects: Tayside Contracts Joint
Committee

Minute of Agreement

among

Angus Council, a local authority constituted in terms of section 2 of the Local Government etc (Scotland) Act 1994 and having its principal offices at Angus House, Orchardbank Business Park, Forfar, DD8 1AX;

Dundee City Council, a local authority constituted in terms of section 2 of the Local Government etc (Scotland) Act 1994 and having its principal offices at City Chambers, City Square, Dundee, DD1 3BY;

Perth and Kinross Council, a local authority constituted in terms of section 2 of the Local Government etc (Scotland) Act 1994 and having its principal offices at 2 High Street, Perth, PH1 5PH;

each a "**Council**" and together "**the Constituent Councils**".

WHEREAS the Constituent Councils entered into a Minute of Agreement dated 29th November and 5th and 8th December 1995 to establish Tayside Contracts, which Minute of Agreement was amended by a Minute of Variation of Agreement among the Constituent Councils dated 23rd April and 9th and 14th June, 2004, and now wish to update the Minute of Agreement it is HEREBY AGREED that the said Minute of Agreement and Minute of Variation of Agreement establishing a Joint Committee under section 57(1) of the Local Government (Scotland) Act 1973 ("the 1973 Act") are superseded and replaced with the terms of this agreement.

ONE

Commencement

This updated Agreement shall commence and have effect from the date of the last signing hereof.

TWO

Constitution

There is hereby re-constituted in terms of Section 57(1) of the Local Government (Scotland) Act 1973 a Joint 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 all as set out in the Schedule of Agreed Activities maintained by the Joint Committee.

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 respective members. The number of members to be appointed by the Constituent Councils shall be: - six by Angus Council; six by Dundee City Council; and six by Perth and Kinross Council.

FOUR

Convener and Vice-Conveners to the Joint Committee

1 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. After such ordinary elections, the Joint Committee shall appoint from those three members nominated 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 of the Joint Committee shall then be rotated on a yearly basis at the first meeting of the Joint Committee after 1st April in each year in which there are no ordinary elections of Councillors to the Constituent Councils with the Vice Convener being elected to Convener, the Vice Convener Elect to Vice Convener and the Convener reverting to Vice Convener Elect.

- 2 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 SEVEN below to replace the person who has ceased to be a member) to fill that office for the remainder of its current term.
- 3 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.

FIVE

Clerk to the Joint Committee

A Clerk to the Joint Committee who shall be the Head of Democratic and Legal Services, Dundee City Council (or such nominee as the Joint Committee shall approve) shall be appointed by the Joint Committee and the Clerk shall be the Monitoring Officer as defined in the Local Government and Housing Act 1989. The Clerk shall also be legal adviser and provide legal services to the Joint Committee. The Clerk shall (to the extent not already done so) draw up and keep under review Standing Orders, Financial Regulations and a Scheme of Delegation for approval by the Governance and Strategy Group (as after defined) and the Joint Committee.

SIX

Period of Office

The members appointed by the Constituent Councils to the Joint Committee shall, subject to the provisions of Clause SEVEN 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.

SEVEN

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 at 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.

EIGHT

Quorum

A quorum of the Joint Committee shall be ten members of whom at least one member must be drawn from each of the Constituent Councils. Should the Joint Committee appoint a Sub-Committee, such Sub-Committee shall consist of an equal number of members from each of the Constituent Councils and the membership of the Sub-Committee and its quorum shall be determined by the Joint Committee.

NINE

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. Copies of the Standing Orders shall be made available on the Tayside Contracts website.

TEN

Meetings

The Joint Committee shall hold an ordinary meeting on four occasions in each year commencing 1st April 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 EIGHT 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 from the same 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. Such substitution shall be intimated at the beginning of the meeting.

ELEVEN

Powers and Duties of Joint Committee

The Joint Committee shall have the power to undertake any function which any of the Constituent Councils might lawfully undertake, provided always that:- .

- (1) Subject always to the remaining provisions of clause 11, it shall be open to both the Joint Committee and each or any Council commissioning the work to submit proposals for the execution of that work and the Joint Committee shall then determine whether that work shall be undertaken. Where the Joint Committee cannot perform any work within its own resources, it shall comply with all applicable legislation in the selection and appointment of any subcontractors.
- (2) Nothing herein shall prevent the Joint Committee lawfully undertaking any work on behalf of a third party provided that such work shall not either:
 - (a) prejudice the status of Tayside Contracts in terms of EU public procurement law as an in house body to which the Constituent Councils can award work directly without competition; or
 - (b) contravene any rules relating to the provision of state aid as set out in the Treaty on the Functioning of the European Union.

- (3) The Managing Director 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.
- (4) A group consisting of (i) the 3 chief executives of the Constituent Councils and (ii) the Managing Director of Tayside Contracts shall be established to consider both the performance and development of Tayside Contracts as a shared service provider and to consider any of the functions of the Joint Committee (the "Governance and Strategy Group"). Each Chief Executive may delegate attendance or participation in the Governance and Strategy Group to such other officer within the Council as they think fit, subject to notification to each of the other Councils. The Governance and Strategy Group shall meet at regular intervals and not less than 4 within each Financial Year (as set out in clause 16 below). Save where provided for elsewhere in this Agreement, the business of the Governance and Strategy Group shall be conducted on the basis of majority voting. For the purposes of any vote, officers of the Constituent Council's and Tayside Contracts shall have one vote each, notwithstanding the attendance of other officers at any meeting of the Governance and Strategy Group.

(5) Should the Managing Director of Tayside Contracts propose that the Joint Committee undertakes work of a type which is materially different in nature and/or scale from the types of work set out in the Schedule of Agreed Activities, or would expose the Constituent Councils and/or the Joint Committee to additional risks (hereafter referred to as "New Work"), he shall first require the approval of the Governance and Strategy Group. In the event that the Governance and Strategy Group agree unanimously to proceed with any New Work, the Chief Executives of the three constituent authorities shall present a report to their authority seeking approval of the proposal and if so approved, shall confirm to the Managing Director who shall then report the proposed New Work to the Joint Committee for their final approval.

In the event that:

- (a) the Governance and Strategy Group do not agree unanimously or any individual Council does not agree to the undertaking of any proposed New Work; or
- (b) the Joint Committee do not agree to the proposed New Work;

Then the Joint Committee shall not undertake the New Work.

(6) 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.

TWELVE

Employees

- (1) The Joint Committee shall appoint a Managing Director 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 paid such reasonable remuneration as the Joint Committee may determine.
- (2) The Managing Director of Tayside Contracts shall have delegated responsibility to carry out the relevant functions of the business of Tayside Contracts within the terms of its Scheme of Administration and shall have responsibility for such staff. All employees shall be employees of Tayside Contracts.

THIRTEEN

Property

All heritable property to be made available by the Constituent Councils to Tayside Contracts shall be contained in a heritable property list agreed from time to time by Tayside Contracts and the Constituent Councils.

As from the date of this Agreement, in the event of any of the Constituent Councils wishing to take over or develop a property on the heritable property list for some other function they shall 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 or developed. The cost of provision of any new facility shall be agreed prior to the cessation of operations by the Joint Committee at the heritable property subject to redevelopment proposals by the Council in question.

Any development required by the Joint Committee at any of the properties on the heritable property list shall be funded by the Constituent Council in whose ownership the heritable property is vested, subject to that Council's agreement.

The Joint Committee shall be responsible for the management and maintenance of all the properties on the heritable property list and shall delegate to the Managing Director of Tayside Contracts the responsibility for this, their fitness for purpose and their compliance with all relevant statutory legislation.

Where the Joint Committee wish to acquire heritable property

this will require the consent of the Constituent Council in the area in which the heritable property is situated and appropriate arrangements shall be made with that Constituent Council to take title to the heritable property and which heritable property will be added to the heritable property list.

All moveable property used by Tayside Contracts shall vest jointly in the Constituent Councils.

Moveable property shall, for the purposes of this Agreement include all buildings, plant and machinery at Collace Quarry.

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. A moveable property list including the value of the moveable property shall be maintained by the Joint Committee.

FOURTEEN

Percentage Share

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 Agreed Percentage share shall be calculated annually based on the previous year's turnover. The Joint Committee will agree the Agreed Percentage no later than August in each year.

FIFTEEN

Provision of Work

In the event that any Constituent Council advertise for the provision of any works, goods or services within the scope of this Agreement which are not to be directly awarded in accordance with the terms of this Agreement, then each of the Constituent Councils shall include Tayside Contracts on all tender lists so far as they can lawfully do so.

SIXTEEN

Financial Year

The Financial Year of the Joint Committee shall end on 31 March.

SEVENTEEN

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 of Tayside Contracts and answerable to the Joint Committee directly through the Managing Director. The Joint Committee will obtain Banking services from one of the Constituent Councils. The Proper Officer to the Joint Committee who shall be the Executive Director of Corporate Services, Dundee City Council or nominee will be the Section 95 Officer as defined by the Local Government (Scotland) Act 1973.

EIGHTEEN

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 Accounts Commission 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 Scottish Ministers annually with a copy of the unaudited and audited accounts of the Joint Committee in accordance with the statutory dates for completion.

NINETEEN**Financial Estimates**

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 31st March for the next financial year.

TWENTY**Financial Arrangements**

- (1) The financial affairs of the Joint Committee shall be set up so as to ensure a trading organisation is maintained as required in terms of the relevant 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 terms of the Local Government (Scotland) Act 1975 for such funds. 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 are 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 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 heritable property. 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 by Prudential Borrowing under Part 7 of the Local Government in Scotland Act 2003.
- (5) For the avoidance of doubt, Tayside Contracts will be responsible for the payment of the Loan Charges

outstanding as at 31st March, 2017 in respect of all the depots (or part thereof) which they occupy.

TWENTY-ONE 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-TWO 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.

(1) The staff and employees whose work is wholly or predominantly attributable to the geographical area of that Constituent Council shall be transferred to the Constituent Council so withdrawing from its operation through the Joint Committee.

The Constituent Council so withdrawing shall also indemnify Tayside Contracts against any unavoidable employment or redundancy costs resulting from that transfer to its employment by those staff and employees and shall so indemnify Tayside Contracts by reimbursing any redundancy costs relating to that Constituent Council which Tayside Contracts are liable to meet.

The terms of such indemnification shall be subject to Tayside Contracts and the remaining Councils mitigating their losses in respect of any costs that may arise as a result of such termination. 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 FOURTEEN.

TWENTY-THREE 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, application, validity or any other matter arising out of this agreement shall be referred to the sheriff in accordance with the provisions of section 231 of the Local Government (Scotland) Act 1973.

TWENTY-FOUR Delegation

The Joint Committee may delegate to a Sub-Committee or Officer any function delegated by the Constituent Councils: IN

WITNESS WHEREOF these presents typewritten on this and the preceding eighteen pages are executed as follows:- they are subscribed for and on behalf of Angus Council by Lisa Jayne Dallas, Service Manager (Legal Services) and Proper Officer at Forfar on the Fifth day of January Two thousand and eighteen in the presence of Catherine Bowman, Angus Council, Orchardbank Business Park, Forfar; they are subscribed for and on behalf of Perth and Kinross Council by Lisa Simpson, Head of Legal and Governance Services and Proper Officer at Perth on the Eighth day of January Two thousand and eighteen in the presence of Katrina Dewar, Two High Street, Perth; and they are subscribed for and on behalf of Dundee City Council by Roger William Hunter Mennie, Head of Democratic and Legal Services and Proper Officer at Dundee on the Seventeenth day of January Two thousand and eighteen in the presence of Sarah Jane O'Connor, Twenty one City Square, Dundee.

