

**WEST DUNBARTONSHIRE  
COUNCIL FINANCIAL  
REGULATIONS**



**(Updated August 2019)**

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## **WEST DUNBARTONSHIRE COUNCIL – FINANCIAL REGULATIONS**

### **A. FINANCIAL ADMINISTRATION**

#### **A1 Responsibility of the Council**

The Council is responsible for monitoring its finances.

#### **A2 Best Value**

In securing best value, the local authority shall maintain an appropriate balance among:

- the quality of the performance of its functions;
- the cost to the authority of that performance; and
- the cost to persons of any service provided by it to them on a wholly or partly rechargeable basis.

In maintaining that balance, the local authority shall have regard to:

- efficiency;
- effectiveness;
- economy; and
- the need to meet the equal opportunity requirements

The Council shall discharge its duties under this section in a way which contributes to the achievement of sustainable development.

#### **A3 Section 95 Officer**

The Section 95 Officer is the designated Officer responsible for the proper administration of the Council's financial affairs under section 95 of the Local Government (Scotland) Act 1973.

The Section 95 Officer role, undertaken by the Strategic Lead - Resources, is responsible, under the general direction of the Council, for the proper administration of the Council's financial affairs. It is the duty of the Council to make arrangements which secure best value, being the continuous improvement in the performance of the authority's functions.

#### **A4 Depute Section 95 Officer**

In the absence of the Section 95 Officer the Accounting Manager will act as the Section 95 Officer.

#### **A5 Section 95 Officer as Adviser**

As the Council's financial adviser, the Strategic Lead - Resources will report to the Council with respect to the level of resources proposed to be utilised in each financial year and will keep the Council and relevant Committees informed with respect to its finances and financial performance.

#### **A6 Chief Officers responsible for Resources**

Chief Officers (as defined as such within the Council's Standing Orders) are responsible for the security, custody and control of all resources including buildings, plant, materials, cash and stores relating to their service areas.

**A7 Chief Officers to Consult Section 95 Officer**

Each Chief Officer, with respect to any matter within their scope which is liable to affect materially the finances of the Council, shall consult with the Strategic Lead - Resources before any provisional or other commitment is incurred or before reporting thereon to the Council or to a committee. Matters covered by approved budgets are excluded from this requirement.

The question of materiality will be the subject of consultation with the Strategic Lead - Resources and, if appropriate, the Chief Executive. Such guidance will form part of these Regulations.

**A8 Role of Chief Executive, Chief Officers and the Director of the Health & Social Care Partnership (H&SCP)**

Unless otherwise stated, the title "Chief Officer" applies also to the Chief Executive and the Chief Officer of the HSCP for the purpose of describing their role in relation to these Regulations.

**B. ESTIMATES**

**B1 Form of Estimates**

Subject to the direction of the Council, the detailed form of capital and revenue estimates shall be determined by the Strategic Lead - Resources in accordance with normal professional practice.

**B2 Preparation of Estimates**

It shall be the duty of the Strategic Lead - Resources to:

- Prepare a revised Long-term Finance Strategy for the Council each financial year as part of the Estimates process: and
- Prepare annual estimates on revenue and capital accounts relating to all service areas and services of the Council.

For this purpose the Chief Officers shall furnish the Strategic Lead - Resources each year, at dates to be determined by him, with all necessary information regarding the requirements of their service areas/ services.

**B3 Determination Process**

After preparation, the estimates shall be collated and considered within the guidelines as agreed by the Council. After consideration, the estimates and any recommendations thereon will be submitted to the Council, together with a report by the Strategic Lead – Resources, for consideration in setting budgets, Council Tax and rent increases, in line with the timelines agreed by Council.

**B4 Report on the Estimates**

The Council shall consider the estimates, revise them if appropriate, and approve them as so revised and with regard to the revenue estimates authorise the expenditure included therein and determine the level of Council Tax and Council Housing rent levels.



## **B5 Long Term Capital Programme**

A capital programme shall be prepared annually by the Strategic Lead – Resources, in conjunction with Chief Officers, for submission to the Strategic Asset Management Group and thereafter consideration by the Corporate Management Team. The programme will then be submitted to the full Council for approval. Thereafter the Council shall review the capital programme and approve a revised programme, as appropriate.

## **B6 Authority to Proceed with Capital Projects**

The inclusion of a project in the capital programme does not itself, authorise expenditure. Standing Orders will be applied and any required Council approval given prior to any expenditure.

## **B7 Urgent Updates to Capital Programmes**

Should any unforeseen issue arise such as would materially alter the assumptions underlying a capital programme or the likely spend under any heading, where approval is required prior to the next appropriate Committee or Council, then the relevant Chief Officer, after consultation with and the agreement of, the Chief Executive, Strategic Lead - Resources and the relevant Convener, will amend the programme accordingly. Any such amendment will be reported to the next appropriate meeting of the Council and relevant Committee as part of the usual Budgetary Control Reporting regime.

## **C. CONTROL OF EXPENDITURE**

### **C1 Need for Budgetary Provision**

No expenditure shall be incurred unless included in the annual estimates or covered by a supplementary estimate approved by the Council after the submission of a report thereon.

### **C2 Virement**

#### Revenue

- Chief Officers may vire between subjective headings (types of expenditure) within a Service to a maximum of £10,000 with approval of the Strategic Lead - Resources. Any virement above £10,000 requires the approval of the Strategic Lead - Resources and then approved by the relevant Committee.
- Chief Officers may vire between Services within their Service Area with the approval of the Strategic Lead - Resources then approved by the relevant Committee or Council (e.g. in a virement that affects more than one Committee).
- Chief Officers may vire between Service Areas with the agreement of all Chief Officers concerned; the approval of the Strategic Lead - Resources then approved by all relevant Committees or Council.
- All virement requested is deemed to be permanent, i.e. to be carried forward into future years, unless specifically highlighted as being 'one-off' at the time of submitting the virement request.

- Head Teachers are constrained as to their powers as set out in the Delegated Management of Resources Scheme (DMR), such virements are not regarded as permanent.

#### Capital

- Chief Officers may vire between capital projects to a maximum of £60,000 with the agreement of all Chief Officers concerned, the approval of the Strategic Lead – Resources, in consultation with the relevant Service Convener.
- Any virement above £60,000 requires the agreement of all Chief Officers concerned and the approval of the Strategic Lead – Resources, in consultation with the relevant Service Convener and approval by Council.

### **C3 Updates to Capital Programmes**

In line with regulation B7 above, such changes to the capital programme will not constitute a virement and the process for authorisation of such a change is as described at B7.

### **C4 Overspends**

Where it appears that the amount of approved expenditure within any service area may be significantly exceeded or the amount of approved income may fall significantly short of that estimated, it shall be the duty of the Chief Officer concerned, after consultation with the Chief Executive and the Strategic Lead - Resources, to inform the Council of the estimated amount of the deviation, the reasons for the deviation and the options for addressing it.

### **C5 Report on Capital and Revenue Schemes**

No capital work outwith the capital programme, (unless agreed by the Chief Executive as relatively minor and of an urgent nature), and no major revenue project (even where included in the annual estimates) shall be commenced unless it has been the subject of a report to the relevant service Committee or Council by the relevant Chief Officer.

### **C6 Loan Consents**

Subject to 5 above, no capital expenditure will be incurred unless the appropriate Chief Officer has ensured it is contained within the capital programme and is covered by appropriate resources.

### **C7 Responsibility for Budgetary Control**

#### **(i) Strategic Lead - Resources:**

It is the responsibility of the Strategic Lead - Resources to furnish each Chief Officer at regular intervals (normally monthly), a comparative statement showing the estimated revenue income and expenditure of each service area and the payments and receipts actually made to that date. The Strategic Lead - Resources shall submit to the Council and Service Committees, on a regular basis, a statement comparing expenditure and income with the approved budget.

(ii) Chief Officers:

It is the responsibility of each Chief Officer to ensure that the items in the annual estimates are not overspent and that the service area's expenditure conforms to the requirements of the financial regulations. Each Chief Officer shall submit to the relevant service Committee on a regular basis, a statement comparing expenditure and income with their service areaal budget.

**D. CONTROL OF INCOME**

**D1 Determination and Alteration of Charges**

The rate of charge for Supplies, Works or Services supplied by the Council shall not be altered without the approval of the Council (or appropriate service Committee where appropriate), unless an alteration is required arising from a change in legislation.

**D2 Accounting Arrangements**

It shall be the duty of the Strategic Lead - Resources to make adequate financial and accounting arrangements to ensure the proper recording of all monies due to the Council, the proper collection, custody, control and disposal of all cash in all service areas of the Council.

**D3 Notification of Income to Strategic Lead - Resources**

The general expectation is that service users will pay for services provided by the Council either in advance or at the point of delivery. Where this is not possible the details of charges requiring to be invoiced to service users shall be promptly notified to the Strategic Lead - Resources in a form approved by him. All accounts for income to the Council shall be issued by or under arrangements approved by the Strategic Lead – Resources.

**D4 Write-Offs**

Individual sums due to the Council and exceeding £5,000 (excluding VAT) shall not be written-off except after consideration by the appropriate service Committee or Council. Sums up to £5,000 which are due, may be written off on the authority of the Strategic Lead - Resources if satisfied that they cannot reasonably be recovered.

**D5 Benefit Overpayment**

An overpayment of Housing Benefit or Council Tax Reduction will be recoverable, except when arising from a "technical error" and where the claimant (or someone acting on their behalf) could not reasonably have been expected to realise that it was an overpayment.

**D6 Treatment of Money Collected**

All staff handling receipts of cash should be aware of the Council's Money Laundering Procedures. All funds received on behalf of the Council in any service area and in all forms shall be deposited with the Council's bankers in accordance with arrangements made with the Strategic Lead - Resources. No

deduction may be made from such funds other than where the Strategic Lead - Resources has specifically authorised.

**D7 Forms, Books and Tickets**

All official forms, books and tickets for the disbursement and collection of monies, whether these are electronic-based or paper-based, shall be in a form approved by the Strategic Lead - Resources.

**D8 Personal Cheques and Purchase Cards**

Personal cheques shall not be cashed out of the money held on behalf of the Council. Council purchase cards shall not be used for personal purposes.

**D9 Transfers of Money**

All transfers of official money from one member of staff to another will be evidenced in the records of the service areas concerned by the signature of the receiving officer.

**D10 Grant Funds**

The Strategic Lead - Resources will be advised of all relevant information necessary for him to comply with the terms and conditions for all grants due to the Council.

**E. STORES, INVENTORIES AND COSTINGS**

**E1 Costing Systems and Stores Control**

Arrangements made by Chief Officers for costing systems and stocks and stores control shall be subject to the approval of the Strategic Lead - Resources and shall, at least annually, be subject to review by the relevant Chief Officers.

**E2 Custody of Stores and Stocktaking**

The care and custody of stores and equipment in any service area shall be the responsibility of the Chief Officer of that service area who will ensure that stocktaking is carried out at regular intervals as agreed with the Strategic Lead - Resources.

**E3 Write-Offs or Surpluses of Stores**

No entries will be made, in the records, to write-off stores deficiencies or to bring surpluses into charge unless authorised by the Strategic Lead - Resources, who may refer such adjustments to the Council. The Strategic Lead - Resources may issue guidance, from time to time, on this subject and such guidance will form part of these Regulations.

**E4 Disposal of Surplus Plant, Equipment, furnishings, materials, etc.**

Subject to prior consultation with the Strategic Lead - Resources, all useable surplus plant, equipment, furnishings, materials, etc., to be disposed of by any service area of the Council, and which cannot be utilised by any other service area, shall be advertised for sale, or if no sale is possible shall be offered to Community Groups.

**E5 Inventories**

All service areas will maintain inventories of furniture, fittings, equipment (including IT equipment), plant and machinery. The form of the inventories will be determined by the Strategic Lead - Resources.

**E6 Stock Levels**

Stocks and stores held shall not be in excess of normal requirements except in special circumstances with the approval of the committee concerned.

**F. BANKING, CONTROL OF CHEQUES, BORROWING, INVESTMENT AND TRUST FUNDS**

**F1 Arrangements with Bankers**

All arrangements with the Council's Bankers concerning the Council's bank accounts shall be made by the Strategic Lead – Resources.

**F2 Payments into Bank**

All funds received shall be paid into the Council's bank account daily or at such other intervals as may be arranged by the Strategic Lead - Resources.

**F3 Cheque Control**

All cheques shall be ordered and controlled on behalf of the Council by the Strategic Lead - Resources and shall bear the facsimile signature of the Strategic Lead - Resources, or be signed by him or other officer authorised by him to do so.

**F4 Code of Practice on Treasury Management**

This Council adopts CIPFA's "Code of Practice for Treasury Management in the Public Services".

**F5 Treasury Policy Statement**

A Treasury Policy Statement setting out its strategy and procedures will be adopted by the Council as and when required.

**F6 Aggregation**

All funds (other than miscellaneous balances such as imprest accounts, cash floats and deposit receipts) in the hands of the Council shall be aggregated for the purposes of treasury management and shall be under the control of the Strategic Lead - Resources.

**F7 Delegation to Section 95 Officer**

All executive decisions on borrowing, investment or financing shall be delegated to the Strategic Lead - Resources, or through him to his staff, who shall be required to act in accordance with CIPFA's 'Code for Treasury Management in Local Authorities' and the Council's Treasury Policy Statement.

**F8 Investments**

All investments of funds under its control shall be made in the name of the Council or in the names of nominees approved by the Council and follow the Council's Investment Strategy, as approved by Council annually.

**F9 Borrowing**

All borrowing shall be made in the name of the Council.

**F10 Deposit of Trust Funds**

All persons acting as trustees shall deposit all securities, funds, etc., relating to the Trust with the Strategic Lead - Resources unless the deed otherwise provides. Thereafter these funds will be invested as appropriate.

**F11 Registrar of Bonds and Mortgages**

The Strategic Lead - Resources shall be the Council's registrar of stocks, local bonds and mortgages, except where an outside Registrar is appointed by the Council. The Strategic Lead - Resources shall maintain records of all borrowing of funds by the Council.

**F12 Control of Charitable Funds**

The Strategic Lead - Resources shall ensure the proper and safe custody and control of all charitable funds held by the Council and that all expenditure is in accordance with the conditions of the trust deed, etc.

**F13 Reports by Strategic Lead - Resources**

1. The Strategic Lead – Resources will report and request approval from Council for the Treasury Management Strategy for the forthcoming year, prior to the start of that year.
2. The Strategic Lead – Resources shall report (as a minimum) twice annually to the Council on the Treasury Management operation and on the exercise of the Treasury Management powers delegated to him. One such report shall be a mid year update and the other shall be the Annual Report on Treasury Management for presentation by 30 September of the succeeding financial year.

**G. ORDERING OF SUPPLIES, WORKS & SERVICES; AND PAYMENT OF ACCOUNTS****G1 Official Requisitions and Orders**

All Supplies, Works and Services supplied or executed for the Council shall be ordered or confirmed by means of an official requisition or order. The form of official requisitions and orders must be through a system as approved by the Strategic Lead - Resources. Such requisitions or orders will be authorised only by officers authorised by the appropriate Chief Officer. Such authorised persons shall be reviewed on a regular basis by the relevant Chief Officer.

**G2 Exemption from Official Requisition or Order**

An official requisition or order will not be required for supplies of public utility services, periodical payments (such as professional subscriptions), petty cash purchases or point of sale Corporate Purchase Card transactions such as travel expenses, sustenance, event or venue reservations where pre-payment is required. The requirements of Section Q these Procurement Financial Regulations still apply.

**G3 Central Purchasing and Standardisation**

Each requisition and order shall conform to any directions of the Council with respect to central purchasing and the standardisation of supplies, works and services.

**G4 Check on Supplies, Works and Services undertaken**

It shall be the duty of each Chief Officer to ensure that all Supplies, Works and Services received or undertaken are as requisitioned or ordered in respect of value, quantity and quality.

**G5 Certification by Chief Officer**

1. Each Chief Officer shall arrange to certify that all payment vouchers comply with the following:
  - The Supplies, Works or Services to which the account relates have been received, carried out, examined and approved and are in accordance with the order;
  - The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - The expenditure has been properly incurred and the provision of standing orders as to limits of expenditure authority have been observed;
  - Appropriate entries have been made in inventories, stores records or stock books as required; and
  - The appropriate expenditure code numbers are entered on the document for payment.
2. Those officers who authorise payment vouchers should be familiar with the general VAT rules of the Council as defined within the VAT Guidance.
3. Having so certified the voucher, the Chief Officer or other authorised officer shall pass it to the Strategic Lead - Resources for payment.

**G6 Separation of Duties**

Each Chief Officer shall ensure that an appropriate separation of duties exists between officers authorising requisitions and orders and certifying payment of invoices. Certifying payment of invoices will be undertaken by either: an authorised officer via a manual or electronic process; or via electronic invoice matching to the purchase order within a system as approved by the Strategic Lead – Resources.

**G7 Authorised Signatories**

The Strategic Lead - Resources will compile a list of authorised signatories for this purpose in each service area and specimen signatures will be required from the persons concerned.

**G8 Duplicate Invoices, etc.**

Payment will not be made on duplicate or photocopy invoices unless the Chief Officer (or other officer delegated authority to do so by the Chief Officer) certifies on the appropriate batch slip that the amounts have not been previously paid.

**G9 Further Invoice Checking**

The Strategic Lead - Resources shall supplement the service areaal checks on payment of accounts as he considers necessary.

**G10 Amendments to Payment Vouchers**

Any amendments made to payment vouchers shall be made in ink and initialed by the officers making them stating briefly the reasons where this is not self-evident.

**G11 Electronic Procurement**

The above requirements apply equally to orders and payments made through approved electronic systems including through purchasing cards. Each Chief Officer shall ensure that all staff using electronic systems operate in accordance with the relevant authorisation levels and thresholds embedded within the systems.

**G12 Employee Code of Conduct**

All employees must comply with the Code of Conduct, in particular, all policy, processes and procedures produced by the Corporate Procurement Manager when purchasing Supplies, Works and Services. Officers should be aware of the associated Guidance on Offers of Gifts, Hospitality and Declaring Interests.

**H. ACCOUNTING**

**H1 Accounting Procedures and Records**

All accounting procedures and records of the Council and its officers shall be determined by the Strategic Lead - Resources. All accounts and accounting records of the Council shall be compiled by the Strategic Lead - Resources, or under his direction.

**H2 Internal Checks**

The provision of information about sums due to or by the Council and the process of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting, disbursing, or authorising payment of such sums. Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

**H3 Year End Accounting Returns**



Chief Officers shall annually, at dates to be specified by the Strategic Lead - Resources, submit to him:

- Inventories of stocks, stores and plant in hand at the year-end;
- Inventories of equipment and furnishings in hand at the appropriate date;
- Year-end cash imprest statements and reconciliations;
- Details of sums due to or by the Council and remaining unpaid at the year-end; and
- Any other information necessary to close the Council's accounts at the year end.

#### **H4 Year-End Final Accounts**

Chief Officers shall have a duty to provide requested information and comply with deadlines defined by the Strategic Lead - Resources for the completion of the year-end final accounts and its audit.

### **I. INTERNAL AUDIT AND VALUE FOR MONEY**

#### **I1 Continuous Internal Audit**

The Internal Audit Service is a statutory assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisation's objectives. The control environment comprises the systems of governance, risk management and internal control. The remit of the service is to objectively examine, evaluate and report on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources throughout the Council's activities. A continuous internal audit, under the independent control and direction of the Strategic Lead - Resources, as described in the Council's Internal Audit Charter and in accordance with the Public Sector Internal Audit Standards (PSIAS), shall be undertaken.

#### **I2 Authority of Audit**

1. The Strategic Lead - Resources or his authorised representatives shall have authority to:
  - Enter at all reasonable times any Council premises or land;
  - Have access to all records, documents and correspondence relating to financial and other transactions of the Council;
  - Require and receive such explanations as are necessary concerning any matter under examination; and
  - Require any employee of the Council to produce cash, stores, or any other Council property under his/her control.
2. All requests for information, files, etc. made by Internal Audit to officers or Members shall be supplied with within the timescales provided by Internal Audit.

### **I3 Contract Audit**

The Audit Manager or his authorised representatives, subject to the consent of the Strategic Lead - Resources, shall have authority to engage the services of professional persons from appropriate Council service areas to assist in the examination of contracts under review or investigation by Internal Audit.

### **I4 Business Irregularities**

1. No investigatory work is to be undertaken by any Officer of the Council without the express approval of:
  - the Strategic Lead - Resources for allegations relating to financial issues (or in his absence the Audit Manager); or
  - the Strategic Lead - People and Technology for alleged breaches of Human Relations policies or procedures (in her absence the Strategic People and Change Manager).
2. All Chief Officers will make arrangements within their own service area to ensure that, where it is suspected or identified that business irregularities have or may have occurred, the matter will be reported immediately to Strategic Leads – Resources /People and Technology. Examples of such irregularities include but are not limited to:
  - Misappropriation or embezzlement of funds, materials etc. placed in the employee's charge;
  - intentional distortion of records for any fraudulent purposes; and
  - misuse of the Council's ICT infrastructure including information.
3. Anonymous allegations and all categories identified within the Council's Policy in relation to the Public Interest Disclosure Act 1998 are covered by these Regulations.
4. Such irregularities shall be dealt with in accordance with the Council's Business Irregularity Procedures.

## **J. CASH IMPRESTS AND PURCHASE CARDS**

### **J1 Provision of Imprest**

The Strategic Lead - Resources shall provide cash imprest accounts, cash floats and purchase cards as he considers appropriate to officers of the Council for the purposes of defraying petty cash and other expenses.

### **J2 Bank Accounts for Imprest Holders**

The Strategic Lead - Resources shall open bank accounts where it is considered appropriate and in no circumstances shall the imprest holder overdraw the account. It shall be a standing instruction to the Council's bankers that an imprest holder's account shall not be overdrawn. Bank accounts will not be opened or amended by any officer other than the Strategic Lead - Resources, or his nominated deputies.

**J3 Exclusion of Income Collected**

No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the authority as provided in these regulations. Any bank interest earned on, or charges to, an imprest accounts will be remitted separately and immediately to the Strategic Lead - Resources and will not be left in the imprest bank balance.

**J4 Limit on Expenditure – cash imprest**

Payments shall be limited to minor items of expenditure and to such other items as the Strategic Lead - Resources may approve.

**J5 Limit on Expenditure – Purchase Cards**

Individual officers shall have limits placed on the use of purchase cards in terms of purpose and value of expenditure, by transaction and in total per month.

**J6 Statement of Account – Imprest**

An officer responsible for an imprest account shall, if so requested, give to the Strategic Lead - Resources a certificate of the balance on his/her imprest account in line annual guidance issued by the Strategic Lead - Resources. Payments shall be supported by a receipted voucher (with appropriate VAT information as required) to the extent that the Strategic Lead - Resources may require.

**J7 Accounting for Purchase Card Expenditure**

Relevant officers are required to review and approve all expenditure on the online purchase card system, in line with the published timetable. Payments shall be supported by a receipted voucher (with appropriate VAT information as required) to the extent that the Strategic Lead - Resources may require.

**J8 Termination as Imprest Holder / Purchase Card Holder**

Imprest: on leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, an officer shall make account to the Strategic Lead - Resources for the amount advanced to him/her.  
Purchase Cards: on leaving the employment of the Council or otherwise ceasing to be entitled to hold a Purchase card relevant officers shall surrender their purchase card to their line manager, who will advise Strategic Lead – Resources of the change.

**J9 Insurance Cover**

The Strategic Lead - Resources will ensure that insurance cover is obtained for all cash imprest and purchase card accounts and for the officers responsible for these.

**K. CLAIMS FOR EXPENSES AND ALLOWANCES**

**K1 Arrangements for Claims**

The Strategic Lead - People and Technology in consultation with the Strategic Lead - Regulatory shall be responsible for making arrangements for the administration and regulation of claims for expenses and allowances to Members and employees of the Council and other approved bodies.

**K2 Regulations for Elected Members Allowances and Expenses**

The Strategic Lead - Regulatory shall at all times make the current regulations on expenses and allowances available to Members.

**K3 Submission of Claims**

All claims for payment of travelling allowances, subsistence allowances, car allowances and incidental expenses shall be submitted, duly certified, in a form approved by the Strategic Lead – People and Technology to her at regular intervals as agreed in the format defined. Such payments will not be made out of imprest accounts without the express authority of the Strategic Lead - Resources. All such expenses shall as far as practicable be paid through approved payroll processes, or as approved through use of Council purchase card.

**K4 Payment of Claims for Elected Members**

Payments to Members, of claims for expenses and allowances, will be made by the Strategic Lead - People and Technology upon receipt of the required information duly completed. All claims for a financial year are to be submitted within one month of 31 March.

**K5 Certification of Claims**

The certification of claims shall mean that the certifying officer is satisfied that the journeys were authorised, the expenditure properly and necessarily incurred and that the allowances are properly payable by the Council.

**L. SALARIES, WAGES AND PENSIONS****L1 Arrangements for Payments**

The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Strategic Lead - People and Technology or under arrangements approved and controlled by them.

**L2 Application of National Agreements**

The Strategic Lead - People and Technology shall be responsible for the application of all appropriate wages and salary agreements to all employees of the Council.

**L3 Notification**

The Strategic Lead - People and Technology will be notified as soon as possible, in an agreed form, of all matters affecting payment of such emoluments and in particular:

- Appointments, resignations, dismissals, suspensions, secondments and transfers;
- Absences from duty for sickness or other reasons, apart from approved leave;
- Changes in remuneration, pay awards and agreements of general application; and

- Information necessary to maintain records of service for superannuation, income tax and national insurance.

#### **L4 Appointments**

Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.

#### **L5 Form and Certification of Records**

1. Time records or other pay documents shall be in a form prescribed or approved by the Strategic Lead - People and Technology and shall be certified by or on behalf of the appropriate Chief Officer.
2. The names of officers authorised to sign such records shall be sent to the Strategic Lead - People and Technology by each Chief Officer together with specimen signatures.

### **M. GRANTS, CONTRIBUTIONS AND SUBSCRIPTIONS TO OTHER BODIES AND PERSONS**

#### **M1 Administration and Payment**

1. All grants (other than Common Good and Community Chest), contributions and subscriptions shall be managed through processes approved by the Strategic Lead - Resources, under delegated powers, and in consultation with the relevant Committees.
2. For the **Common Good Fund**, Council will set the budget and in doing so the majority of the grants to be paid. Any remaining Common Good funds available for grant payment will be administered and paid by the Strategic Lead - Resources in consultation with the Corporate Services Committee, except where specified by Council where alternative arrangements may be agreed.
3. **Community Chest grants** will be administered and paid by the West Dunbartonshire Community Volunteer Service and reported in detail to the Corporate Services Committee annually.

#### **M2 Applications**

All applications for grants and subscriptions shall be accompanied, where appropriate by the accounts and other relevant information of the organisation, and the Strategic Lead - Resources may be asked to report thereon.

#### **M3 Application of section Q; Procurement Financial Regulations**

When awarding grants which may involve the delivery of Supplies, Works and Services, due consideration must be made to the provisions of section Q of these Financial Regulations, notwithstanding the source and nature of any funding provided.

## **N. CAPITAL, REVENUE AND RENEWAL FUNDS**

### **N1 Policy for Administration**

The Council shall determine the policy on the administration of these funds.

### **N2 Council Consideration**

The Council, at the consideration of the budget, shall take into account the allocation of resources, and the policy on such funds.

## **O. SECURITY**

### **O1 Responsibility for Security**

Each Chief Officer is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc., under his/her control. He/she shall consult the Strategic Lead – Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed. Regular review of such security arrangements shall be carried out by the directors.

### **O2 Limits to Cash Holdings**

Maximum limits for cash holdings shall be agreed with the Strategic Lead - Resources and shall not be exceeded without his/her express permission.

### **O3 Safe Keys**

Keys to safes and similar receptacles are to be securely held by those responsible for them at all times. The loss of any such keys must be reported immediately to the Strategic Lead - Resources. A register of all such key-holders will be kept by each Chief Officer.

### **O4 Computer Security**

The Strategic Lead – People and Technology is responsible for maintaining proper security and privacy as regards information held in the Council's computer installations or for their use. Each Chief Officer is responsible for information held in their respective service areas.

### **O5 Pre-printed and Pre- signed Cheques, etc.**

The Strategic Lead - Resources shall be responsible for ensuring that secure arrangements exist for pre- printed/pre-signed cheques, stock certificates, bonds and deeds etc.

## **P. INSURANCE**

### **P1 Strategic Lead – Resources Responsible for Insurance**

Subject to the general supervision of the Council, the Strategic Lead - Resources will effect and maintain adequate insurance cover for all of the Council's activities. He will also negotiate insurance claims, in consultation with Chief Officers, where necessary.

**P2 Notification of Risks**

Chief Officers will give prompt notification to the Strategic Lead - Resources of all new and increased risks, properties, or vehicles or of any deletions affecting their service area or services.

**P3 Notification of Claims**

Chief Officers will immediately notify the Strategic Lead - Resources in writing of any loss, liability or damage or any event likely to lead to a claim.

**P4 Fidelity Guarantee Insurance**

All appropriate employees of the Council will be covered by fidelity guarantee insurance.

**P5 Review of Insurance Cover**

The Strategic Lead Resources will periodically review all insurances in consultation with the Chief Officers as appropriate

**Q. PROCUREMENT: CONTRACTS FOR SUPPLIES, WORKS AND SERVICES  
(THE PROCUREMENT FINANCIAL REGULATIONS)**

**Q1 Application of these Procurement Financial Regulations**

1. Except where an explicit decision by a meeting of Council or a Committee having delegated authority for the matter in question exists, these Financial Regulations will apply subject to the undernoted further Caveats.
2. Where strict application of these Procurement Financial Regulations would be likely to place the Council in conflict with any applicable law, the Procurement Financial Regulations will be read with the omission of any offending provision and in the manner which best protects the Council's interests.
3. For the avoidance of doubt, no failure to comply with these Procurement Financial Regulations will have any negative bearing on the vires of any action or the validity of any Contract following on such action where the action would otherwise be within the Council's powers and the Contract would otherwise be valid.

**Q2 Standing Orders**

1. These Procurement Financial Regulations shall be read in conjunction with and subject to the provisions of Parts III and Part IV of the Standing Orders relating to Officers Delegated Powers and to Procurement, Contracts and Tendering respectively. No provision in these Financial Regulations will be taken to extend or limit the vires of the Council to act in a manner which conflicts with the natural meaning of the Standing Orders. As provided for in Section S of these Financial Regulations, all Officers of the Council are required to adhere to their terms.

2. In the event of any conflict between these Financial Regulations and Standing Orders, the provisions of the Standing Orders will have precedence. However, this provision will not have the effect of removing the requirement to comply with these Financial Regulations simply on the basis of that permissive provision of the Standing Orders does not specify any qualification or condition on its application. Where these Financial Regulations contain provisions which qualify or place conditions on any permission granted in any Standing Order, officers shall have regard to such permission as so qualified or made conditional.

### **Q3 Pre-requisites for Procurement**

No procurement activity will commence unless and until each of the following conditions have been met:

- Sufficient budgetary provision exists (Capital, Revenue or both) in terms of the Standing Orders and these Financial Regulations;
- Express Council, Committee or other relevant delegated authority has been granted in accordance with Standing Orders or the Council's Scheme of Delegation; and
- For procurement valued at £50,000 and above, and other than emergency placements for social care, or education, a commodity / contract strategy, in a format approved and signed by the Procurement Manager, has been agreed.

### **Q4 Value of Contracts**

1. In estimating the value of a contract for the purposes of these Financial Regulations, the following direct and indirect costs (total cost of ownership "TCO") must be accounted for:
  - a. The Capital cost of the acquisition of any assets, relevant Revenue sums and one off payments e.g. for acquisition of licenses;
  - b. External training costs for training which requires to be undertaken to be undertaken as a direct result of the supplies, works or services acquired under the contract;
  - c. Support services by or through the supplier on an ongoing basis for the duration of the contract. Where the period of required support is indefinite, for a period of 48 Months;
  - d. Additional Third party works, supplies or services, associated with, or necessary to support the contract and its deliverables;
  - e. Annual recurring maintenance or license costs associated with the contract and its deliverables; and
  - f. The value of any works concession or service concession to the Council. The value of a works concession or service concession contract is calculated by the value of the benefit to the supplier in



terms of revenue / turnover rather than the rebate coming back to the Council.

2. If there is any doubt regarding the appropriateness of the inclusion of any cost, the Procurement Manager must be consulted
3. In every schedule of rates contract, following discussion with the Procurement Manager, the Chief Officer or Chief Officer of the procuring service shall fix an indicative total value for the contract prior to invitations to tender being issued. If there is any doubt about the anticipated duration of the continuing supply, the Procurement Manager shall base the estimate of the value of the contract on a period of 48 months.

**Q5 Above £50,000 Disaggregation**

It is not permitted to deliberately divide any procurement exercise or divide into two or more contracts if the intention in doing so is to avoid the application of any financial thresholds in these Financial Regulations, Standing Orders, Domestic Law or the EU Procurement Directives.

**Q6 Contracts Governed by these Financial Regulations**

1. In these Financial Regulations, the word “contract” will apply to any arrangement for provision of works, supplies or services to the Council including in so far as relevant, any framework agreement or dynamic purchasing system; either solely or along with others, either written or unwritten by which, legally enforceable rights and responsibilities are created for the parties to the arrangement.
2. Subject as undernoted, the full provisions of the *Financial Regulations* following in this Section Q, will only apply to contracts having a value of £50,000 and above.
3. For the avoidance of doubt, individual arrangements where the primary purpose is the supply of funding, either by or to the Council, e.g. loans, bonds, securities, grants (other than where the Council receives works, supplies or services or derives any benefit from them) or other financial instruments, will not be a contract for the purposes of these *Financial Regulations*, notwithstanding that some strictly limited and ancillary provision of works, supplies or services may also be involved.
4. Further, subject to the provisions of Domestic Legislation and case law, no arrangement will be classed as a contract for the purposes of these *Financial Regulations*, where the Council:
  - a. solely or predominantly sells or acquires land or rights in land;
  - b. provides works, supplies or services for third parties;

- c. performs the functions of or delivers services to another public body in accordance with *The Local Authorities (Goods & Services) Act 1970*;
  - d. receives works, supplies or services from another body where the Council is permitted to receive them without the requirement to tender in accordance with *The Local Authorities (Goods & Services) Act 1970*;
  - e. performs for or receives services from (a) an arms-length organisation whether wholly or partly owned by the Council or (b) a wholly owned subsidiary or group company of the Council, provided the arrangement is compliant with Domestic Law and EU Law.
5. Notwithstanding that an arrangement may not be classed as a contract for the purposes of these *Financial Regulations* under this Section Q, the wider *Financial Regulations* will still apply to the arrangement.

#### **Q7 Specific Exemptions to These Financial Regulations**

Notwithstanding that they may otherwise fail to be viewed as works, supplies or services to the Council, the following shall be exempt from the scope of these Financial Regulations any arrangement:

- a. where the Council seeks or receives legal advice, assistance or an opinion from Junior or Senior Counsel, a Professor of Law, a Solicitor Advocate or in the case of an opinion only, a Law Society of Scotland Accredited Specialist solicitor recognised as having particular expertise in the subject matter of the opinion;
- b. where the Council disposes of surplus or scrap materials and equipment previously used by the Council, except where such disposal is, or is part of, a contract for which the Council pays (in cash or kind) a value of £50,000 and above;
- c. for the commissioning of theatrical, musical, dramatic or other artistic performances, subject to the prior approval of the Procurement Manager;
- d. where the individual is nominated by a third party or agreed between the parties under a Dispute Resolution Procedure within a contract provided such nomination is compliant with Domestic and EU Law.

#### **Q8 Application of and Departure from the Requirements of these Financial Regulations**

- 1. These Financial Regulations will apply to all contracts for works, supplies and services except in the following circumstances:

- a. Where a proviso within the *Standing Orders*, or the Officers *Scheme of Delegation* expressly permits or requires the Chief Executive, Chief Officer or Chief Officer to act in a manner which may not be in accordance with these *Financial Regulations*, but that only to the extent that such express permission or requirement requires, and subject to such subsequent reporting as such provision may require;
  - b. Where a departure is expressly agreed by a meeting of Council or the appropriate Service Committee, in advance of such departure in these circumstances, the Procurement Manager will be consulted before any report seeking such departure is taken to the meeting of Council, or the appropriate Service Committee;
  - c. Where in the express and written opinion of i) the Section 95 Officer, or ii) the Strategic Lead – Regulatory, the application of the *Financial Regulations* would be such as to impose a financial, reputational or legal penalty upon the Council or may significantly impede the Council in the performance of its statutory duties such that it would be perverse to strictly apply these *Financial Regulations*;
  - d. Where the strict application of these *Financial Regulations* would place the Council in conflict or mean non-compliance with the provisions of any funding arrangement; and subject to the EU Thresholds not being breached; where such funding, i) makes a substantial contribution to any contract for works, supplies and services; and ii) there is no opportunity to renegotiate the terms of any such funding within a timescale which permits the drawdown of the funds or the performance of the contract in accordance with its aims;
  - e. Where the Council is entitled, as a member of a consortium, or is otherwise permitted to utilise a framework agreement, or dynamic purchasing system; which is compliant with Domestic Law and EU Procurement Directives (the rules and procedures of such consortium or framework agreement, or dynamic purchasing system; will, where in conflict with these *Financial Regulations*, have precedence, save insofar as these *Financial Regulations* relate to internal procedures only or insofar as they are a direct translation of any *Standing Order* or aspect of the *Scheme of Delegation*.
2. With the exception of those provided for within the *Standing Orders* and *Scheme of Delegation*; and those determined by Council or Committee such provisos will only be exercised after consultation with the Procurement Manager and will be reported to the first appropriate Committee where expenditure exceeds or is likely to be valued at £50,000 or higher.

#### **Q9 Procurement Responsibility for Contracts**

1. The service shall be responsible for all contracts below £50,000 and will conduct such procurement in accordance with *Procurement Guidance for Below £50,000*, issued by the Procurement Manager. [Procurement Guidance - under £50,000](#)
2. When there is a framework agreement; or a dynamic purchasing system available, and it is determined between the Procurement Manager and the procuring service that its use is the most appropriate means of fulfilling the requirement, the Procurement Manager shall adhere to the *Financial Regulations*, Regulation Q23 - *Framework Agreement and Dynamic Purchasing System Call-offs*.
3. Where a framework agreement or dynamic purchasing system does not exist or is determined not to be the most appropriate means of fulfilling the requirement, the Procurement Manager shall adhere to the following procedures:
  - a. For works contracts between £50,000 to £499,999.99 (exc. VAT) - undertake either (One) a Quick Quote process for a minimum of 10 working days, by inviting five contractors (where possible) from the relevant category of contractors registered on: [www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk) including, where possible, two contractors within the local area to participate or (Two) if considered more appropriate, one of the processes found in Regulations Q15 to Q23 below); and
  - b. For works contracts valued at £500,000 and above; and for supplies and services contracts valued at £50,000 and above, one of the appropriate procurement processes identified in the *Financial Regulations*, Regulations Q15 to Q23 is to be applied.

#### **Q10 Commodity / Contract Strategy and Contract & Supplier Management**

1. Where the need is identified through the commodity / contract strategy, the Procurement Manager may require that the Chief Officer or the Chief Officer, will ensure that the following provisions will be adhered to which may include:
  - a. Appointing an experienced sponsor;
  - b. Establishing and maintaining a project team until the contract has been put in place, with the right expertise which will include a project manager, lead officer, contract owner and appropriate representation from the Corporate Procurement Unit; Finance Services; Legal Services and any further officers required;
  - c. Defining the project stakeholders and communicating with the stakeholders at regular intervals;
  - d. Defining the initial works, supplies and / or services;

- e. Developing, reviewing and finalising an options appraisal and / or business case that shall include cost, time, resources and quality analysis;
- f. Defining a clear, concise and unambiguous specification / scope;
- g. Consistently monitoring the specification / scope to ensure it remains controlled throughout the contract;
- h. Controlling the relationship between the Council and the successful supplier;
- i. Ensuring that the *Contract & Supplier Management Policy* is adhered to.

#### **Q11 Minimum Contract Provisions**

Except in circumstances where the Procurement Manager and Strategic Lead – Regulatory Services agree otherwise, every contract shall be:

- 1. in the name of West Dunbartonshire Council;
- 2. in probative writing;
- 3. subject to the Laws of Scotland; and
- 4. subject to the agreed exclusion or amendment of any such provisions in terms of the *Financial Regulations*, Q.12 hereof, including all provisions required by the *Standing Orders* or *Financial Regulations*, Q.11 hereof.

#### **Q12 Contract Documents**

- 1. With the exception of the specification or scope of the contract requirements, the procurement documents in respect of all contracts shall be prepared by the Procurement Manager in consultation with the Chief Officer or Chief Officer of the procuring service(s) and in relation to the terms and conditions of the contract, the Strategic Lead - Regulatory.
- 2. With the exception of framework agreement call-offs; dynamic purchasing system call-offs and emergency placements, the European Single Procurement Document (ESPD) shall be used in all procedures.
- 3. The Procurement Manager may also, after consultation with the Strategic Lead - Regulatory as aforesaid; make use of procurement documents prepared by the Crown Commercial Service, Scotland Excel or the Scottish Procurement and Commercial Service area or any other public sector body, amended as appropriate, where permitted by those bodies to do so. It is the Procurement Manager's responsibility to ensure that the procurement documents are suitable for the contract.

4. For repeat requirements and contracts which are agreed in advance to fall within particular categories, the Procurement Manager may dispense with consultation with the Strategic Lead - Regulatory, subject to their consulting in the event of any particularly onerous or unusual requirement arising during the course of any procurement; and subject to any agreed terms and conditions being reviewed annually with the Strategic Lead - Regulatory to ensure their continued relevance, accuracy and fitness for purpose.

### **Q13 Supplementary Procedures**

The Procurement Manager may, following consultation with the Corporate Management Team and any relevant officers, as determined by the subject matter, issue supplementary procedural notes ("Supplementary Procedures") to be read in conjunction with these *Financial Regulations*; and complied with when a contract for works, supplies and services is being sought. These additional procedures will be notified to all Chief Officers and Chief Officer, who will ensure their distribution to and compliance by all staff.

### **Q14 Lists**

1. The Council will not operate a list for the pre-selection of suppliers to tender.
2. A properly constituted framework agreement or dynamic purchasing system, either operated by the Council or a third party, under which the Council is legally entitled to procure, will not be classed as a List for the purposes of these *Financial Regulations*.
3. For the avoidance of doubt, the Council may retain records of recent suppliers' health and safety vetting to ensure that the tendering health and safety processes remain efficient. Such vetting must be approved by the Procurement Manager in consultation with the Strategic Lead - Regulatory Services and must not preclude any bidder from submitting more up to date information.

### **Q15 Compliance with Domestic Procurement Law and EU Procurement Directives**

For Supplies and Services Contracts valued at £50,000 and above; and Works Contracts valued at £500,000 and above, where an existing framework agreement or dynamic purchasing system is not being used, the Procurement Manager shall include within the Contract Notice, a web link to the Public Contracts Scotland-Tenders portal from where the electronic Invitation to Tender, including the ESPD, can be immediately accessed.

### **Q16 Choice of Procurement Procedure**

Where it is established that the EU Procurement Directives apply to any contract, the Procurement Manager will, following consultation with the Chief Officer or Chief Officer with responsibility for the proposed contract, agree the appropriate procedure to be followed in terms of those Directives, which may

include use of an existing framework agreement or dynamic purchasing system. Such procedure will be identified as part of the agreed contract strategy. The Procurement Manager shall ensure that the contract is advertised, tendered, evaluated and awarded in compliance with those Directives or the rules of the existing framework agreement or dynamic purchasing system.

#### **Q17 Advertising and Publicity for Contracts**

The Council is under a duty to ensure that in relation to each contract it intends to award, a degree of advertising is undertaken which is sufficient to enable open competition and to meet the requirements of the principles of equal treatment, non-discrimination, transparency and proportionality. Contracts that are subject to the EU Procurement Directives must comply with the provisions relating to advertising of contracts in these Directives. For all other supplies and services contracts with an aggregated valued at £50,000 and above; and works contracts with an aggregated valued at £500,000 and above, the following procedures shall apply:

1. The Council doesn't require to advertise those contracts for social and other specific services falling below the EU Threshold or where an existing framework agreement call-off; or dynamic purchasing system call-off is to be used;
2. In general such contracts will be advertised on the Public Contracts Scotland portal. In addition the Procurement Manager may authorise the advertisement of the contract in any other way such as in trade journals or newspapers;
3. The Procurement Manager shall ensure that the Council's own website contains links to the Public Contracts Scotland portal.

#### **Q18 Social Care and Other Specific Services Procurement**

1. For all procurement of Social Care, Education and other Specific Services to which the Provisions of Schedule 3 (Social and Other Specific Services) of the *Public Contracts (Scotland) 2015* applies ("the Light Touch Regime"), a direct award without competition may be made so long as all legislative requirements are met and where appropriate Scottish Government and COSLA guidance on the *Procurement of Care and Support Services* should be followed.
2. The appropriate Director or Chief Officer will have full authority to place Contracts up to the threshold of the Light Touch Regime following consultation with the Procurement Manager, provided budgetary provision exists with no further report to Council or Committee being required.
3. Where either budgetary provision does not exist, or the limit of the Light Touch Regime will be exceeded and where there is a need for an emergency placement for social care or education, and where that

means the contract needs to be put in place before the authority is given by Council, Committee or other relevant authority then, once the contract has been placed, a report will be sent to the next available Council or Committee notifying the award and explaining the reason for the placement, subject always to the overriding duty to protect the Personal Data and privacy of the individual or individuals in receipt of the services.

4. The Procurement Manager will ensure that a notice of Contract Award has been published in the Public Contracts Scotland portal.

#### **Q19 Restricted Procedure**

In accordance with the agreed contract strategy, the Procurement Manager may approve the use of the Restricted Procedure which shall be conducted in accordance with these *Financial Regulations*. In particular:

1. The Procurement Manager will ensure that any Contract Notice and procurement documentation contain sufficient information to enable any potential bidder to determine whether they are interested in bidding for the contract; including i) the subject matter of the contract, ii) its duration, iii) reference to selection criteria, iv) estimated commencement date and where v) appropriate and available, its estimated value. The notice must also specify a date and time by which requests to be selected to tender must be received. This date and time must be no sooner than 10 working days from the date the notice is published and where the spend is likely to exceed the EU Thresholds , no less than those timescales prescribed by the EU Procurement Directives;
2. The ESPD in terms agreed between the Procurement Manager and the Chief Officer or Chief Officer of the procuring Service(s), shall be issued by the Procurement Manager to all potential bidders responding to the notice issued.
3. The Procurement Manager together with officers from the procuring service(s) and other officers with relevant input e.g. Finance and Legal Services; will evaluate the ESPD, strictly in accordance with the established selection criteria.
4. No bidder may be invited to tender unless they have successfully complied with the Council's competence, experience, capacity, financial and health and safety checks and have met all other criteria to be invited to tender as set out in the ESPD, issued.
5. A sufficient number of bidders must be invited to tender to ensure genuine competition, which should not, except with the express agreement of the Procurement Manager, be fewer than five. Where



fewer than five bidders express an interest, all those bidders meeting the minimum selection criteria, must be invited to tender.

6. For works contracts between £500,000 and £1,999,999.99, the Procurement Manager shall alert local contractors to ensure they are aware of the opportunity.
7. The Procurement Manager will be responsible for issuing the Invitation to Tender.
8. All Invitation to Tenders will include the final date and time for receipt of the tenders by the Council. The Invitation to Tenders' must also include the award criteria weightings for the award of the contract and a summary of the evaluation process to be used.
9. The Procurement Manager will coordinate and respond to all tender correspondence, queries and clarifications throughout the tender process; including seeking input as required from the procuring service and other relevant areas of expertise within the Council.
10. The Procurement Manager will consider and respond to any requests for extensions to the tender period, having regard to the terms of any request and any input from the procuring service(s).
11. The Procurement Manager together with officers from the procuring service(s) will evaluate the tenders strictly in accordance with the established award criteria.
12. In the event of any matter being unclear to those conducting the evaluation, the Procurement Manager will arrange for clarification or verification of matters within any tender. In the event of such clarification or verification revealing a matter which may be common to one or more tenders, the Procurement Manager may, following verification of such with those bidders as appear appropriate, determine that the impact of any such issue on the evaluation be applied to all those to which the matter applies.
13. On completion of the evaluation of bids and subject to the necessary checks and consents having been obtained, the Procurement Manager shall close the competitive stage of the tendering process.
14. If not previously delegated by a service committee or Council, The Procurement Manager will submit a report to the Tendering Committee for approval to award the contract.

15. Subject to authority to award the contract from the Tendering Committee, service committee or Council as appropriate, the Procurement Manager shall advise all unsuccessful bidders in writing of the outcome of the tender process and may issue the Notice of Intention to Award letter to the most economically advantageous bidder. The Notice of Intention to Award letter shall confirm the Council's intention to formally award the contract subject to agreement of any outstanding matters not conclusively addressed in terms of the tender process. This may include any changes to terms and conditions or commercial terms including price, deemed necessary to best deliver the purpose of the proposed contract. Changes which materially alter aspects of the contract such that the outcome of the tender process may have been different; will not be permitted.
16. Where the contract value exceeds the EU Thresholds, the Procurement Manager will implement the relevant standstill period, including issue of the relevant standstill letters to all bidders, in accordance with the requirements of the EU Procurement Directives.
17. Following conclusion of any outstanding matters with the most economically advantageous bidder and compliance with any relevant standstill period, the Chief Officer or Chief Officer of the procuring service(s) may instruct the Strategic Lead - Regulatory to enter into a binding contract in accordance with *Financial Regulations*, Regulation Q.11) - *Minimum Contract Provisions*.
18. The Procurement Manager will ensure that all lawful, appropriate and necessary feedback is delivered to unsuccessful bidders.
19. The Procurement Manager will ensure that a Contract Award Notice is published in the Public Contracts Scotland portal within 30 calendar days of the Letter of Award being posted to the successful supplier(s).

## **Q20 Open Procedure**

In accordance with the agreed contract strategy, the Procurement Manager may approve the use of the single stage Open Procedure which shall be conducted in accordance with these *Financial Regulations*. In particular:

1. The Procurement Manager will ensure that any Contract Notice or procurement documentation will state the selection criteria, award criteria, weightings for the award of the contract, a summary of the evaluation process and must contain sufficient information to enable any potential suppliers to determine whether they are interested in bidding for the contract. This should include the subject matter of the contract, its duration, estimated commencement date and where appropriate its estimated value. The Contract Notice or procurement

documentation must also specify a date and time by which tenders must be received. This date and time must be no sooner than 10 working days from the date the notice is published and where the spend is likely to exceed the EU Thresholds, no less than those timescales prescribed by the EU Procurement Directives.

2. The Procurement Manager shall include within the Contract Notice, a web link to the Public Contracts Scotland-Tenders portal from where the electronic Invitation to Tender, including the ESPD, can be immediately accessed or in exceptional circumstances e.g. where a tender is being invited under an existing multi-supplier framework agreement, will advise potential bidders of how procurement documentation including an Invitation to Tender, can be obtained.
3. For works contracts between £500,000 and £1,999,999.99, the Procurement Manager shall alert local contractors to ensure they are aware of the opportunity.
4. The Procurement Manager together with officers from the procuring service(s) and other officers with relevant input e.g. Finance and Legal Services; will evaluate the ESPD, strictly in accordance with the established selection criteria.
5. The Procurement Manager will co-ordinate and respond to all tender correspondence, queries and clarifications throughout the tender process; including seeking input as required from the procuring service(s) and other relevant areas of expertise within the Council.
6. The Procurement Manager will consider and respond to any requests for extensions to the tender period, having regard to the terms of any request and any input from the procuring service(s).
7. The Procurement Manager together with officers from the procuring service(s); will evaluate the tenders, strictly in accordance with the established award criteria.
8. In the event of any matter being unclear to those conducting the evaluation, the Procurement Manager will arrange for clarification or verification of matters within any tender. In the event of such clarification or verification revealing a matter which may be common to one or more tenders, the Procurement Manager may, following verification of such with those bidders as appear appropriate, determine that the impact of any such issue on the evaluation be applied to all those to which the matter applies.

9. On completion of the evaluation of bids and subject to the necessary checks and consents having been obtained, the Procurement Manager shall close the competitive stage of the tendering process.
10. If not previously delegated by a service committee or Council, the Procurement Manager will submit a report to the Tendering Committee for approval to award the contract.
11. Subject to authority to award the contract from the Tendering Committee, or if previously delegated, the Service Committee / Council, the Procurement Manager shall advise all unsuccessful bidders in writing of the outcome of the tender process and may issue the Notice of Intention to Award letter to the most economically advantageous bidder. The Notice of Intention to Award letter shall confirm the Council's intention to formally award the contract subject to agreement of any outstanding matters not conclusively addressed in terms of the tender process. This may include any changes to terms and conditions or commercial terms, including price, deemed necessary to best deliver the purpose of the proposed contract. Changes which materially alter aspects of the contract such that the outcome of the tender process may have been different; will not be permitted.
12. Where the contract value exceeds the EU Thresholds, the Procurement Manager will implement the relevant standstill period, including issue of the relevant standstill letters to all bidders, in accordance with the requirements of the EU Procurement Directives.
13. Following conclusion of any outstanding matters with the most economically advantageous bidder and compliance with any relevant standstill period, the Chief Officer or Chief Officer of the procuring service(s) may instruct the Strategic Lead - Regulatory to enter into a binding contract in accordance with *Financial Regulations*, Regulation Q.11- *Minimum Contract Provisions*.
14. The Procurement Manager will ensure that all lawful, appropriate and necessary feedback is delivered to unsuccessful bidders.
15. The Procurement Manager will ensure that a Contract Award Notice is published in the Public Contracts Scotland portal within 30 calendar days of the Letter of Award being posted to the successful supplier(s).

**Q21 Negotiated Procedure**

In accordance with the agreed contract strategy, the Procurement Manager may approve the use of Negotiated Procedure which shall be conducted in accordance with these *Financial Regulations*. In particular:

1. Where the EU Procurement Directives apply to a proposed contract, the Negotiated Procedure may only be used in strict compliance with the requirements of such EU Procurement Directives for the use of the Negotiated Procedure either with or without the publication of a Contract Notice.
2. Where the value or any other aspect of the proposed contract excludes application of the European Procurement Directives, the only grounds on which the Negotiated Procedure (which in this context means direct negotiations with a single supplier without competition or without further competition, with a view to awarding a contract) may be used are:
  - a. When the value of the contract is above the EU Threshold for people based services;
  - b. where the Council is a member of a consortium, or is otherwise permitted to utilise a framework agreement or a dynamic purchasing system, which permits the Negotiated Procedure;
  - c. where supplies or materials are proprietary articles and or services specific to one supplier, or the an individual is recognised as the sole, or principal available expert witness in a judicial or quasi judicial situation; and following due and diligent research no reasonable satisfactory alternative supplies or services have been located;
  - d. where the contract constitutes an extension of an existing contract, provided that the extension is approved by the Council, or the appropriate Committee or where the Council is otherwise contractually bound to proceed with a single supplier. The Procurement Manager will approve the report before the report is taken to the meeting of Council or the appropriate Committee;
  - e. where the contract consists of repairs to or the supply of, parts for existing proprietary plant or machinery so as to preserve warranties or functionality which would otherwise be lost in the event of other parties repairing or supplying such plant or machinery and provided such repair or supply represents Best Value and is legally compliant;
  - f. where following one of the other procedures referred to in these Financial Regulations, there has been no successful conclusion to the Tender exercise;
  - g. where, were the contract otherwise subject to the EU Procurement Directives, such Directives would have permitted Negotiated Procedure; and

- h. where following consideration of all the factors applying to the contract, the Procurement Manager, in consultation with the Strategic Lead - Regulatory and such other officers as they deem appropriate, and with the consent of the Chief Executive or the appropriate Chief Officers or the Chief Officer, determines that the Negotiated Procedure is manifestly in the interests of the Council and compliant with *Standing Orders* and applicable law.
- 3. In all such cases where the Negotiated Procedure is being followed, the actual process adopted will ensure fairness and compliance with best practice and a full written record of all contacts, discussions and communications with prospective suppliers shall be kept by the Procurement Manager.
- 4. Such negotiations will be conducted in a manner that ensures that the Council does not contract on terms that are materially less advantageous than would be the case were another available procedure adopted.
- 5. If not previously delegated by a service committee or Council, The Procurement Manager will submit a report to the Tendering Committee for approval to award the contract.
- 6. Subject to authority to award the contract from the Tendering Committee or the Service Committee or Council as appropriate, the Procurement Manager may issue a Notice of Intention to Award letter to the bidder. The Notice of Intention to Award letter shall confirm the Council's intention to formally award the contract subject to agreement of any outstanding matters not conclusively addressed in terms of the procurement process. This may include any changes to terms and conditions or commercial terms including price, deemed necessary to best deliver the purpose of the proposed contract. Changes which materially alter aspects of the contract will not be permitted.
- 7. Where the contract value exceeds the EU Thresholds, the Procurement Manager will implement the relevant standstill period, including issue of the relevant standstill letter to the bidder, in accordance with the requirements of the EU Procurement Directives.
- 8. Following conclusion of any outstanding matters with the bidder and compliance with any relevant standstill period, the Chief Officer or Chief Officer of the procuring service(s) may instruct the Strategic Lead - Regulatory to enter into a binding contract in accordance with *Financial Regulations*, Regulation Q.11- *Minimum Contract Provisions*.

9. The Procurement Manager will ensure that a Contract Award Notice is published in the Public Contracts Scotland portal within 30 calendar days of the Letter of Award being posted to the successful supplier.

**Q22 Competitive Procedure with Negotiation, the Competitive Dialogue Procedure and Innovation Partnerships**

1. The Procurement Manager may choose to adopt the Competitive Procedure with Negotiation or the Competitive Dialogue Procedure or an Innovation Partnership where, in their view and in consultation with the Strategic Lead – Regulatory, the other procedures referenced herein will not be effective in facilitating the award of a contract. In considering the appropriate grounds and conditions for the use of either the Competitive Procedure with Negotiation or the Competitive Dialogue Procedure or an innovation Partnership, the Procurement Manager will consider amongst other matters:
  - a. the available resources within and willingness of the procuring service(s) to support such a process;
  - b. the extent to which dialogue with the market will assist in developing a specification or scope, terms and overall solution best suited to meet the Council's needs;
2. Where the Procurement Manager elects to use a Competitive Procedure with Negotiation or a Competitive Dialogue Procedure or an Innovation Partnership for a below EU Threshold contract, the principles for such procedures as set out in the EU Procurement Directives shall be followed insofar as reasonable and practicable.
3. If not previously delegated by a Service Committee or Council, the Procurement Manager will submit a report to the Tendering Committee for approval to award the contract.
4. Where the contract value exceeds the EU Thresholds, the Procurement Manager will implement the relevant standstill period, including issue of the relevant standstill letter to the bidder, in accordance with the requirements of the EU Procurement Directives.
5. Following conclusion of any outstanding matters with the bidder and compliance with any relevant standstill period, the Chief Officer or Chief Officer of the procuring service(s) may instruct the Strategic Lead - Regulatory to enter into a binding contract in accordance with the *Financial Regulations*, Regulation Q.11- *Minimum Contract Provisions*.

6. The Procurement Manager will ensure that a Contract Award Notice is published in the Public Contracts Scotland portal within 30 calendar days of the Letter of Award being posted to the successful supplier.

**Q23 Framework Agreement and Dynamic Purchasing System Call-offs**

Subject to the *Below the EU Threshold for Social and Other Specific Services*; or; the *Restricted Procedure*; or; the *Open Procedure*; or; the *Negotiated Procedure*; being followed:

1. In accordance with the agreed contract strategy, the Procurement Manager may approve a recommendation for a contract being awarded under a framework agreement; or; dynamic purchasing system; without being required to seek further competition amongst the suppliers on the framework agreement or dynamic purchasing system.
2. Where a framework agreement or dynamic purchasing system has been established but it does not lay down all of the terms of a proposed contract including, for example, where a new item can legitimately be added to the framework agreement; or dynamic purchasing system; the Procurement Manager may either hold a mini competition procedure under the framework agreement or dynamic purchasing system; in accordance with the below noted procedure or, if permitted under the framework agreement or dynamic purchasing system, make a direct award:
  - a. Every supplier on the framework agreement; or dynamic purchasing system; capable of performing the contract shall be issued with an invitation to take part in the mini competition. All invitations shall be issued at the same time;
  - b. The invitations shall specify the closing date and time for submission of tenders under the mini competition procedure. The time limit fixed for the return of tenders shall take into account factors such as the complexity of the subject matter of the contract and the time needed to prepare a tender, but, in any event, shall be not less than 10 working days from the date the invitations are issued;
  - c. The Procurement Manager will co-ordinate and respond to all mini competition correspondence, queries and clarifications throughout the mini competition process; including seeking input as required from the procuring service(s) and other relevant areas of expertise within the Council;



- d. The Procurement Manager together with officers from the procuring service(s) will evaluate the mini competitions responses, strictly in accordance with the established award criteria;
  - e. In the event of any matter being unclear to those conducting the evaluation, the Procurement Manager will arrange for clarification or verification of matters within any mini competition. In the event of such clarification or verification revealing a matter which may be common to one or more tenders, the Procurement Manager may, following verification of such with those mini competition bidders as appear appropriate, determine that the impact of any such issue on the evaluation be applied to all those to which the matter applies;
  - f. The Procurement Manager will consider and respond to any requests for extensions to the mini competition period, having regard to the terms of any request and any input from the procuring service(s);
  - g. On completion of the evaluation of bids and subject to the necessary checks and consents having been obtained, the Procurement Manager shall close the competitive stage of the mini competition process.
3. If not previously delegated by a service committee or Council, The Procurement Manager will submit a report to the Tendering Committee for approval to award the contract.
4. Subject to authority to award the contract from the Tendering Committee, service committee or Council as appropriate, having been obtained, the Procurement Manager shall advise all unsuccessful mini competition bidders in writing of the outcome of the mini competition process and may issue a Notice of Intention to Award letter to the most economically advantageous mini competition bidder. The Notice of Intention to Award letter shall confirm the Councils intention to formally award the contract subject to agreement of any outstanding matters not conclusively addressed in terms of the mini competition process. This may include any changes to terms and conditions or commercial terms, including price, deemed necessary to best deliver the purpose of the proposed contract. Changes which materially alter aspects of the contract such that the outcome of the mini competition process may have been different; will not be permitted.

5. Where the contract value exceeds the EU Thresholds, the Procurement Manager may implement a voluntary standstill period, including issue of the voluntary standstill letters to all mini competition bidders.
6. Following conclusion of any outstanding matters with the most economically advantageous mini competition bidder, the Chief Officer or the Chief Officer of the procuring service(s) may instruct the Strategic Lead – Regulatory to enter into a binding contract in accordance with *Financial Regulations, Regulation Q.11- Minimum Contract Provisions*.
7. The Procurement Manager will ensure that all lawful, appropriate and necessary feedback is delivered to unsuccessful mini competition bidders.
8. The Procurement Manager will ensure that a Contract Award Notice is published in the Public Contracts Scotland portal within 30 calendar days of the Letter of Award being posted to the successful supplier.

**Q24 E-procurement**

E-procurement shall generally be used for contracts let by the Council including mini competitions where permitted under a framework agreement; or a dynamic purchasing system, unless there are valid and substantial reasons for not doing so. In applying e-procurement the following processes and procedures will apply:

1. Where e-procurement is to apply, no offer submitted will be considered unless it is received via the Council's approved e-procurement system; in the format requested and prior to the deadline for the receipt of offers as stated by the Council in the procurement documents unless a valid and legally competent reason for not doing so e.g. defect in the system, has been highlighted by a bidder at or prior to the deadline for the receipt of tenders.
2. The Procurement Manager shall ensure that each offer is kept unopened in a single secure electronic mailbox that cannot be opened before the deadline for the receipt of tenders.
3. The Procurement Manager shall ensure that a record is maintained showing the time and date of receipt of all tenders.
4. The Procurement Manager may authorise, in consultation with the procuring service(s), the extension of the deadline for the receipt of tenders in the following circumstances: i) prior to any tender being received by the Council; or (ii) where, following tenders being received but before the Council is able to open those tenders due to the

functionality of the e-procurement system, a bidder notifies a material error in the documentation issued by the Council or the e-procurement system, or indicates to the Council any credible and reasonable ground it may have to challenge the Council were such an extension not granted. In the circumstances in (ii) above, any bidder who has already submitted a tender shall be given the opportunity to re-submit their tender.

5. All tenders shall be opened immediately one after the other during one session. The bidders Technical Envelope in the e-procurement system shall be evaluated firstly. When the bidder's Technical Envelope has been evaluated the Technical Envelope will be closed. The bidders Commercial Envelope will be evaluated next. When the bidder's Commercial Envelope has been evaluated the Commercial Envelope will be closed. The Procurement Manager shall ensure that a record showing the particulars of each tender received and the date and time when those tenders were opened shall be kept.

#### **Q25 Electronic Reverse Auctions**

1. The Procurement Manager may authorise the carrying out of an electronic reverse auction (e-auction) where they are satisfied that the likely benefit of such will outweigh the costs and that the e- auction is in accordance with the EU Procurement Directives . The following provisions will apply in the event of any e-auction:
  - a. An e-auction may only be carried out where the possibility of the use of an e-auction has been stated in the procurement documents issued to bidders and, where the EU Procurement Directives apply, in the Contract Notice published in the Official Journal of the European Union via the Public Contracts Scotland portal.
  - b. Before the Procurement Manager can authorise an e-auction, they must ensure that a full initial evaluation of tenders has been undertaken in accordance with the award criteria set and with the weighting fixed for them. All bidders who have submitted admissible tenders shall be invited simultaneously by electronic means to submit new prices and/or new values.
  - c. Throughout each phase of an e-auction the Procurement Manager shall instantaneously communicate to all bidders involved, at least sufficient information to enable them to ascertain their relative rankings at any moment. The Procurement Manager may also, at any time, announce the

number of participants in that e-auction however at all times, the names of bidders will be kept anonymous.

2. Any e-auction will be subject to such additional procedural requirements as the Procurement Manager in consultation with the Strategic Lead - Regulatory considers necessary.

#### **Q26 Advanced Payments**

1. Advance payments to suppliers (i.e. payments made before equivalent value is received in return) should be exceptional, and should only be considered if a Best Value case can be made for them (e.g. a price discount commensurate with the value of the funds in question) and if all reasonable steps have been taken to protect public funds.
2. Interim payments are made at a prescribed stage or at intervals during the progress of a project. Interim payments may have an element of prepayment.
3. The EU Procurement Directives which protect the right of all potential suppliers to compete on equal terms must be complied with. It would not be acceptable, for example, to offer advance payments to the successful supplier to secure a further price advantage.

#### **Q27 Contract Variation**

1. Contract variation includes the option to increase the amount of works, supplies or services acquired under the contract, to increase the duration of the contract, as well as the option to increase the value of the contract.
2. Where a contract has been advertised in accordance with the EU Procurement Directives and it becomes apparent to the Chief Officer or Chief Officer of the procuring service(s) that the value of the contract as previously reported to the appropriate Committee is likely to be exceeded, the Chief Officer or Chief Officer shall consult with the Procurement Manager for advice on what action requires to be taken.
3. Where a contract has not been advertised under the EU Procurement Directives and the increase in the value of the contract is such that the EU Thresholds is likely to be exceeded, no further orders shall be made under the contract until the Chief Officer or Chief Officer has obtained advice from the Procurement Manager on what action requires to be taken save where withholding such further orders in the interim would constitute a breach of any contractual provision or legislative requirement.
4. Notwithstanding *Financial Regulations*, 21.1.(ii).(d) – *Negotiated Procedure*, in all cases, where the value of the contract exceeds the EU

Thresholds and the estimated net cumulative additional cost is more than the greater of £100,000 or 25%, of which is the greater; of the approved contract value, the Chief Officer or Chief Officer in consultation with the Procurement Manager, shall ensure that a report on the matter is submitted to the next meeting of the Council or relevant Committee where the original budget allocation was approved.

**Q28 Contract Database**

1. The Procurement Manager shall maintain a register of all contracts. For service led procurement valued between £10,000 and £49,999.99, the procuring service(s) shall log details of the planned contract with the Procurement Manager through populating the contract award notice on PCS Quick Quote unless a framework agreement has been used, providing all information deemed necessary by the Procurement Manager to create a record of the contract within the Contracts Database. On appointment of the successful supplier(s), the procuring service(s) shall provide the Procurement Manager with all information necessary to complete the record of this contract within the Contracts Database.
2. For contracts valued at £50,000 and above, the Procurement Manager will complete the Contracts Database.

**Q29 Reports on Procurement Matters**

No report will be submitted to Council or Committee seeking to undertake a procurement or approval to award a contract for works, supplies, or services from £50,000 unless the Procurement Manager has first been consulted and their comments noted in the report.

**Q30 Payment Arrangements**

All payment arrangements will be fully compliant with Domestic Legislation and will be fully documented in any procurement documentation.

**Q31 Pecuniary Interest of Members or Officers**

Where a Member or officer involved in a contract has a pecuniary interest in that contract, he/she must declare that interest and abide by the provisions of the *Ethical Standards in Public Life etc. (Scotland) Act 2000*, the *Councillors' Code of Conduct* and any guidance made there-under and the *Council Code of Conduct for Employees*.

**R. COMPLIANCE OF MEMBERS AND OFFICERS**

**R1 Members' Code**

All Members shall observe and comply with the *Councillor's Code of Conduct* issued by the Scottish Ministers in terms of the *Ethical Standards in Public Life etc. (Scotland) Act 2000* and any guidance made hereunder.

**R2 Officers' Code**

All officers shall observe and comply with the Council's *Code of Conduct for Employees*.

**R3 Scheme of Delegation**

Officers shall only exercise such functions and powers as are delegated to them by Council or Committee or under the Scheme of Delegation.

**R4 Other Regulations**

All Members and officers will comply with the undernoted regulations in conjunction with these financial regulations:

- Council Standing Orders including Contract Standing Orders;
- Council Treasury Policy Statement; and
- Member / Officer Protocol.

**S. OBSERVANCE OF FINANCIAL REGULATIONS**

**S1 Responsibility of Chief Officers**

It shall be the duty of each Chief Officer to ensure that these Regulations are made known to the appropriate persons within their service area and to ensure that they are adhered to.

**S2 Breach of Regulations**

Any breach or non-compliance with these Regulations must, on discovery, be reported immediately to the Strategic Lead - Resources who will discuss the matter with the Chief Executive and / or such other Chief Officer as may be appropriate in order to determine the proper action to be taken through consideration of the following:

- Code of Conduct for Employees and associated Guidance on Offers of Gifts, Hospitality and Declaring Interests;
- Counter Fraud and Corruption Strategy; and
- Business Irregularity procedures.

**T. REVIEW OF FINANCIAL REGULATIONS**

**T1 Review of the Financial Regulations**

The Strategic Lead – Resources shall review the Financial regulations as circumstances demand, and submit proposals for alterations to Council for approval.