

WEST DUNBARTONSHIRE COUNCIL**Report by Chief Officer - Resources****Council: 30 August 2023**

Subject: Financial Regulations Update**1. PURPOSE**

1.1 To seek approval of the revised Financial Regulations.

2. RECOMMENDATIONS

2.1 It is recommended that the Council approves the revised Financial Regulations, as attached to this report at Appendix 1.

3. BACKGROUND

3.1 The Council is required in terms of section 81 of *The Local Government (Scotland) Act 1973*, to have Standing Orders with respect to making contracts and in terms of section 95, to make arrangements for the proper administration of its financial affairs - the Financial Regulations.

3.2 The Council's Financial Regulations were last updated in August 2019.

3.3 The proposed revisions are mainly in relation to Section Q – Procurement and reflect current procurement legislation, current practice and guidance, to provide clear processes over financial management practice. In particular there are multiple updates in section Q relating to the UK's withdrawal from the EU and the revision to the Council's Standing Orders, which the Financial Regulations should be read in conjunction with, agreed by Council in October 2022.

In addition there are changes to other areas of the regulations to ensure they remain aligned to other Council governance documents and current practice.

4. MAIN ISSUES

4.1 The Financial Regulations have been fully reviewed and updated. Many of the updates are relatively minor in nature and relate to job title changes, together with updating to recognise wider uses of electronic processes (i.e. electronic approvals rather than hard copy approvals). This cover report is not intended to highlight these minor changes which do not materially change the regulations, and the governance set out in them.

4.2 There are however more significant changes which it is important to highlight and these are highlighted in Table 1.

Table 1 – Significant Changes to Financial Regulations

Regs Ref	Previous Version	Revised Version	Rationale
A3	No deletion of previous narrative	<p>Added narrative</p> <p>In addition to what is set out in these Regulations, the S95 Officer may issue financial instructions to clarify these Regulations. Other Chief Officers may also issue financial instructions relating to the functions and operation of their services, following consultation with the S95 Officer.</p>	Provides degree of flexibility to issue clarification/instructions outwith two year review.
A6 and A7	No deletion of previous narrative	Added reference to HSCP and 'Council Resources'	Avoid any confusion about who Financial Regulations apply specifically in relation to Council resources.
B4	No deletion of previous narrative	<p>Added narrative The inclusion of items in approved revenue or capital budgets will constitute authority to the relevant officer, subject to thresholds and constraints within the Scheme of Delegation, to incur that expenditure.</p>	Provide clarity over authority to incur expenditure and the fact that this is constrained by the restrictions set out in the Scheme of Delegation.
B6	No deletion of previous narrative	<p>Added narrative</p> <p>Save as provided in this Regulation B6, the inclusion of a project in the capital programme does not itself, authorise expenditure. Standing Orders will be applied and any required Council approval will require to have been obtained prior to any expenditure.</p>	Provide clarity over limitations on delegated authority for incurring capital expenditure

		<p>The capital programme does include some recurring budgets and, spend against these will not require approval beyond the approval of their inclusion in the capital programme. However new projects included in the capital programme are subject to the approval of appropriate business cases to a relevant future Committee or Council unless this has already been secured.</p>	
C2 Revenue	<p>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.</p>	<p>Chief Officers may vire between subjective headings within a Service to a maximum of £100,000 with the approval of the Chief Officer Resources. Any virement above £100,000 requires the approval of the Chief Officer Resources and the relevant Committee.</p>	<p>Increase in virement limit reflects the change in scale of delegated authority granted under the review of Standing orders reported to Corporate Services Committee in October 2022. Previous limit of £10,000 considered very low when considered against the size of the Council's overall revenue budget.</p>
C2 Capital	<p>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</p>	<p>Chief Officers may vire between capital projects to a maximum of £100,000 with the agreement of all Chief Officers concerned, the approval of the Chief Officer Resources.</p> <p>Any virement above £100,000 requires the agreement of all relevant Chief Officers, the approval of the Chief Officer Resources and approval by Council.</p>	<p>Increase in virement limit reflects the change in scale of delegated authority granted under the review of Standing orders reported to Corporate Services Committee in October 2022.</p>

	<p>relevant Service Convener.</p> <p>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.</p>	<p>A Chief Officer may exercise virement in either the Revenue or Capital Budget to meet any immediate need created by a sudden emergency subject to advising the Chief Officer Resources, Chief Executive, Leader and/or Depute Leader and relevant Service Convener of the action taken. This will be reported to Council or Committee in line with the Standing Orders and Scheme of Delegation.</p>	<p>Additional narrative to provide sufficient flexibility to vire budget in an emergency</p>
C7	<p>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.</p>	<p>It is the responsibility of the Chief Officer Resources to furnish each Chief Officer at regular intervals (approximately four times a year), a comparative statement showing the estimated revenue income and expenditure of each service area and the payments and receipts actually made to that date.</p>	<p>Change to four times a year as agreed with Senior Leadership Team. Finance will provide formal Budgetary Control Reports four times a year. Note though that Chief Officers will be still be provided finance updates at management team meetings and updated on any material emerging financial / budget issues. These changes to better prioritise use of resources</p>
G	<p>No deletion of previous narrative</p>	<p>Reference added to new Council Purchase to Pay Framework</p>	<p>Provide signposting to appropriate</p>

			supplementary framework
14	<p>No investigatory work is to be undertaken by any Officer of the Council without the express approval of:</p> <p>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</p>	<p>The Council's procedure on business irregularities is contained as an appendix in the Council's Disciplinary Policy. Where it is suspected or known that business irregularities have occurred (i.e. misappropriation or embezzlement of monies, materials etc. placed in employee's charge) then the Council Business Irregularity Procedure must be followed. The matter should be reported immediately to the Chief Officer Resources and the Chief Officer People and Technology who will contact Internal Audit for further details on how to proceed (including determination of who will carry out any subsequent investigation). Where any suspicion relates to maladministration the matter should also be reported to the Council's Monitoring officer.</p>	<p>Provide signposting to appropriate supplementary policy and specific reference to role of Monitoring Officer in relation to potential maladministration.</p>

K4	<p>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.</p>	<p>Payments to Members, of claims for expenses and allowances, will be made by the Chief Officer People and Technology upon receipt of the required information duly completed. Expense claims should be submitted no later than 3 months from date of expenditure being incurred.</p>	<p>Aligns regulations to current Council practice. Annual returns no longer permitted as the accuracy of checking is extremely limited.</p>
M4	<p>N/A – this is a new section</p>	<p>The Scottish Government’s default position is that, from 1 July 2023, all Council grant recipients via Scottish Government funding will be required to pay at least the real Living Wage and provide appropriate channels for effective workers' voice as a minimum standard. The Council must maintain a record of any exemptions agreed and update the Scottish Government in the format and timescale to be advised by the Fair Work Policy team.</p>	<p>To reflect current requirements</p>

<p>Q16 Q17 Q19 1 Q19 15 Q20 1 Q20 11 Q21 Q22 Q23 Q25 1 Q26 3 Q27</p>	<p>Explanation of references to EU Procurement Directives / EU Procurement law / Official Journal of the European Union</p>	<p>Note – there are, throughout the Financial Regulations, references to EU Directives, EU Procurement Law and OJEU. Some of these references remain in the main regulations relating to Regulated Procurement – the Public Contracts (Scotland) Regulations 2015. Therefore where they appear in the Financial Regulations, they shall be deemed to refer to the applicable provision or requirement in terms of the Public Contracts (Scotland) Regulations 2015.</p>	<p>The Public Contracts (Scotland) Regulations 2015 still refer to the Directive so it is still legitimate to refer to EU Procurement Directives. A provision has been added which states that all references to EU Procurement Law, EU Directives and OJEU shall be taken as referring to the relevant provisions within the Public Contracts (Scotland) Regulations 2015' which relate to international procurement requirements or those aspects of domestic law which replaced EU Directives.</p>
<p>Q3</p>	<p>Removal of reference to a £50k threshold requiring a contract strategy</p>	<p>Addition of 'medium to high complex' strategy requiring a contract strategy</p>	<p>To reflect current practice as agreed as part of saving options agreed by Council when setting the 2023/24 budget</p>
<p>Q9 (1-3) Similar removal of £50k threshold</p>	<p>The service shall be responsible for all contracts below £50,000 and will conduct such procurement in</p>	<p>The Procurement Manager shall be responsible for determining whether a procurement is low / medium / high complexity, having regard to the observations of the service Chief Officer, the Chief Officer: Resources and the Chief Officer: Regulatory and Regeneration.</p>	<p>To reflect current practice as agreed as part of saving options agreed by Council when setting the 2023/24 budget</p>

<p>at Q15, Q17</p>	<p>accordance with <i>Procurement Guidance for Below £50,000</i>, issued by the Procurement Manager. Procurement Guidance - under £50,000</p>	<p>Where there is a suitable framework agreement, the service shall be responsible for all low complexity procurements and all sub- £2,000,000 works procurements via a direct award in accordance with the guidance document, "<i>Service Led Low Complexity Procurement</i>" issued by the Procurement Manager and the service shall adhere to the Financial Regulations, Regulation Q23 - <i>Contracts utilising Framework Agreement and Dynamic Purchasing System Call-offs</i>.</p> <p>The Procurement Manager shall be responsible for all medium and high complexity procurements and where directly awarding the procurement utilising a framework agreement is not the most appropriate means of fulfilling the requirement, the Procurement Manager shall be responsible for low complexity procurements and works procurements from £50,000.</p>	
<p>Q19 19</p> <p>Similar changes at</p> <p>Q20 14 Q21 9 Q22 6 Q23 9</p>	<p>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).</p>	<p>The Procurement Manager will ensure that a Contract Award Notice is published in the Public Contracts Scotland portal within 30 calendar days of the Contract being awarded or conclusion of a framework agreement.</p>	<p>To reflect procurement regulations that 'Not later than 30 days after the award of a contract or conclusion of a framework agreement, a contracting authority must send for publication in accordance with regulation 52 (form and manner of sending notices for publication at</p>

			EU level) a contract award notice on the results of the procurement procedure.”
Q19 and Q20	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.	Narrative removed	This step is not required and has been removed due to capacity.

5. PEOPLE IMPLICATIONS

5.1 None directly from this report

6. FINANCIAL AND PROCUREMENT IMPLICATIONS

6.1 There are no direct financial or procurement implications arising from this report however implementing the proposed revisions in this report will provide greater clarity on roles, responsibilities and procedures relating to procurement.

7. RISK ANALYSIS

7.1 The revisions will introduce greater clarity of procurement which will minimise the risk of breach of procurement regulations and the risk that best value is not being achieved.

8. EQUALITIES IMPACT ASSESSMENT (EIA)

8.1 There are no equalities impacts in relation to this report.

9. CONSULTATION

9.1 The views of relevant Chief Officers have been requested on this report and feedback incorporated herein.

10. STRATEGIC ASSESSMENT

10.1 The proposed revisions to the Financial Regulations will ensure that the Council operates best practice procurement policies and procedures which will enable the Council to lever its spend to optimise contribution to the Council's strategic priorities.

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Date: 30 August 2023

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Appendix

Appendix 1 Revised Financial Regulations

Background Papers

Previous reviews of Financial Regulations considered b Council in August 2019, October 2017, December 2016, October 2013, November 2011, June 2011 and June 2006.