



# **Council Term 2022 to 2027 Decision-making Arrangements and Procedures**

## **Supporting Documentation Pack**

**To be submitted for approval to the  
Statutory Meeting of South Lanarkshire Council  
to be held on Wednesday 18 May 2022**

**Section 1    Standing Orders on Procedures**

**Section 2    Standing Orders on Contracts**

**Section 3    Scheme of Delegation**

**Section 4    Financial Regulations**

**Section 5    Terms of Reference**



# **Standing Orders on Procedures**

**Submitted to the First Statutory meeting of South Lanarkshire Council on 18 May 2022**

**Note:** If you need this information in another language or format, please contact us to discuss how we can best meet your needs.  
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## **Interpretation**

The Interpretation Act 1978 will apply to these standing orders.

## **Definitions**

The following words and expressions have the meanings shown next to them.

We, us - the South Lanarkshire Council, incorporated under Section 2 of the Local Government etc. (Scotland) Act 1994. The main office is at the Council Offices, Almada Street, Hamilton.

Committee - a standing committee of the Council.

Chief Executive - the Chief Executive of the Council or any authorised official representing or acting for him or her.

Executive Director - a Director of a Resource of the Council or any authorised official or other member of staff representing or acting for him or her.

Minutes - a summary of business at Council meetings.

Resource - a department of the Council.

## **1 The first meeting after the election**

In an election year, we will hold our first meeting within 21 days from the date of the election. The Chief Executive will determine the date and time for the meeting. At this meeting, we will:-

- ◆ elect the Provost of the Council
- ◆ elect the Depute Provost of the Council
- ◆ appoint the Leader and Depute Leader of the Council
- ◆ appoint a Chair and Depute Chair for each standing committee as defined in the Terms of Reference for Committees
- ◆ appoint members to serve on any Joint Committees and Joint Boards of which we are members
- ◆ deal with any appropriate business including the minutes of any previous Council meeting not yet approved

## **2 Ordinary meetings**

Unless we agree otherwise or the Provost thinks there are special circumstances, we will hold 4 ordinary meetings during each financial year on dates to be agreed by the Chief Executive in consultation with the Provost.

## **3 Special meetings**

A special Council meeting can be called at any time:-

- ◆ by the Provost of the Council; or
- ◆ if at least 1/4 of our members demand a meeting.

We will hold the meeting within 14 clear days from when the Chief Executive receives a written request from at least a quarter of our members.

## **4 Notice of meeting**

**a** At least 5 clear days (with the exception of public holidays) before a Council meeting the following must happen.

- ◆ The Chief Executive must publish the time and place of the meeting at the Council's offices. In the event that the meeting is being held on a virtual/hybrid basis, details on how to access the meeting will be included on the Council's website. If the meeting is held at short notice, these will be published straight away. If the meeting is called by members of the Council, the notice must be signed by those members and must set out the business they want to deal with.
- ◆ Every Council member must be sent an electronic summons. The summons must set out the business that will be dealt with.

**b** Any summons must give a note of the business and the proposed order for dealing with business at the meeting. We cannot deal with other business unless someone brings it before us as a matter of urgency under the following paragraph. If a meeting is called by councillors, we can only deal with the business listed in the councillors' request.

- c If business has not been specified in the summons, we can only deal with any additional business at the meeting if the chairperson of the meeting rules that there are special reasons why it is urgent. We must know about the item at the start of the meeting when we decide on the order of business.
- d If a Council member does not receive a summons, the meeting will still be valid.
- e Members of the public and press can get electronic copies of the agenda for a Council meeting at least 5 clear days before the meeting (with the exception of public holidays). Subject to any Government guidelines/restrictions or safe systems of work, hard copies will be available to view at our Council Offices, Hamilton. This will not be the case if the meeting is called at short notice. If this is the case, the public and press can get copies when the meeting is called. If an item of business is added to the agenda, the public and press can get copies at that time.

## **5 Chairperson**

- a The Provost will chair any Council meeting if he or she is present.
- b If the Provost is not at the meeting, the Depute Provost will chair it. If the Provost and the Depute Provost are not at the meeting, another member of the Council, chosen by the members, will chair the meeting.

## **6 Removal from Office**

The Council may remove the Provost/chairperson from office providing:-

(a) prior notice is given at one meeting of the Council that the matter will be considered at its next meeting;

**or**

(b) where no prior notice is given, not less than 2/3 of Members present and entitled to vote, agree that the early removal of the Provost/chairperson from Office will be considered at that meeting.

The provisions of this Standing Order will also apply to the position of Depute Provost/chairperson.

With the exception of the above, the Council has the authority to appoint or remove Members on any of the Council's decision making bodies at any time, subject to a majority vote.

The Clerk to the Council (Chief Executive) will determine all matters of competency in relation to the above

## **7 Failing to go to meetings**

The Local Government (Scotland) Act 1973 also applies to this standing order. If a councillor does not go to any Council meetings for 6 months, he or she will stop being a member of the Council unless he or she has:-

- ♦ our permission; or
- ♦ a good reason approved by us.

The 6 month period starts from the date of the first meeting which the councillor failed to attend.

**8 If there are not enough members present - Quorum**

If, 10 minutes after the time appointed for a meeting of the Council or at any stage during the meeting, the Provost finds that there are fewer than a 1/4 of the members present, he or she will instruct a count of the members who are present. If a 1/4 are not present, the meeting will be adjourned until the time or day that the Provost decides.

**9 If less than a 1/4 of the meeting are entitled to vote**

If less than a 1/4 of the Council can vote on an item because of the terms of Section 38 of the Local Government (Scotland) Act 1973, that item cannot be dealt with at the meeting.

**10 Letting in the public and press**

- a** Every Council meeting will be open to the public and press unless it says otherwise anywhere in these standing orders.
- b** We may keep anybody out of a meeting to prevent or stop disorderly behaviour. We may keep any member of the public out of a meeting or force them to leave if they are preventing us carrying out our work. If a member of the public interrupts any meeting, the chairperson may warn that person. If they continue to interrupt, the chairperson may order the person out of the meeting. If there is a disturbance in any part of the meeting room that is open to the public, the chairperson may order that part of the room to be cleared.
- c** The public and press will be kept out of a Council meeting if an item of business is confidential. We do not have to give out confidential information under the Local Government (Access to Information) Act 1985.
- d** We may decide to keep the public and press out of a meeting if an item of business is defined as 'exempt' in the Local Government (Access to Information) Act 1985.
- e** No unauthorised sound, film, videotape, digital or photographic recording of the proceedings of any meeting shall be made.

**11 Order of business**

The business of our ordinary meetings will take place in an order to be determined by the Chief Executive in consultation with the Provost.

**12 The powers and duties the Provost (chairperson) has**

The Provost's role is to ensure that the agenda business is properly dealt with and clear decisions are reached. There is a responsibility to ensure that the views and opinions of all participants at the meeting are allowed to be expressed and that they contribute to the outcomes of the meeting. Councillors present at the meeting share the responsibility for the proper and expeditious discharge of business and the role of the Provost/chairperson requires to be supported and respected.

The Provost's decision is final. When he or she speaks, any member of the Council who is talking to the meeting must stop. The clerk, on the instructions of the



Provost/chairperson, will mute any attendee who does not cease speaking. The chairperson must keep order and ensure the proper and timely conduct of the meeting which can sometimes mean expediting the business and reaching a decision on the fairness and sufficiency of debate. He or she will make a final decision on all matters that come up at meetings and the points at which conclusions should be reached.

If 2 or more members want to speak, the chairperson will decide who will speak first. If there is disorder at any Council meeting, the chairperson may adjourn the meeting to another time. In these circumstances, simply leaving the chair will adjourn the meeting. If the Provost/chairperson raises both hands simultaneously, this shall have the same effect. All members shall cease speaking. The clerk, on the instructions of the Provost/chairperson will mute any attendee who does not cease speaking.

The chairperson may make a statement at the start of the meeting on any Council matter.

**13 Appointing chairpersons and the depute chairpersons**

We will appoint chairpersons and Depute chairpersons of standing committees and sub-committees.

**14 Adjourning meetings**

**a** We can adjourn any meeting for a reasonable time. We will do this if:-

- ◆ the chairperson says so; or
- ◆ a member proposes it, another seconds it and the members vote in favour of it. There will be no amendments or discussion.

**b** Nobody can make a second motion to adjourn a meeting within half an hour except the chairperson. If he or she does this, it will be dealt with immediately.

**15 Order of debate**

A member who wants to speak will get the chairperson's attention and will talk to him or her. The member will speak directly about the motion or amendment that is being proposed, seconded or discussed. No member can speak more than once on any subject that is being discussed, except for a point of order or with the chairperson's permission. However, the person who proposes a motion can reply. A member who is speaking when a question of order is raised will stop speaking until the chairperson has dealt with the question of order.

**16 Length of speeches**

If a member proposes or seconds a motion or amendment, he or she cannot speak for longer than 5 minutes. All the other speakers cannot speak for more than 3 minutes.

The person who proposes the original motion can speak for up to 5 minutes when he or she replies to any comments. But he or she cannot add anything new into the debate. After that, the discussion will finish and the chairperson will put the question to the vote.

## **17 General Conduct**

- a** Members are accountable for their own individual conduct in meetings at all times in terms of The Councillors' Code of Conduct and associated regulations and guidance as issued by the Standards Commission for Scotland.
- b** The chairperson may rule on the acceptability of language used during the course of the meeting and take appropriate action as necessary, including withdrawal of a remark, requiring an apology, or any other action required to allow the meeting to properly proceed. In the event of persistent misconduct of a Councillor by disregarding the ruling of the Provost/chairperson, or behaving improperly or offensively or using unbecoming language, or wilfully obstructing the business of the meeting, the Provost/chairperson may take any of the following courses either separately or in sequence: (1) direct the Councillor to refrain from speaking during the remainder of the debate on the matter under discussion; (2) adjourn the meeting for such period as seems expedient to the Provost/chairperson; and (3) in the event of general disturbance which in the opinion of the Provost/chairperson renders the due and orderly despatch of business impossible, the Provost/chairperson may, in addition to any other power vested in him/her, without the question being put, suspend the meeting for such period of time that he/she considers expedient.
- c** If any member at any meeting behaves offensively or is uncooperative, a motion may be proposed and seconded to suspend the member for the rest of the meeting. If the motion is carried, the member must immediately leave the meeting. There will be no discussion of the motion and no changes to it.

## **18 Changing a decision**

A decision we have made cannot be changed within six months unless the chairperson rules that there has been a material change of circumstances.

## **19 Questions**

- a** At any Council meeting, a member can ask the chairperson a question about any relevant business not already on the agenda for the meeting. The member must have given the question to the Chief Executive 10 clear days before the meeting.
- b** A member can ask the chairperson a question about any matter which is on the agenda for that meeting without giving any notice.
- c** If the chairperson rules that the question is out of order, the question will not be answered.
- d** There will be no discussion about any questions or answers brought in this way.

## **20 Giving notice beforehand on a matter which members want us to consider**

If a member wants us to consider a matter, he or she must put it in writing. They must then sign it and get another member to sign it as well. If the Chief Executive does not receive this at least 10 clear days before the meeting, the matter will not be on the agenda for the meeting and will not be dealt with at the meeting. The members who put the motion forward must move it at the meeting or someone must do it for them. If nobody puts the motion forward, we will consider it withdrawn.

## **21 Motions - procedures**

- a** All motions and amendments must be proposed by someone and seconded by someone else. If the chairperson thinks it is appropriate, the motion must be put in writing and handed to him or her before any vote is taken. If the motion is to approve or disapprove a motion, it does not have to be put in writing. Amendments or motions that propose that we consider a report again and motions and amendments that are fully set out in committee minutes also do not need to be in writing.
- b** Every amendment must be relevant.
- c** The person who proposed a motion or amendment can withdraw it if he or she gets permission from the person who seconded it.
- d** We will consider a motion to approve a report or minutes from a committee or sub-committee as an original motion. We will deal with any motion that involves changing or rejecting a report or minute as an amendment.
- e** The chairperson of a committee or sub-committee will have the right to move the approval of a report or the minutes of the committee or sub-committee.
- f** We will not discuss motions or amendments that are not seconded and we will not put them in the minutes. But the person who proposed it can have his or her disapproval recorded in the following way "Councillor X, as the mover of a motion or amendment which failed to find a seconder, asked that his or her dissent be recorded".

## **22 How motions must be presented**

If we need to deal with a motion and two or more amendments, the last amendment to be put forward will be put against the amendment immediately before it. The amendment which is successful will be put against the next amendment and so on until only one amendment is left. We will then use this amendment against the original motion and then take a vote.

## **23 Method of voting**

- a** In a Council meeting we can vote on any matter by:-

- ◆ using the electronic voting system;
- ◆ calling the roll;
- ◆ ballot; or
- ◆ a show of hands.

The chairperson will decide which method is most appropriate.

Any member can object and ask for the vote to be taken by calling the roll. If at least a third of the members present agree, then the vote will be taken by roll call.

- b** Unless the law or these standing orders say otherwise, all questions will be decided by a majority of the members present and voting.
- c** If there is an equal number of votes, the chairperson will have the deciding vote.

## **24 Members who have an interest in any matters – declaration of interests**

- a** In line with the requirements of The Councillors' Code of Conduct, any members with a financial or non-financial interest in any matter which is to be considered must declare the interest as soon as practicable at the meeting where that interest arises and, subject to the exception highlighted below, leave the meeting while the item of business is being considered. The fact that the member has declared an interest and left the meeting will be recorded in the minutes of the meeting.
- b** The exception to the above relates to general dispensations issued by the Standards Commission for Scotland in respect of members who are:-
  - ◆ council house tenants
  - ◆ members of certain outside bodies

It is considered that the public interest would be served if members were allowed to participate in discussion and voting on these matters in line with the criteria detailed in the Dispensations Note to Local Authorities in Respect of Financial and Non-Financial Interests.

- c** The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words "I declare an interest" and be sufficiently informative to allow those present at the meeting to understand the nature of the interest.

## **25 Voting arrangements for vacancies**

If there is a vacancy and there are only 2 candidates, we will take a vote and the 1 with most votes will be appointed.

If there are more than 2 candidates, we will take a vote. Each member can only vote for 1 candidate. If 1 candidate receives more votes than the others put together, that candidate will be appointed. If no candidate receives a majority, the candidate with the fewest votes will drop out. In the next vote, the same procedure will apply again until 1 of the candidates has more votes than the others put together. If, on the vote between the final candidates or between 2 or more candidates at the bottom of the list, there is an equal number of votes, the chairperson will have a deciding vote.

## **26 Holder of the common seal**

Our common seal will be kept by the Head of Administration and Legal Services who will be responsible for it.

## **27 Receiving views from representatives**

- a** We or any committee or sub-committee will hear the views of representatives from organisations or groups we can deal with.
- b** Anyone who wants to present their view must apply in writing and it must be signed by a representative of the organisation or group. This application must include details of the matter to be discussed. The representatives must deliver the application to the Chief Executive at least 5 clear days before the date of the meeting. Notice about the application will be put on the agenda for the meeting. It will then be up to the meeting to decide whether to hear the representatives.

- c** Unless we agree otherwise, there cannot be more than 3 representatives from any organisation or group.
- d** When we hear representatives from an organisation or group, we can ask them questions. Our members must not give an opinion or discuss the business until the representatives have finished talking about their case. The representatives only have to leave the meeting if the matter is confidential or exempt in terms of the Local Government (Scotland) Act 1973 as amended by the Local Government (Access to Information) Act 1985.

## **28 Changes to standing orders**

Our standing orders can only be suspended, changed or abolished at a Council meeting if 2/3 of the members at the meeting agree.

## **Committees**

### **29 Standing committees**

**a** Our standing committees are listed below.

- ◆ Cambuslang and Rutherglen Area
- ◆ Climate Change and Sustainability Committee
- ◆ Clydesdale Area
- ◆ Community and Enterprise Resources
- ◆ Conference Allocation
- ◆ East Kilbride Area
- ◆ Education Resources
- ◆ Executive
- ◆ Finance and Corporate Resources
- ◆ Hamilton Area
- ◆ Housing and Technical Resources
- ◆ Licensing
- ◆ Petitions
- ◆ Planning
- ◆ Planning Local Review Body
- ◆ Recruitment
- ◆ Risk and Audit Scrutiny
- ◆ Social Work Resources

**b** We will appoint members of each standing committee. Unless we decide otherwise, members will hold office until the next time councillors are elected.

**c** There will be provision for substitute members as specified within the terms of reference for the Council and its associated committees.

### **30 Special committees**

We can appoint a special committee and set out its powers and duties. We will reappoint these committees when we reappoint standing committees unless we decide not to. Unless we decide otherwise, the committee will appoint its own chairperson and deputy chairperson.

**31 Advisory committees**

We can appoint advisory committees, which may include people other than members of the Council. Advisory committees can also be appointed by standing committees. We or the standing committee will set out the duties and responsibilities of the committees.

**32 Appointing committees**

Unless a law or these standing orders say otherwise, we will appoint the members for all committees.

**33 Chairing committees**

- a** At a committee meeting, the chairperson appointed under standing order number 1 at the first meeting of the Council following the election will chair the meeting, if he or she is present.
- b** A deputy chairperson will chair a committee meeting if the chairperson is not present. If the chairperson and the deputy chairperson(s) are not present, another member chosen by the members at the meeting will chair the meeting.

**34 Ending office**

Unless we decide otherwise, anyone who stops being a member of the Council will also stop being a member of all committees.

**35 The committee's powers and duties**

- a** Depending on the law and these standing orders, the powers and duties committees have are set out in the law or terms of reference, standing orders, financial regulations or Council resolutions.
- b** We may deal with any matter included in the terms of reference of a committee if we think it appropriate.
- c** We may change any terms of reference of any committee.

**36 Religious, Teacher and Parent Council representatives on the Education Resources Committee**

If there are religious, teacher or Parent Council representatives on the Education Resources Committee, these people will be entitled to vote on any issues.

**37 Passing on responsibilities to committees and officers**

- a** Depending on the law and these standing orders, we will pass on responsibility to standing committees in the following circumstances:-
  - ◆ If the matter is to do with a scheme made under the Local Government (Scotland) Act 1973 or any subsequent or amending legislation or another law.
  - ◆ If we decide to pass on certain responsibilities to that committee.
- b** Our officers are authorised to take decisions on matters under the powers set out in the scheme of delegation.

- c If a matter requires to be dealt with as a matter of urgency, the Chief Executive or any Executive Director, in consultation with the relevant chairperson or depute chairperson and ex officio member, can decide on the matter and report on the action taken to the next meeting for information.

### **38 Committee proceedings**

- a The Executive Committee must approve recommendations from standing committees on any issues involving new policy or a change in policy. We must approve any issues referred to us by the Executive Committee.
- b However, the committee can put into practice any decision on any matter which the committee decides is urgent.

### **39 Councillors attending meetings**

- a Unless paragraph b of this standing order applies, any member may go to a committee meeting even if he or she is not a member. The member cannot take part in the proceedings and cannot vote on any issue. However, the chairperson may decide the member can speak on any issue of local interest.
- b If a Council member is not a member of the committee, he or she cannot go to a committee meeting if either of the following apply **and** it is also decided that the item is exempt or confidential:-
  - ◆ the meeting is about a matter which may affect the interests of one particular person; or
  - ◆ the decision is made after a hearing and the person or their representative has a right to put their case.
- c If a committee or sub-committee has a hearing:-
  - ◆ on a matter where the decision may affect the interest or rights of any person as an individual; and,
  - ◆ where the person has a right to be heard in person or through a representative;members of the committee or sub-committee can only take part or vote on the matter if they have been at the whole of the hearing.

### **40 Calling committee meetings**

As far as ordinary committee meetings are concerned, we will hold them at fixed times. However, the chairperson can change the date and time of meetings if he or she wants. But the chairperson must give a reason why he or she changed the date and time of that meeting.

### **41 Referring matters to sub-committees**

Each committee can refer any matter to a sub-committee.

### **42 Standing orders which apply to committees**

The terms of standing order numbers 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 27 and 28 apply to committees in the same way as they apply to us.

## **Sub-committees**

### **43 Appointing sub-committees**

A committee of the Council may appoint sub-committees or special sub-committees.

### **44 Members of sub-committees**

Sub-committees will normally be made up of members from the parent committee. People who are not members of the committee can only be appointed to sub-committees with the permission of the Executive Committee.

### **45 The sub-committee's powers and duties**

- a** Each sub-committee will deal with all matters referred to it by the committee.
- b** The parent committee may, but only in exceptional circumstances where a matter becomes urgent, deal with any matter referred to a sub-committee even if the committee does not have a report from the sub-committee on the matter.
- c** Unless any law says otherwise and if the Executive Committee approves, the committee can change the matters referred or passed on to any sub-committee.
- d** Two or more Council committees can appoint a joint sub-committee which will be a special sub-committee.

The terms of the standing orders which apply to sub-committees also apply to joint sub-committees. The Executive Committee must approve any joint sub-committee which is set up, what it is for, and the appointment of the chairperson.

### **46 The chairperson of sub-committees**

- a** The Executive Committee will appoint the people who will be the chairs of sub-committees. The Executive Committee can appoint the chairperson of a standing committee to be the chairperson of any of its sub-committees.
- b** The chairperson will take a meeting of a sub-committee.
- c** If the chairperson is not at a meeting of a sub-committee, another member, chosen by the members, will take the meeting.

### **47 Chairperson of a committee (to be a member of the sub-committee)**

The chairperson of the standing committee will also be a member of all its sub-committees.

### **48 Standing orders which apply to sub-committees**

The terms of standing orders number 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 27 and 28 will apply to sub-committees.

### **49 Sub-committee minutes**

We will circulate minutes of all meetings of sub-committees to the members of the committee. The committee must approve the minutes except for matters which are the responsibility of the sub-committee.



## Finance

### 50 Planning and budgeting

- a In each financial year, the Executive Committee will consider any guidelines that are suitable for the preparation and approval of budgets for revenue and capital spending and for developing services.
- b Detailed budgets for capital and revenue spending for the next financial year should be prepared within the guidelines and according to the procedures the Executive Committee or Council approves.
- c The revenue estimates will be considered by the Executive Committee prior to making recommendations to the Council to set the Council Tax, rates and charges for the next financial year.
- d The Executive Committee must give the Council these budgets and recommendations. This will be at a meeting on or before the date set by law. After the Council has considered the budgets and any recommendations, we will change any budgets we think need to be changed and then approve and authorise the spending.
- e Unless specified within the guidelines from the Executive Committee, the Housing and Technical Resources Committee will consider the budgets for spending on council housing and recommend a budget and a rent level for the succeeding year to the Executive Committee. After the Council has considered the budgets and any recommendations, we will change any budgets we think need to be changed and then approve and authorise the spending.
- f Unless specified within the guidelines from the Executive Committee, the Executive Committee will consider and make recommendations on capital spending to the Council. After we have considered the budgets and any recommendations, we will change any budgets we think need to be changed and then approve and authorise the spending.

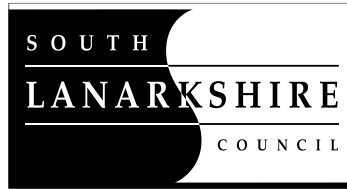
### 51 Spending, supplementary budgets and transferring funds

- a No committee can let its spending, whether revenue or capital, go over its financial allowance. No committee or official can run up any expenses unless:-
  - ◆ we have approved the expense under standing order number 50;
  - ◆ it is a capital expense which we have approved under standing order number 50 and, if necessary, we have received a tender or quotation and government permission we may need; or
  - ◆ the expense has been authorised under the other paragraphs of this standing order.
- b A committee can transfer money within its revenue budget and within its capital budget to current or new projects but:-
  - ◆ a report must go to the relevant Resource Committee or Executive Committee if this transfer will change our approved policy; and,

- ♦ if the transfer affects future years' revenue budgets, a report must go to the relevant Resource Committee or Executive Committee. (This report should show what effect this transfer will have on future budgets.)

**c** If a committee:-

- ♦ is going to spend revenue or capital that is not included in the revenue or capital budgets we have approved under standing order number 50 or to reduce income provided in that way; and,
- ♦ is not going to pay for the spending by transferring its funds; the committee must be informed throughout the year. The committee must report an assessment of the financial spending for current and future years. In the case of revenue transfers, this should include the budget heads which will be reduced in future years. After that, the procedure laid down for approving the original budgets will apply. The Executive Director (Finance and Corporate Resources) must agree before a proposal for a transfer or supplementary budget is reported to a standing committee.



**Finance and Corporate Resources  
Administration and Legal Services**

# **Standing Orders on Contracts (Together with Guidance Notes)**

**Submitted to the First Statutory Meeting of the Council on 18 May 2022**

**Note: If you need this information in another language or format, please contact us to discuss how we can best meet your needs.  
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## STANDING ORDERS ON CONTRACTS

### 1 Definitions

The following words and expressions used in these Standing Orders shall have the meanings hereby assigned to them:-

‘Call-Off Contract’	means the terms and conditions under which specific purchases can be made under a Framework Agreement and/or a DPS and/or an arrangement established in terms of the light touch regime
‘Council’	means South Lanarkshire Council, constituted by Section 2 of the Local Government etc. (Scotland) Act 1994 and having its principal office at the Council Offices, Almada Street, Hamilton, ML3 0AA
‘Committee’	means a Standing Committee of the Council and the expressions ‘Chair’ and ‘Depute Chair’ shall be construed accordingly and shall be taken to include any corresponding office known by any other description
‘Chief Executive’	means the Head of Paid Service of the Council for the time being and shall be taken to include any corresponding office known by any other description or any substitute(s) authorised in terms of the Council’s Scheme of Delegations except in cases where it is stated that substitutes cannot act
‘Competitive Dialogue’	means such a tendering procedure as defined in the European Procurement Regulations
‘Community Benefit Requirement’	means that contractual requirement as defined in the Reform Act and any guidance published by the Scottish Government under the Reform Act
‘Concession’	means a works or services concession as defined in the Concession Contracts (Scotland) Regulations 2016 or such other Regulations amending, substituting or replacing those Regulations
‘Contracting Authorities’	means the authorities or bodies as defined in the European Procurement Regulations and includes the Council
‘Data Protection Laws’	means the General Data Protection Regulation (or any law incorporating the same into UK domestic law with or without amendments and any subsequent legislation amending it) and the Data Protection Act 2018 (or any legislation replacing or amending it)
‘DPS’	means a dynamic purchasing system as defined in the European Procurement Regulations
‘General Principles’	means the overarching principles of transparency, openness, non-discrimination and equal treatment
‘E-procurement’	means the carrying out of the procurement of a contract for

	the supply of goods, carrying out of works or provision of services by electronic means
‘Electronic Auction’	means a repetitive process, involving an electronic device for the presentation of new prices, revised downwards and/or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using the stated evaluation methods
‘Equal Opportunities’	means the prevention, elimination, or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin, or other personal attributes including religion (or lack thereof), beliefs or opinions, such as religious beliefs or political opinions or lack of such religious or philosophical beliefs as detailed in the Equalities Legislation
‘Equalities Legislation’	means the Equality Act 2010 and all other relevant statutory obligations in relation to equalities which apply in the UK
‘European Procurement Regulations’	means the Public Contracts (Scotland) Regulations 2015 or such other Regulations amending, substituting or replacing those Regulations
‘Executive Director’	means an Executive Director of a Resource of the Council for the time being and shall be taken to include any corresponding office known by any other description or any person to whom authority is delegated by the appropriate Executive Director in terms of the Council’s Scheme of Delegations except in cases where it is stated that substitutes cannot act
‘Framework Agreement’	means an agreement which sets out terms and conditions under which specific purchases (Call-Off Contracts) can be made throughout the term of the agreement
‘Head of Administration and Legal Services’	means the Head of Administration and Legal Services (Finance and Corporate Resources) of the Council for the time being and shall be taken to include any corresponding office known by any other description or any substitute(s) authorised in terms of the Council’s Scheme of Delegations except in cases where it is stated that substitutes cannot act
‘Head of Finance’(Transactions)	means the Head of Finance (Transactions), Finance and Corporate Resources of the Council for the time being and shall be taken to include any corresponding office known by any other description or any substitute(s) authorised in terms of the Council’s Scheme of Delegations except in cases where it is stated that substitutes cannot act
‘Higher Value Regulated Procurement’	means a procurement exercise subject to the European Procurement Regulations

‘Higher Value Threshold’	means the financial thresholds for Higher Value Regulated Procurements which must be reviewed by the Scottish Ministers every 2 years and will apply from 1 January in the relevant year
‘Innovation Partnership’	means that procurement process as specified in the European Procurement Regulations
‘Life-Cycle Costing’	means such costs as are specified in the European Procurement Regulations
‘PCS System’	means the Public Contracts Scotland system
‘PIN’	means a prior information notice
‘Practice Notes’	means all practice notes, toolkits, briefing notes and/or documents issued pursuant to <b>Standing Order 2.8</b>
‘Procurement Process’	means a procurement process approved by the Council’s Procurement Network in relation to the conduct of a procurement exercise
‘Procurement Strategy’	means the strategy which the Council must prepare in accordance with <b>Standing Order 37</b>
‘Proper Officer’	means a proper officer authorised to execute deeds on behalf of the Council in terms of Section 194 of the Local Government (Scotland) Act 1973 as amended by the Requirements of Writing (Scotland) Act 1995 and any new and/or subsequent amending legislation as detailed in the Council’s Scheme of Delegation
‘Reform Act’	means the Procurement Reform (Scotland) Act 2014 and any new legislation amending, substituting or replacing that Act
‘Reform Act Regulations 2016’	means The Procurement (Scotland) Regulations 2016 or such other Regulations amending, substituting or replacing those Regulations
‘Regulated Procurement’	has the meaning defined in the Reform Act and excludes a Higher Value Regulated Procurement unless stated otherwise
‘Scottish Public Authority’	means any body which is listed in Schedule 1 to, or is designated by order under Section 5(1) of, the Freedom of Information (Scotland) Act 2002 or is a publicly owned company as defined in Section 6 of that Act
“SME”	means a business or company as defined by the European Commission
‘Social and other Specific Services’	means those services specified in Schedule 3 to the European Procurement Regulations
‘Social Care Services’	means those services specified in the Schedule to the

## Reform Act Regulations 2016

“SPD”	means the Single Procurement Document (Scotland) as specified in the European Procurement Regulations
‘Supported Business’	means such businesses as defined in the European Procurement Regulations
‘Supported Employment Programme’	means such programmes as defined in the European Procurement Regulations
‘Sustainable Procurement Duty’	means such duty as specified in the Reform Act and any guidance published by the Scottish Government under the Reform Act

2	<b>General</b>	These Standing Orders are made under Section 81 of the Local Government (Scotland) Act 1973 and apply to the arrangements made by on or behalf of the Council in relation to the supply of goods, provision of services and carrying out of works.
2.1	<b>Extent</b>	These Standing Orders apply to all Council contracts (as appropriate) including but not limited to the award of contracts, the establishment of Framework Agreements, a DPS or an arrangement established in terms of the light touch regime and the award of Call Off Contracts.
2.2	<b>Internal Arrangements</b>	<p>(a) Any action taken on the Council's behalf must also be in terms of the Council's Scheme of Delegation, Financial Regulations and the Standing Orders on Procedures</p> <p>(b) These Standing Orders are intended to comply with and be subject to the Code of Corporate Governance made by the Council from time to time. If there is a discrepancy between the terms of these Standing Orders and those of the Code, the provisions of the Code in force at the time shall take precedence</p>
2.3	<b>Form of contract and Scots Law</b>	<p>(a) Unless otherwise authorised by the appropriate Executive Director in consultation with the Head of Administration and Legal Services in special circumstances and subject to Standing Order 2.3 (b) all contracts, the establishment of Framework Agreements, the establishment of DPS or an arrangement established in terms of the light touch regime and the award of Call Off Contracts entered into in terms of and in accordance with these Standing Orders shall be:-</p> <p>(i) in writing;</p> <p>(ii) in the name of the Council; and</p> <p>(iii) subject to the law of Scotland and the exclusive jurisdiction of the Scottish Courts.</p> <p>(b) Approval under <b>Standing Order 2.3(a)</b> shall not be required for the award of:-</p> <p>(i) contracts where the estimated value is less than £50,000;</p>

		and
		(ii) Call Off Contracts irrespective of value which will be subject the law of England and the exclusive jurisdiction of the English Courts where they do not allow for a change in the applicable law and legal jurisdiction.
2.4a	<b>Calculation of Contract Values</b>	<p>(i) Any value of a contract stated in these Standing Orders shall be the estimated aggregated value of the contract for the full life of the contract (including any potential contractual extension) and not the estimated annual value of the contract. Where a contract is for the supply of works, goods or services for a continual basis over a number of years then the estimated aggregated value of that contract shall be calculated by multiplying the estimated annual value by the number of years of the duration of the contract. All prizes and/or payments to be made to tenderers must be taken into account in calculating the estimated value.</p> <p>(ii) For the purposes of determining whether the European Procurement Rules apply to the procurement exercise VAT (if payable) must be included when calculating the estimated value.</p> <p>(iii) For the purposes of determining whether the Reform Act applies to the procurement exercise the estimated value should be calculated exclusive of VAT.</p>
2.4b	<b>Prohibition on Division of Contract Values</b>	It is not permitted to deliberately divide any procurement exercise into two or more contracts if the intention for doing so is to reduce the estimated aggregated value of the contract in order to avoid the application of any financial thresholds set out in these Standing Orders, the application of the Higher Value Thresholds or the effect of the European Procurement Regulations.
2.4c	<b>Calculation of Contract Value - Match Funding</b>	If the cost of a contract is only being met in part by the Council the total value of the contract including the funding from a third party shall be, for the purposes of these Standing Orders, calculated by totalling all the contributions to be made towards the cost.
2.4d	<b>Calculation of Contract Value - Funding in Kind</b>	Where a contract includes the provision of services or other funding in kind to the Contractor by either the Council or a third party, the value of the contract shall be calculated by including the value of the services being provided or the funding in kind in addition to any monetary consideration.
2.4e	<b>Mixed Procurement</b>	<p>The following rules will apply when determining how to treat a mixed procurement of any contract for the supply of goods, provision of services and the carrying out of works:-</p> <p>(i) Services/Supplies Determining factor is the main subject matter identified by reference to the element which has the highest estimated value i.e. if the value attributed to services exceeds that attributable to supplies then it will be treated as a services contract.</p> <p>(ii) Services/Social and Specific Services Determining factor is the main subject matter identified by</p>

reference to the element which has the highest estimated value i.e. if the value attributed to services exceeds that attributable to the Social and Specific Services then it will be treated as a services contract.

(iii) **Concession/ Works, Services and/or Supplies**

If the estimated value of the works/services/supplies element exceeds the relevant Higher Value Thresholds it will be treated as a public contract for works/services/supplies and not a Concession contract.

(iv) **Works/ Services or Supplies**

Determining factor is the main subject of the contract in question regardless of the relative values of the elements and then the relevant Higher Value Threshold applies to determine the applicable rules.

2.4f	<b>Franchises /Concessions</b>	Where a Contract relates to the provision of services to the public under which the Council gives to the Contractor the right to exploit the provision of the services, the total value of that Contract shall be taken as including the value of that right to exploit the provision and monetary payments made by the Council to the Contractor. All sums paid by the Contractor to the Council shall be disregarded in connection with the calculation of the value of the Contract.
2.5	<b>Signing</b>	All contracts entered into in terms of and in accordance with these Standing Orders shall be signed by either the appropriate Executive Director of a Resource or a Proper Officer.
2.6	<b>Best Value</b>	<p>All contracts must secure Best Value and maintain an appropriate balance among:-</p> <ul style="list-style-type: none"> <li>◆ the quality of the performance of the Council's functions</li> <li>◆ the cost to the Council of that performance</li> <li>◆ the cost to persons of any Council service provided for them on a wholly or partly rechargeable basis</li> </ul> <p>having regard to:-</p> <ul style="list-style-type: none"> <li>a) efficiency</li> <li>b) effectiveness</li> <li>c) economy</li> <li>d) the need to meet equal opportunity requirements</li> <li>e) the need to ensure sustainable development</li> </ul>
2.7	<b>Guidance</b>	When entering into a contract, due regard must be given to any guidance issued by the Scottish Ministers in terms of the Local Government in Scotland Act 2003 and/or Reform Act.
2.8	<b>Practice Notes</b>	Practice Notes on tendering procedures for any contract or type of contract entered into by or on behalf of the Council may be issued by the Head of Administration and Legal Services and/or the Head of Finance (Transactions) (with the prior approval of the Head of Administration and Legal Services). Any Practice Notes shall form part of these Standing Orders.
2.9	<b>Prohibition on anti-competitive</b>	In preparation of any contract terms and in the award of any contract, there must be no terms, which are either:-

## contract terms

- (a) anti-competitive as defined in the Competition Act 1998 (where applicable); or
- (b) non-compliant with any other legal requirement.

- 2.10 **Compliance with General Principles** All contracts, regardless of value and/or applicable procurement rules, must be awarded in compliance with the General Principles.
- 2.11 **Conflict of Interest** In carrying out all procurement exercises employees must comply with the measures introduced by the Council to prevent, identify and remedy conflicts of interest as specified in the relevant Procurement Process.
- 3 **Exempt and Partially Exempt Contracts**
- 3.1 **Estimated Value Below £5,000** These Standing Orders shall not apply to any contract for the supply of goods, the provision of services and the carrying out of works where the estimated aggregated value does **not exceed £5,000** including items of a recurring nature the **total** value of which is no more than that amount, subject always when entering into such contracts:-
- (a) to the need to demonstrate Best Value (as set out in **Standing Order 2.6**);
  - (b) compliance with the Council's Code of Corporate Governance;
  - (c) ordered using the Council's official Purchase Order and the i-procurement system (unless otherwise exempted by the Council's Certified Payment Policy);
  - (d) seeking at least 3 quotes (including one from SME having their place of business within the local government area of South Lanarkshire). Place of business does not require it to be their registered or principal office; and
  - (e) keeping records of the process.
- 3.2 **Estimated Value Between £5,000 and £50,000 for supplies and provision of services and £5,000 and £2million for execution of works**
- (a) All contracts for the supply of goods or provision of services, where the estimated aggregated value does **not exceed £50,000**, and for carrying out of works where the estimated aggregated value does **not exceed £2million** shall be exempted from these Standing Orders with the exception of:-
    - (i) **Standing Order 2 (General)**
    - (ii) **Standing Order 4.2 (Contract Reference Number)**
    - (iii) **Standing Order 4.3 (Sourcing Strategy)** (if, in the opinion of the appropriate Executive Director, the contract is of high risk and/or there are special circumstances)
    - (iv) **Standing Order 4.14 (Community Benefit Requirement)** but only for works contracts where the estimated value exceeds £50,000 and is being awarded on the basis of most economically advantageous tender
    - (v) **Standing Order 16 (Assurances – Tendering)** (as appropriate)
    - (vi) **Standing Order 16A (Compliance with Data Protection Laws)** (as appropriate)
    - (vii) **Standing Order 17 (Confidentiality and Requests for Information)**
    - (viii) **Standing Order 18 (E-Procurement)**
    - (ix) **Standing Order 19 (Selection of Tenderers)** but only for works contracts where the estimated value exceeds £50,000

- (x) **Standing Order 20 (Checking of Pre-Qualification Responses/Tenders and Reporting)** but only for works contracts where the estimated value exceeds £50,000
  - (xi) **Standing Order 21 (Acceptance of Tenders)** but only for works contracts where estimated value exceeds £200,000
  - (xii) **Standing Order 25 (Contract Performance Security);** and
  - (xiii) All **Standing Orders** relating to contract conditions.
- (b) Immediately prior to entering into a contract referred to in Standing Order 3.2(a) at least 5 competitive quotes/bids in writing (including 4 quotes/bids from SMEs having their place of business within the local government area of South Lanarkshire if such SMEs are available and place of business does not require to be their registered or principal office) must be obtained by the appropriate Executive Director using Quick Quote via Public Contracts website (Route 1A - lowest price) or PCS System (Route 1B - most economically advantageous) unless the Executive Director concerned is satisfied that:-
- (i) good reasons exist for not doing so. Such good reasons may include but are not limited to the circumstances justifying the use of the negotiated tendering procedure as set out in **Standing Order 9 (Negotiated Tendering Procedure – General);** and
  - (ii) the contract secures Best Value (as set out in **Standing Order 2.6**).
- (c) The contract awarded must include a condition which allows for it to be reviewed as a minimum annually to ensure Best Value (as set out in **Standing Order 2.6**)
- (d) The appropriate Executive Director shall ensure that the persons invited to submit quotations are selected on a fair, transparent and non-discriminatory basis, and in a manner that at all times compliant with the General Principles following a selection process approved by the Head of Administration and Legal Services.

### 3.3 **Conditions of Funding**

Where a public authority or similar body provides funding for a particular project (including the provision of services by the Council to others) and that funding is subject to conditions which specify:-

- (i) particular contractors or a particular class of contractors with whom/which the Council are required to or restricted to contract with in the provision of the services or carrying out of the works as part of the project, or
- (ii) specific goods or materials which must be used in the project or specific services which must be delivered as part of the project such contracts may be excluded from these Standing Orders with the exception of:-
  - (i) **Standing Order 2 (General);**
  - (ii) **Standing Order 4.2 (Contract Reference Number);**
  - (iii) **Standing Order 4.3 (Sourcing Strategy);**
  - (iv) **Standing Order 16 (Assurances - Tendering)** (as appropriate);
  - (v) **Standing Order 16A (Compliance with the Data Protection Laws)** (if appropriate);



- (vi) **Standing Order 17 (Confidentiality and Requests for Information);**
- (vii) **Standing Order 18 (E-Procurement);** and
- (viii) All **Standing Orders** relating to contract conditions

in so far as the said funding condition makes, in the view of the relevant Executive Director, the tendering processes set out in these Standing Orders impracticable or impossible, subject always to the requirements of the Reform Act, the Reform Act Regulations and/or the European Procurement Regulations.

3.4	<b>Employment</b>	These Standing Orders do not apply to any contract of employment.
3.5	<b>Land</b>	These Standing Orders do not apply to any contract for the acquisition, disposal or rental of heritable property (including leases and licences) or any right, servitude or other interest in or over heritable property. However, this does not exempt any acquisition or disposal from the European Procurement Regulations or any other requirements set out in law or from the Council's Scheme of Delegation, Financial Regulations or Standing Orders on Procedures in relation to the acquisition or disposal of land or buildings.
3.6	<b>Special Circumstances</b>	The Council or one of its Committees/Sub-Committees may exempt from the terms of these Standing Orders, or any part of them as the case may be, any contract if, subject to any requirements in terms of the European Procurement Regulations and following consultation with the Head of Administration and Legal Services they are satisfied that the exemption is justified by special circumstances.
3.7	<b>Contracts between public sector entities – 'Teckal' and 'Hamburg' exemptions</b>	<p>(a) These Standing Orders do not apply to the procurement for the award of contracts on the basis of the 'Teckal' exemption (where a contract is awarded by a Contracting Authority to a controlled legal person (as defined in the European Procurement Rules) or the 'Hamburg' exemption (where a contract is awarded exclusively between 2 or more Contracting Authorities) with the exception of:-</p> <ul style="list-style-type: none"> <li>(i) <b>Standing Order 2.5 (Signing)</b></li> <li>(ii) <b>Standing Order 4.2 (Contract Reference Number)</b></li> <li>(iii) <b>Standing Order 4.3 (Sourcing Strategy)</b></li> </ul> <p>(b) The approval of the appropriate Committee will be required to award contracts in the circumstances referred to in <b>Standing Order 3.7(a)</b>.</p>
4	<b>Pre-Tender Requirements</b>	
4.1	<b>Approval of estimates of contract values</b>	<p>No tender shall be invited or offer made or accepted for any contract for the supply of goods, or the carrying out of works or the provision of services unless either:-</p> <ul style="list-style-type: none"> <li>(a) appropriate financial provisions have been made and approved by the Council in terms of the Council's Financial Regulations; or</li> <li>(b) where funding is provided by a third party for a specific purpose involving the award of contracts of whatever nature, that purpose has been approved by the Council.</li> </ul>
4.2	<b>Contract Reference</b>	No tender shall be invited or offer made or accepted for any contract for

	<b>Number</b>	the supply of goods, or the carrying out of works or the provision of services where the estimated aggregated value exceeds £5,000 without a contract reference number having been obtained using the template approved by the Head of Finance (Transactions).
4.3	<b>Sourcing Strategy</b>	<p>(a) A Sourcing Strategy using the template approved by the Head of Finance (Transactions) must be created for all:-</p> <ul style="list-style-type: none"> <li>(i) tender opportunities including the setting up of a Framework Agreement in accordance with <b>Standing Order 12 (Framework Agreement – internal)</b>; a DPS under <b>Standing Order 12A (DPS – Internal)</b> or an arrangement established in terms of the light touch regime under <b>Standing Order 15.3 (Light Touch Regime)</b>; and</li> <li>(ii) Call Off Contracts from a Framework Agreement permitted in terms of <b>Standing Order 13 (Framework Agreement – External)</b> or a DPS permitted in terms of <b>Standing Order 13A (DPS – External)</b> where the estimated aggregated value exceeds £50,000 for the supply of goods or the provision of services and exceeds £2million for the execution of works.</li> </ul> <p>A Sourcing Strategy may be created for contracts where the estimated aggregated value is below £50,000 for the supply of goods or the provision of services and below £2million for the execution of works, where in the opinion of the appropriate Executive Director the contract is of high risk and/or there are special circumstances.</p> <p>(b) However a Sourcing Strategy will not require to be created for:-</p> <ul style="list-style-type: none"> <li>(i) Call Off Contracts from a Framework Agreement established by the Council in accordance with <b>Standing Order 12 (Framework Agreement - internal)</b> unless, in the opinion of the appropriate Executive Director, that Call Off Contract is of high value and/or high risk; or</li> <li>(ii) Call Off Contracts from a DPS established by the Council in accordance with <b>Standing Order 12A (DPS – Internal)</b> unless, in the opinion of the appropriate Executive Director, that Call Off Contract is of high value and/or high risk.; or</li> <li>(iii) Call Off Contract under an arrangement established in terms of the light touch regime in accordance with <b>Standing Order 15.3 (Light Touch Regime)</b> unless, in the opinion of the appropriate Executive Director, that Call Off Contract is of high value and/or high risk; or</li> <li>(iv) the procurement of a contract using the negotiated tendering procedure in accordance with <b>Standing Order 9 (Negotiated Tendering Procedure – General)</b> or <b>Standing Order 10 (Negotiated Tendering Procedure – Social Care Services Contracts)</b>.</li> </ul>
4.4	<b>Committee Authority</b>	Where, in the opinion of the appropriate Executive Director, a contract for the supply of goods, the carrying out of works or the provision of services is of high value and/or high risk no tender shall be invited for such a contract without approval from the relevant Committee.
4.5	<b>Selection and Award Criteria</b>	

#### 4.5.1 Selection Criteria

- (a) The appropriate Executive Director will set the selection criteria for a procurement exercise taking account of the applicable requirements of
  - ◆ the Reform Act Regulations;
  - ◆ any other Regulations made or guidance issued by the Scottish Government under the Reform Act;
  - ◆ the European Procurement Regulations;
  - ◆ any such guidance as the Head of Administration and Legal Services and/or Head of Finance (Transactions) consider appropriate; and
  - ◆ any relevant Procurement Process.
- (b) The selection criteria must be:-
  - ◆ proportionate taking account of the nature, scope and size of the contract; and
  - ◆ related to the subject matter of the contract.
- (c) The selection criteria must be stated in the contact notice or the invitation to confirm interest and the procurement documents to enable the bidder to complete and submit an SPD (refer to **Standing Order 19.6**).

#### 4.5.2 Award Criteria

- (a) The procurement documents will state the award criteria that will apply to the procurement exercise as follows:-
  - (i) The award of a contract for services and supplies with an estimated value above £50,000 shall be made on the basis of the most economically advantageous tender;
  - (ii) The award of a contract for works with an estimated value above £50,000 and below £2,000,000 shall be made, at the discretion of the relevant Executive Director, on the basis of lowest price or most economically advantageous tender;
  - (iii) The award of a works contract where the estimated value exceeds £2,000,000 shall be on the basis of the most economically advantageous tender; and
  - (iv) The award of all contracts which exceed the relevant Higher Value Thresholds shall be made on the basis of the most economically advantageous tender.
- (b) The most economically advantageous tender must be identified on the basis of the best – price quality ratio assessed on the basis of criteria linked to the subject matter of the contract and include price or cost. This requirement applies even if the cost element takes the form of a fixed price or cost. The cost element may also at the discretion of the appropriate Executive Director include Life-Cycle Costing.
- (c) In determining the award criteria the appropriate Executive Director must take account of the requirements of the European Procurement Regulations, any such guidance as the Head of Administration and Legal Services and/or Head of Finance (Transactions) consider appropriate and any relevant Procurement Process.

- 4.6      **Reserved Contracts**      (a) The appropriate Executive Director may in respect of a Regulated Procurement or a Higher Value Regulated Procurement:-
- (i) reserve the right to participate in a procurement exercise to a Supported Business; or
  - (ii) provide for a contract to be performed in a Supported Employment Programme
- and the decision must be recorded in the Sourcing Strategy.
- 4.7      **Preliminary Market Testing/Advice**      (a) Preliminary market consultation may be carried out before carrying out any procurement exercise.
- (b) Advice may be sought or accepted from an independent expert or authority or from persons operating in the particular market relevant to the subject matter of the contract to be procured. That advice may be used in the planning and conduct of the procurement exercise provided that it does not distort competition or breach the General Principles.
- (c) Employees involved in a procurement exercise where preliminary market consultation has been conducted and/or preliminary advice obtained must comply with the provisions of the relevant Procurement Process and ensure that the information is disclosed in the tender documents issued for the procurement process.
- 4.8      **Time limits**      (a) For all procurement exercises other than those subject to the European Procurement Regulations the time limits for the receipt of tenders or requests to participate shall be determined taking account of the following factors:-
- (i) the complexity of the contract; and/or
  - (ii) the time required for preparing a tender; and/or
  - (iii) whether a site visit is required.
- (b) The time limit for receipt of tenders must be extended in a proportionate manner where:-
- (i) the Council supplies additional information to a bidder (whether or not it was requested in good time) less than 6 days before the expiry of the tender return date; and
  - (ii) significant changes had been made to the procurement documents.
- (c) An extension to the tender return date is not required in the following circumstances:-
- (i) where additional information has not been requested in good time; or
  - (ii) where the additional information requested is of insignificant importance to the tender response.
- (d) For any procurement exercise where the estimated value is below the relevant Higher Value Thresholds the appropriate Executive Director can decide as good practice to follow the time limits provided in the European Procurement Regulations.
- 4.9      **Variant Bids**      The Head of Administration and Legal Services must authorise the

allowing or seeking of variant bids in a procurement exercise and the decision must be recorded in the Sourcing Strategy.

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|------|---|--|
| 4.10 | <b>Division of Contracts into Lots</b>                                      | <ul style="list-style-type: none"><li>(1) Where the appropriate Executive Director decides not to divide a contract into lots the main reasons for that decision must be indicated in the Sourcing Strategy, procurement document and the Report on Tenders.</li><li>(2) Where the appropriate Executive Director has decided to divide the contract into lots the Contract Notice or invitation to confirm interest must indicate:-<ul style="list-style-type: none"><li>(i) whether tenders may be submitted for one, several or all lots;</li><li>(ii) where a decision to limit the number of lots that may be awarded to one tender has been taken by the appropriate Executive Director, the maximum limit of all lots that may be awarded to one bidder;</li><li>(iii) the criteria that will apply to determine how lots will be awarded where the award criteria would result in one tenderer being awarded more lots than the maximum number; and</li><li>(iv) whether the Council reserves the right to award the contract combining several or all lots if a tenderer can be awarded more than one lot and if so indicate that the lots are groups of lots that may be combined.</li></ul></li></ul> |
| 4.11 | <b>Use of PINs</b>  | <ul style="list-style-type: none"><li>(a) The appropriate Executive Director may, subject to the prior approval of the Head of Administration and Legal Services, use a PIN as a call for competition in a restricted tendering procedure or competitive procedure with negotiation.</li><li>(b) The use of a PIN as a call for competition shall be subject to the European Procurement Regulations and any such guidance and requirements as the Head of Administration and Legal Services and/or Head of Finance (Transactions) considers appropriate.</li></ul>  |
| 4.12 | <b>Examining tenders before checking compliance with selection criteria</b> | <ul style="list-style-type: none"><li>(a) In an open tendering procedure the appropriate Executive Director may, subject to the prior approval of the Head of Administration and Legal Services, decide to evaluate tenders before checking the absence of the exclusion grounds and checking a tenderer's compliance with the selection criteria.</li><li>(b) If the option referred to in <b>Standing Order 4.12(a)</b> is approved:-<ul style="list-style-type: none"><li>(i) the decision must be recorded in the Sourcing Strategy; and</li><li>(ii) the procurement exercise must comply with the European Procurement Regulations and such guidance and requirements as the Head of Administration and Legal Services and/or Head of Finance (Transactions) considers appropriate.</li></ul></li></ul>  |
| 4.13 | <b>Sustainable Procurement Duty</b>   | <ul style="list-style-type: none"><li>(a) From 1 June 2016 in carrying out any Regulated Procurements (other than Call Offs) or Higher Value Regulated Procurement (other than contracts for Social Care Services which are awarded without advertising) the appropriate Executive Director will comply with the Sustainable Procurement Duty.</li><li>(b) In complying with the Sustainable Procurement Duty the appropriate Executive Director must comply with the Reform Act,</li></ul>  |

any guidance issued by the Scottish Government under the Reform Act, any guidance and requirements as the Head of Administration and Legal Services and/or Head of Finance (Transactions) considers appropriate and any relevant Procurement Process.

- (c) In complying with the Sustainable Procurement Duty the appropriate Executive Director will so far as possible within the law encourage fair work practices and payment of the living wage and discourage use of exploitative 'zero hours' contracts.

**4.14 Community Benefit Requirement**

- (a) From 1 June 2016 in carrying out any Regulated Procurement or Higher Value Regulated Procurement (including any Call Off Contract and excluding any contracts for Social Care Services which are awarded without advertising) where the estimated value of the contract is equal to or exceeds £4million the appropriate Executive Director will comply with the Community Benefit Requirement.
- (b) In complying with the Community Benefit Requirement the appropriate Executive Director must comply with the Reform Act, any guidance issued by the Scottish Government under the Reform Act, any guidance and requirements as the Head of Administration and Legal Services and/or Head of Finance (Transactions) considers appropriate and any relevant Procurement Process.
- (c) In addition to complying with the Community Benefit Requirement the appropriate Executive Director must, in carrying out all relevant procurement exercises where the estimated value is in excess of £50,000 (with the exception of contracts for the execution of works where the estimated value is less than £2million and the contract will be procured via quick quote (Route 1A – lowest price)) comply with the Council's policy of promoting community benefits and any relevant Procurement Process.

**4.15 Compliance with Procurement Strategy**

The appropriate Executive Director shall carry out all Regulated Procurements and Higher Value Regulated Procurements, so far as reasonably practicable, in accordance with the Procurement Strategy applicable to the financial year during which the procurement exercise commenced.

**4.16 Procurement of Recycled and Recyclable products**

The appropriate Executive Director shall comply with requirements to procure recycled and recyclable products as contained in any Regulations made by the Scottish Government under the Reform Act, any such guidance as the Head of Administration and Legal Services and/or Head of Finance (Transactions) consider appropriate and any relevant Procurement Process.

5	<b>Competition Requirement</b>	
5.1	<b>Contracts over £50,000 for goods and services and over £2million for works subject to competition</b>	All contracts for the supply of goods or the provision of services where the estimated aggregated value is equal to or in excess of £50,000 and contracts for the execution of works where the estimated aggregated value is equal to or in excess of £2million but in all cases below the Higher Value Thresholds (refer to <b>Standing Order 15 (European Procurement Regulations)</b> ) may only be awarded after steps have been taken for the purpose of ensuring genuine competition by seeking from tenders by public advertisement in accordance with the relevant requirements of these Standing Orders.
5.2	<b>Exceptions to the competition requirement</b>	The requirement in <b>Standing Order 5.1</b> does not apply where the use of the negotiated tendering procedure under <b>Standing Order 9 (Negotiated Tendering Procedure – General)</b> or <b>Standing Order 10 (Negotiated Tendering Procedure – Social Care Services Contracts)</b> is justified. (b)
5.3	<b>Publication of Notices</b>	All PINs, contract notices and contract award notices must be published via the Public Contracts website Find a Tender system and OJEU (if applicable) in accordance with applicable provisions of the European Procurement Regulations, the Reform Act, the Reform Act Regulations 2016, any other Regulations made by the Scottish Government under the Reform Act and any guidance issued by the Scottish Government under the Reform Act.
6	<b>Restricted Tendering</b>	
6.1	<b>Period for seeking expressions of interest</b>	The requirements of <b>Standing Order 4.8</b> shall be complied with in determining the period allowed in the PIN (when used a call for competition) or the contract notice to express an interest in tendering for a proposed contract.
6.2	<b>Obtaining Assurances</b>	Prior to issuing any invitations to tender, the Executive Director shall seek the assurances as required by <b>Standing Order 16.1</b> but only insofar as they relate to the subject matter of the contract.
6.3	<b>Invitation to Tender</b>	Invitations to tender shall be sent to at least five persons selected from those who have expressed an interest in tendering for the proposed contract or, if fewer than five persons have expressed an interest to all such persons who have done so. However no person shall be invited to tender unless:- (a) they have provided the assurances required in terms of <b>Standing Order 6.2</b> ; (b) the technical capability and financial standing of such persons has been satisfactorily investigated; (c) the requirements of <b>Standing Order 19 (Selection of Tenderers)</b> have been complied with; and (d) the Council has complied with the requirements of <b>Standing Order 16A (Compliance with the Data Protection Laws)</b> .
7	<b>Open Tendering</b>	
7.1	<b>Time Limit</b>	The requirements of <b>Standing Order 4.8</b> shall be complied with in determining the period allowed in the contract notice.

7.2	<b>Obtaining Assurances</b>	All documents detailing the selection criteria will specify that selection will include the obtaining by the Council of satisfactory assurances in terms of <b>Standing Order 16.1 (Assurances – Tendering)</b> and comply with the requirements of <b>Standing Order 16A (Compliance with the Data Protection Laws)</b> .
8	<b>Lists of Approved Contractors</b>	DELETED
8A	<b>Lists of Approved Providers for Self-Directed Support</b>	DELETED
9	<b>Negotiated Tendering Procedure– General</b>	
9.1	<b>Use of the Negotiated Tendering Procedure</b>	This Standing Order shall apply to all Regulated Procurements which are conducted without advertisement (other than the procurement of Social Care Services) and contracts for carrying out works where the estimated value is less than £2million.
9.2	<b>Conditions for using Negotiated Procedure</b>	<p>The negotiated tendering procedure may only be used if:-</p> <ul style="list-style-type: none"> <li>(a) the circumstances set out in <b>Standing Order 9.3</b> exist;</li> <li>(b) it is in the Council's interest to use the negotiated tendering procedure;</li> <li>(c) the contract will secure Best Value (as set out in <b>Standing Order 2.6</b>); and</li> <li>(d) all relevant requirements of these Standing Orders have been complied including but not limited to:- <ul style="list-style-type: none"> <li>(i) <b>Standing Order 2 (General)</b></li> <li>(ii) <b>Standing Order 4.2 (Contract Reference Number)</b></li> <li>(iii) <b>Standing Order 16 (Assurances – Tendering)</b></li> <li>(iv) <b>Standing Order 19.1 to 19.6 (Selection of Tenderers)</b></li> <li>(v) <b>Standing Order 21.1, 21.2, 21.3, 21.5, 21.6 (as appropriate), 21.8 and 21.12 (Acceptance of Tenders)</b></li> </ul> </li> </ul>
9.3.1	<b>Circumstances where Negotiated Procedure is Permitted (Below Higher Value Thresholds)</b>	<p>The appropriate Executive Director, in consultation with the Chair (or in his/her absence) the Depute Chair of the appropriate Committee must approve the existence of the following circumstances:-</p> <ul style="list-style-type: none"> <li>(a) Where as a result of the publication of a contract notice no tender, no suitable tenders, no requests to participate or no suitable requests to participate has been received provided that the initial conditions of the contract are not substantially altered; or</li> <li>(a) Where the works, services or supplies can be supplied only by one suitable contractor for any of the following reasons:- <ul style="list-style-type: none"> <li>(i) the aim of the procurement is the acquisition of a unique work of art or artistic performance; or</li> <li>(ii) competition is absent for technical reasons; or</li> <li>(iii) the protection of exclusive rights including intellectual property rights;</li> </ul> <p>but in the cases of (ii) and (iii) no alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement; or</p> </li> <li>(b) Where in the case of a supplies contract for additional deliveries by the original supplier intended as a partial replacement of supplies or installations or as the extension of existing supplies or installations that a change of supplier would oblige the Council to</li> </ul>



acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance subject to the duration of the contract not exceeding 3 years unless exceptional circumstances exist; or

- (c) Where in the case of a contract for the supply of goods, the goods are manufactured purely for the purpose of research, experiment, study or development, but the contract awarded shall not include quantity production to establish their commercial viability or to recover research and development costs; or
- (d) Where in the case of a supplies contract, it is in the interests of the Council to take advantage of particularly advantageous terms from a supplier which is definitively winding up its business activities or from a liquidator in an insolvency procedure, an arrangement with creditors or a similar procedure under national laws or regulations; or
- (e) Where in the case of a supplies contract the supplies are quoted and purchased on a commodity market; or
- (f) Where in the case of a services contract it follows a design contest organised in accordance with the European Procurement Regulations and is to be awarded under the rules provided for in the design contest to the winner or one of the winners of the design contest; or
- (g) Where:-
  - (i) it is new works, services or both consisting of the repetition of similar works or services entrusted to the original contractor provided such works or services are in conformity with the project for which the original contract was awarded;
  - (ii) project indicated the extent of the possible works or services and the conditions under which they would be awarded;
  - (iii) the possible use of this procedure was disclosed in the procurement documents and the total estimated cost of the additional works or services was taken into account in determining if the procurement exercise would be a Regulated Procurement; and
  - (iv) no more than 3 years has passed from the conclusion of the original contract.

9.3.2

In the view of the appropriate Executive Director (but only if it is strictly necessary) for reasons of extreme urgency either brought about by events outwith the control of the Council or to prevent danger to life, serious risk to health or damage to property, the contract must be awarded without delay.

9.4

#### **Reporting to Committee**

Where the negotiated tendering procedure has been used, the requirements of **Standing Order 21.8** shall be met.

9.5

#### **Keeping Records**

In all cases where the negotiated procedure has been used in terms of this Standing Order, a full written record of all contacts, discussions and communications with the prospective contractors shall be kept by the appropriate Executive Director together with a full explanation as to why the Executive Director considered it appropriate to use the negotiated procedure and confirming that the contract secures Best Value (as set out in **Standing Order 2.6**).

10	<b>Negotiated Tendering Procedure – Social Care Services Contracts</b>	
10.1	<b>Application</b>	This Standing Order only applies to contracts in relation to the provision of Social Care Services which are below the Higher Value Threshold for Social and Other Specific Services.
10.2	<b>Conditions for using the Negotiated Procedure - Social Care Services Contracts</b>	<p>The negotiated tendering procedure may only be used if the appropriate Executive Director/Director, Health and Social Care in consultation with the Chair (or in his/her absence) Depute Chair of the appropriate Committee is satisfied that:-</p> <ul style="list-style-type: none"> <li>(a) the procedures in <b>Standing Orders 6 (Restricted Tendering), 7 (Open Tendering), 11 (Competitive Dialogue Procedure), 11A (Innovation Partnership) or 11B (Competitive Procedure with Negotiation)</b> would be inappropriate for a particular contract and that one or more of the circumstances set out in <b>Standing Order 10.4(a)</b> apply;</li> <li>(b) it is in the Council's interest to use the negotiated tendering procedure taking account of the principles and guidance set out in the Procurement of Care and Support Services Guidance;</li> <li>(c) the contract will secure Best Value (as set out in <b>Standing Order 2.6</b>); and,</li> <li>(d) all relevant requirements of these Standing Orders have been complied with including but not limited to:- <ul style="list-style-type: none"> <li>(i) <b>Standing Order 2 (General)</b></li> <li>(ii) <b>Standing Order 4.2 (Contract Reference Number)</b></li> <li>(iii) <b>Standing Order 16 (Assurances – Tendering)</b></li> <li>(iv) <b>Standing Order 19.1 to 19.6 (Selection of Tenderers)</b></li> <li>(v) <b>Standing Order 21.1, 21.2, 21.3, 21.5, 21.6 (as appropriate), 21.8 and 21.12 (Acceptance of Tenders).</b></li> </ul> </li> </ul>
10.3	<b>Call Off Contracts – Social Care Services Contracts</b>	DELETED
10.4a	<b>Circumstances where Negotiated Procedure - Social Care Services Contracts is permitted</b>	<p>The appropriate Executive Director/Director of Health and Social Care, in consultation with the Chair (or in his/her absence) Depute Chair of the appropriate Committee may approve the use of the negotiated tendering procedure in one or more of the following circumstances, namely if:-</p> <ul style="list-style-type: none"> <li>(i) in the opinion of the Executive Director the needs of the individual(s) concerned would be best met by a particular provider; or</li> <li>(ii) in the opinion of the Executive Director there is only one provider capable of delivering the service to meet the needs of the individual(s) concerned; or</li> <li>(iii) the nature of the service is such that it should not or cannot be adequately specified in advance because of the nature of the social care needs of the individual(s) concerned; or</li> <li>(iv) there are special circumstances such as ownership of land or property, geographic locations or particular skills or experience of providers of social care which limit the choice to one provider; or</li> <li>(v) where the service user wishes in terms of the National Strategy</li> </ul>

- on Self Directed Support to arrange services with a particular provider but wishes the Council to arrange this on his behalf; or
- (vi) in any other circumstances where the Executive Director is of the view that it is in the best interests of the service user to use a particular provider.

In all of these circumstances the Executive Director must be satisfied that the provider will meet the service users' outcomes.

10.4b	<b>Reporting To Committee</b>	The award of a Social Care Services contract where the negotiated tendering procedure has been used must be reported to the appropriate Committee in accordance with the requirements of <b>Standing Order 21.8 (notification of award to committee)</b> .
10.4c	<b>Keeping records</b>	In all cases where the negotiated procedure has been used in terms of this Standing Order, a full written record of all contacts, discussions and communications with the prospective providers shall be kept by the appropriate Executive Director together with a full explanation as to why the Executive Director considered it appropriate to use the negotiated procedure and confirming that the contract secures Best Value (as set out in <b>Standing Order 2.6</b> ).
10.4d	<b>Complying with the Reform Act</b>	When procuring Social Care Services the appropriate Executive Director shall ensure that the requirements of <b>Standing Order 4.13 (Sustainable Procurement Duty)</b> are complied with.
11	<b>Competitive Dialogue Procedure</b>	
11.1	<b>Committee Approval</b>	The Competitive Dialogue Procedure provided for in the European Procurement Regulations may only be used where the prior approval of the appropriate Committee has been given to its use.
11.2	<b>Use of Competitive Dialogue Procedure</b>	The use of the Competitive Dialogue Procedure in any contract approved by Committee shall be subject to the European Procurement Regulations and such guidance and requirements as the Head of Finance (Transactions) and the Head of Administration and Legal Services consider appropriate.
11.3	<b>Prizes/Payments</b>	The provision of prizes and/or the making of payments to participants in a Competitive Dialogue Procedure shall be subject to the prior approval of the Head of Administration and Legal Services.

11A	<b>Innovation Partnerships</b>	
11A.1	<b>Committee Approval</b>	An Innovation Partnership provided for in the European Procurement Regulations may only be used where the prior approval of the appropriate Committee has been given to its use.
11A.2	<b>Use of Innovation Partnership</b>	The use of an Innovation Partnership shall be subject to the European Procurement Regulations and such guidance and requirements as the Head of Finance (Transactions) and/or Head of Administration and Legal Services considers appropriate.
11B	<b>Competitive Procedure with Negotiation</b>	
11B.1	<b>Approval</b>	The Competitive Procedure with Negotiation provided for in the European Procurement Regulations may only be used when the prior approval of the Head of Administration and Legal Services has been given to its use.
11B.2	<b>Use of the Procedure</b>	The use of the Competitive Procedure with Negotiation in any contract shall be subject to the European Procurement Regulations and such guidance and requirements as the Head of Administration and Legal Services and/or Head of Finance (Transactions) considers appropriate.
12	<b>Framework Agreements – Internal</b>	
12.1	<b>Framework Agreements – General</b>	Framework Agreements established by the Council must be formed on the basis of these Standing Orders and the applicable provisions of the Reform Act, the Reform Act Regulations 2016, any other Regulations made or Guidance issued by the Scottish Government under the Reform Act and/or the European Procurement Regulations (if appropriate).
12.2	<b>Framework Agreements conditions</b>	<p>All Framework Agreements established by the Council in terms of this Standing Order must set out:-</p> <ul style="list-style-type: none"> <li>(i) the terms and conditions that will apply to any Call Off Contract awarded from the Framework Agreement;</li> <li>(ii) the procedures to be followed in awarding a Call Off Contract either via direct award from or carrying out a mini-competition under the Framework Agreement;</li> <li>(iii) the maximum period for the Framework Agreement (which must not exceed four years except in exceptional circumstances which relate to the subject matter of the Framework Agreement); and</li> <li>(iv) the maximum period for any Call Off Contract awarded under the Framework Agreement.</li> </ul>
12.3	<b>Framework Agreements – Calling Off</b>	<p>Any Call Off Contract to be made under a Framework Agreement established under this Standing Order (either as a direct award or following a mini-competition) must comply with:-</p> <ul style="list-style-type: none"> <li>◆ the procedures specified in the Framework Agreement for the making of such a Call Off Contract;</li> <li>◆ be awarded using the criteria used to establish the Framework</li> </ul>

- ◆ Agreement or as laid down in the Framework Agreement; and
- ◆ where the estimated aggregated value of a Call Off Contract exceeds £50,000 the following requirements must be complied with:-
  - (i) **Standing Order 4.2 (Contract Reference Number);**
  - (ii) **Standing Order 4.3 (Sourcing Strategy)** (if in the opinion of the appropriate Executive Director the Call Off Contract is of high value and/or high risk);
  - (iii) **Standing Order 4.14 (Community Benefit Requirement);**
  - (iv) **Standing Order 18 (E-Procurement)** (where carrying out a mini-competition);
  - (v) **Standing Order 20 (Checking of Pre-Qualification documents/Tenders and Reporting);**
  - (vi) **Standing Order 21 (Acceptance of Tenders)** unless a direct award is being placed via the i-procurement system or from an electronic catalogue on an i-procurement system;
  - (vii) **Standing Order 21.12 (Acceptance of Tenders – Contract Award Notices)** (for Regulated Procurements); and
  - (viii) **Standing Order 25 (Contract Performance Security)** (as appropriate).

12.4	<b>Framework Agreements – access by other contracting authorities</b>	A Call Off Contract under a Framework Agreement established in terms of this Standing Order may only be made by those Contracting Authorities clearly identified for that purpose in the PIN/contract notice.
12A 12A.1	<b>DPS – Internal DPS – General</b>	A DPS established by the Council must be formed on the basis of these Standing Orders and the applicable provisions of the Reform Act, the Reform Act Regulations 2016, any other Regulations made or Guidance issued by the Scottish Government under the Reform Act, and/or the European Procurement Regulations (if appropriate).
12A.2	<b>DPS conditions</b>	<p>A DPS established by the Council in terms of this Standing Order must set out:-</p> <ul style="list-style-type: none"> <li>(i) the terms and conditions that will apply to any Call Off Contract awarded from the DPS; and</li> <li>(ii) the procedures to be followed in carrying out a mini-competition and awarding a Call Off Contract under the DPS.</li> </ul>
12A.3	<b>DPS – Calling Off</b>	<p>Any Call Off Contract to be made under a DPS established under this Standing Order must comply with:</p> <ul style="list-style-type: none"> <li>◆ the procedures specified in the DPS for the making of such a Call Off Contract,</li> <li>◆ be awarded using the criteria used to establish the DPS or as laid down in the DPS; and</li> <li>◆ where the estimated aggregated value of a Call Off Contract exceeds £50,000 the following requirements must be complied with:-           <ul style="list-style-type: none"> <li>(i) <b>Standing Order 4.2 (Contract Reference Number);</b></li> <li>(ii) <b>Standing Order 4.3 (Sourcing Strategy)</b> (if in the opinion of the appropriate Executive Director the Call Off Contract is of high value and/or high risk);</li> </ul> </li> </ul>

- (iii) **Standing Order 4.14 (Community Benefit Requirement);**
- (iv) **Standing Order 18 (E-Procurement);**
- (v) **Standing Order 20 (Checking of Tenders and Reporting);**
- (vi) **Standing Order 21 (Acceptance of Tenders);**
- (vii) **Standing Order 21.12 (Acceptance of Tenders – Contract Award Notices)** (for Regulated Procurements); and,
- (viii) **Standing Order 25 (Contract Performance Security)** (as appropriate).

12A.4	<b>DPS – access by other contracting authorities</b>	A Call Off Contract under a DPS established in terms of this Standing Order may only be made by those Contracting Authorities clearly identified for that purpose in the PIN/contract notice.
13	<b>Framework Agreements – External</b>	
13.1	<b>Framework Agreements - General</b>	<p>(a) The Standing Orders do not apply to Call Off Contracts to be awarded by the Council using Framework Agreements made by other organisations, including but not restricted to the Scotland Excel, Procurement Scotland, the Crown Commercial Service or any other public sector organisation who have made specific provision for collaboration with or allow their use by the Council in their Framework Agreements, subject to <b>Standing Order 13.2 and 13.3</b>.</p> <p>(b) The Council shall not seek offers for contracts which these organisations are entitled to seek on the Council's behalf, except in such cases as the Council deems it likely that Best Value (as set out in <b>Standing Order 2.6</b>) will be obtained by seeking tenders by other means, or as otherwise permitted by the Framework Agreements. All such Framework Agreements must permit the Council to obtain tenders independent of the Framework Agreement if it is likely to be in the interests of Best Value (as set out in <b>Standing Order 2.6</b>) to do so.</p>
13.2	<b>Framework Agreements – Conditions</b>	<p><b>Standing Order 13.1</b> only applies to Framework Agreements which have been formed on the basis of competitive tenders and in full compliance with any legal requirements such as the duty to promote Equal Opportunities, the General Principles, the requirements of the Reform Act, Reform Act Regulations and/or European Procurement Regulations (if applicable) and provided that the Framework Agreement contains or allows any Call Off Contract awarded under this <b>Standing Order 13</b> to contain the following matters:-</p> <ul style="list-style-type: none"> <li>(i) <b>Standing Order 2.3 (Form of Contract and Scots Law);</b></li> <li>(ii) <b>Standing Order 2.6 (Best Value);</b></li> <li>(iii) <b>Standing Order 16A (Compliance with the Data Protection Laws);</b></li> <li>(iv) <b>Standing Order 17 (Confidentiality and Requests for Information);</b></li> <li>(v) <b>Standing Order 18 (E-Procurement);</b> and</li> <li>(vi) where appropriate, all <b>Standing Orders</b> relating to contract conditions.</li> </ul>
13.3	<b>Framework</b>	Any Call Off Contract to be made under an external Framework

**Agreements –  
Procedure for  
Calling Off**

Agreement (either as a direct award or following a mini-competition) must comply with:-

- (a) the procedures specified in the Framework Agreement for the making of such a Call Off Contract;
- (b) be awarded using the criteria used to establish the Framework Agreement or as laid down in the Framework Agreement; and
- (c) where the estimated aggregated value of a Call Off Contract exceeds £50,000 the following requirements must be complied with:-
  - (i) **Standing Order 4.2 (Contract Reference Number);**
  - (ii) **Standing Order 4.3 (Sourcing Strategy);**
  - (iii) **Standing Order 4.14 (Community Benefit Requirement);**
  - (iv) **Standing Order 18 (E-Procurement);**
  - (v) **Standing Order 20 (Checking of Tenders and Reporting);**
  - (vi) **Standing Order 21 (Acceptance of Tenders)** unless a direct award is being placed via an i-procurement Purchase Order or from an electronic catalogue on an i-procurement system;
  - (vii) **Standing Order 21.12 (Acceptance of Tenders – Contract Award Notices)** (for Regulated Procurements); and
  - (viii) **Standing Order 25 (Contract Performance Security)** (as appropriate).

13A      **DPS – External**  
13A.1    **DPS- General**

- (a) The Standing Orders do not apply to Call Off Contracts to be awarded by the Council using a DPS established by other organisations, including but not restricted to the Scotland Excel, Procurement Scotland, the Crown Commercial Service or any other public sector organisation who have made specific provision for collaboration with or allow their use by the Council in their DPS, subject to **Standing Order 13A.2 and 13A.3**.
- (b) The Council shall not seek offers for contracts which these organisations are entitled to seek on the Council's behalf, except in such cases as the Council deems it likely that Best Value (as set out in **Standing Order 2.6**) will be obtained by seeking tenders by other means, or as otherwise permitted by the DPS. Any such DPS must permit the Council to obtain tenders independent of the DPS if it is likely to be in the interests of Best Value (as set out in **Standing Order 2.6**) to do so.

13A.2    **DPS**  
            **– Conditions**

**Standing Order 13.1** only applies to a DPS which has been formed on the basis of competitive tenders and in full compliance with any legal requirements such as the duty to promote Equal Opportunities, the General Principles, the requirements of the Reform Act, Reform Act Regulations and/or European Procurement Regulations (if applicable) and provided that the DPS contains or allows any Call Off Contract awarded under this **Standing Order 13** to contain the following matters:-

- (i) **Standing Order 2.3 (Form of Contract and Scots Law);**
- (ii) **Standing Order 2.6 (Best Value);**
- (iii) **Standing Order 16A (Compliance with the Data Protection Laws);**

- (iv) **Standing Order 17 (Confidentiality and Requests for Information);**
- (v) **Standing Order 18 (E-Procurement);** and
- (vi) where appropriate, all **Standing Orders** relating to contract conditions.

13A.3	<b>DPS – Procedure for Calling Off</b>	<p>Any Call Off Contract to be made under an external DPS must comply with:-</p> <ul style="list-style-type: none"> <li>(a) the procedures specified in the DPS for the making of such a Call Off Contract;</li> <li>(b) be awarded using the criteria used to establish the DPS or as laid down in the DPS; and,</li> <li>(c) where the estimated aggregated value of a Call Off Contract exceeds £50,000 the following requirements must be complied with:- <ul style="list-style-type: none"> <li>(i) <b>Standing Order 4.2 (Contract Reference Number);</b></li> <li>(ii) <b>Standing Order 4.3 (Sourcing Strategy);</b></li> <li>(iii) <b>Standing Order 4.14 (Community Benefit Requirement);</b></li> <li>(iv) <b>Standing Order 18 (E-Procurement);</b></li> <li>(v) <b>Standing Order 20 (Checking of Pre-Qualification documents/Tenders and Reporting);</b></li> <li>(vi) <b>Standing Order 21 (Acceptance of Tenders);</b></li> <li>(vii) <b>Standing Order 21.12 (Acceptance of Tenders – Contract Award Notices)</b> (for Regulated Procurements); and,</li> <li>(viii) <b>Standing Order 25 (Contract Performance Security)</b> (as appropriate).</li> </ul> </li> </ul>
14	<b>Collaborations</b>	
14.1	<b>Application</b>	This Standing Order applies where the Council are entering into Category C1 collaborative arrangements. The prior approval of the Head of Administration and Legal Services will be required to enter into any collaborative arrangement.
14.2	<b>Non-partnership Clause</b>	It shall be an essential express condition in every such collaborative arrangement that it is not intended that there is a legal partnership being created.
14.3a	<b>Tendering</b>	Where in terms of the collaborative arrangements consultants/specialists or other third parties are to be appointed by either the Council or by the other lead partner then such appointment is to be awarded subject to competitive tendering procedures the same as those procedures specified in <b>Standing Orders 6 (Restricted Tendering), or 7 (Open Tendering)</b> or the negotiated procedure if permitted in terms of <b>Standing Orders 9 (Negotiated Tendering Procedure – General) or 10 (Negotiated Tendering Procedure – Social Care Services Contracts)</b> .
14.3b	<b>Trading Operations</b>	Despite the terms of <b>Standing Order 14.3(a)</b> , where the collaborative arrangement allows for the other lead organisation to offer to provide the service in-house, then that service may be viewed as to be treated as if they are a trading operation, in which case it must comply with the Local Authorities (Goods and Services) Act 1970 and/or Local Government in Scotland 2013 (as applicable) or any statutory



modification or re-enactment thereof and any Regulations made and/or Guidance issued by the Scottish Ministers.

14.3c	<b>European Procurement Regulations</b>	However <b>Standing Order 14.3(b)</b> will not apply if the estimated aggregated value of the works/goods or services would exceed the relevant Higher Value Thresholds. In that case any contract to be awarded shall need to be awarded in terms of <b>Standing Order 15 (European Procurement Regulations)</b> regardless of whether it is the Council or another lead organisation seeking to award the contract in terms of the collaborative arrangements.
14.4	<b>Joint responsibility</b>	Contracting authorities will be jointly responsible for ensuring compliance with the European Procurement Regulations where:- (i) the procurement exercise is carried out in its entirety in the name of and on behalf of all the Contracting Authorities involved; or (ii) one of the contracting authorities manages the procurement exercise as lead and on behalf of all the Contracting Authorities involved.
15	<b>European Procurement Regulations</b>	
15.1	<b>Application</b>	
15.1.1	<b>Application- post Brexit</b>	The European Procurement Regulations amended following the UK's exit from the European Union on 30 December 2020 apply to all procurement exercises commenced after 30 December 2020 where the contract value exceeds the relevant Higher Value Thresholds.
15.1.2	<b>Application – transitional procurements and EU funded programmes</b>	Higher Value Procurements which commenced before 30 December 2020, Call Off Contracts awarded under a Framework or DPS established before 30 December 2020 or following a procurement process commenced before 30 December 2020 pursuant to the European Procurement Rules and Higher Value Procurements receiving European funding will be subject to the European Procurement Regulations and the following additional requirements:- (a) publication of all relevant notices on OJEU; and (b) continued use of the European Single Procurement Document not SPD.
15.2.	<b>Tendering Processes</b>	The procedures set out in the European Procurement Regulations are to be followed in relation to the setting up of a Framework Agreement or a DPS, the award of a contract, the award of a Call Off Contract and/or extension of a contract and the following Standing Orders shall be complied with:- (i) <b>Standing Order 2 (General);</b> (ii) <b>Standing Order 4 (Pre-Tender Requirements);</b> (iii) <b>Standing Order 5.3 (Publication of Notices);</b> (iv) approvals in terms of <b>Standing Order 9 (Negotiated Tendering Procedure – General), 11 (Competitive Dialogue), 11A (Innovation Partnerships), 11B (Competitive Procedure with Negotiation) or 14 (Collaborations);</b> (v) <b>Standing Order 16 (Assurances – Tendering);</b> (vi) <b>Standing Order 16A (Compliance with the Data Protection Laws)</b> (if appropriate);

- (vii) **Standing Order 17 (Confidentiality and Requests for Information);**
- (viii) **Standing Order 18 (E-Procurement);**
- (ix) **Standing Order 19 (Selection of Tenderers);**
- (x) **Standing Order 20 (Checking of Pre-Qualification documents/Tenders and Reporting);**
- (xi) **Standing Order 21 (Acceptance of Tenders);**
- (xii) Approvals in terms of **Standing Order 22 (Extension of Contracts);**
- (xiii) **Standing Order 24 (Responsible Third Party);**
- (xiv) **Standing Order 25 (Contract Performance Security)** (if appropriate);
- (xv) **Standing Order 35 (Contract Modifications);**
- (xvi) **Standing Order 36 (Retention of Contract Documents);** and
- (xvii) All **Standing Orders** relating to contract conditions.

- 15.3      **Light Touch Regime**      The procurement of Social and Other Specific Services shall be subject to:-
- (a) the light touch regime as detailed in the European Procurement Regulations which comprises:-
    - (i) publishing a contract notice (unless procuring without advertisement) and contract award notice
    - (ii) complying with the process for the selection of tenderers as set out in **Standing Order 19 (Selection of tenderers);**
    - (iii) complying with the General Principles; and
    - (iv) determining a procurement procedure taking account of the specificities of the services and the requirements and needs of the service user. Declaring that any procurement procedure which is not one of the standard procurement procedures provided for in the Reform Act, Reform Act Regulations and/or the European Procurement Regulations will require the prior approval of the appropriate Executive Director in consultation with the Head of Administration and Legal Services and the Head of Finance (Transactions) which approval will be secured via their signing of the Sourcing Strategy;
  - (b) the requirements of these Standing Orders as set out in **Standing Order 15.2** above (as appropriate);
  - (c) the following requirements of the Reform Act and the Reform Act Regulations 2016;
  - (d) complying with the Sustainable Procurement Duty (refer to **Standing Order 4.13**); and
  - (e) complying with any such guidance as the Head of Administration and Legal Services and/or Head of Finance (Transactions) consider appropriate.

16	<b>Assurances – Tendering</b>	
16.1	<b>As part of Assessment Process</b>	<p>As part of any procurement process, the Council shall obtain from tenderers or have confirmed via another tender process satisfactory assurances in writing in the form determined by the Head of Administration and Legal Services, that:-</p> <ul style="list-style-type: none"> <li>(a) the tenderer has complied with all statutory requirements in respect of observing the Equalities Legislation;</li> <li>(b) where the contract is for the provision of services of a public nature the tenderer has complied with the terms of the Human Rights Act 1998 in relation to the previous provisions of such services;</li> <li>(c) the tenderer has not practised collusion in tendering for any contract with the Council or offered, promised or given any financial or other advantage to the Council or any person employed by or on behalf of the Council in connection with the obtaining or carrying out of any contract with the Council;</li> <li>(d) the tenderer has not engaged in serious and organised criminal activities;</li> <li>(e) where the contract is for the carrying out of works and/or the provision of construction services and/or supplies the tenderer has not engaged in blacklisting activities in the employment of their staff;</li> <li>(f) the tender commits to prompt payment of subcontractors;</li> <li>(g) the tenderer has complied with the requirements of the Modern Slavery Act 2015; and</li> <li>(h) the tenderer has complied with such other requirements as are relevant to the contract being procured.</li> </ul>
16.2	<b>Supporting Evidence and signing</b>	<ul style="list-style-type: none"> <li>(a) Such assurances as may be required for a particular contract in terms of <b>Standing Order 16.1</b> must be supported by satisfactory evidence (if required).</li> <li>(b) Where the contractor is a corporate body then the assurances must be provided by a director of the corporate body or other person authorised to bind the corporate body personally.</li> <li>(c) Reference should be made to the relevant Practice Notes or Procurement Processes and guidance sought from Legal Services on the appropriate requirements (if required) .</li> </ul>
16.3	<b>Selection Criteria - Obtaining Assurances</b>	All documents detailing the selection criteria will specify that selection will include the obtaining by the Council of satisfactory assurances in terms of <b>Standing Order 16.1</b> .
16A	<b>Compliance with the Data Protection Laws</b>	
16A. 1	<b>To be in compliance with the Data Protection Laws</b>	<p>The appropriate Executive Director must comply with the Data Protection Laws including where appropriate:-</p> <ul style="list-style-type: none"> <li>(a) the carrying out of a Data Protection Impact Assessment; and/or</li> <li>(b) ensuring where the contractor will be a Data Processor (as defined in the Data Protection Laws that a written contract is entered into.</li> </ul>

17	<b>Confidentiality and Requests for Information</b>	
17.1.1	<b>Giving out of Information not to be unreasonably excluded</b>	All tender documentation, agreements or contracts shall not prohibit disclosure of information which would otherwise be disclosed in compliance with the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004 or any other legislation amending or replacing it or any guidance and/or codes of practice issued by the Scottish Information Commissioner in relation to such legislation.
17.1.2		No tender documentation, agreement or contract should contain a condition that restricts unjustifiably the disclosure of information held by the Council as a Scottish Public Authority in relation to the tender documentation, agreement or contract.
17.2	<b>Procurement/ Contracting Toolkits</b>	Reference should be made to the Practice Notes and specifically the Council's Confidentiality and Procurement/Contracting Toolkit No1 and the Requests for Information and Procurement/Contracting Toolkit No2 for guidance on the appropriate requirements.
18 18.1	<b>E- Procurement Use of E- Procurement</b>	All procurement exercises where the estimated value of the contract exceeds £5,000 must be conducted using the E-procurement system approved by the Council or by another secure electronic system as approved by the Head of Administration and Legal Services or Head of Finance (Transactions) (Call Off Contracts only).
18.2	<b>Verification and Authentication</b>	<p>(a) Where E-procurement is being used the following requirements regarding the verification and authentication of the submission and the signature of the person making the submission must be complied with:-</p> <p>(i) the signature of the person making the submission must be an authorised signatory of the applicant/tenderer.</p> <p>(b) Any document issued using electronic means must state the Council's requirements relating to authentication or verification of the submission or of the signature of the person making the submission.</p>
18.3	<b>Receipt and Custody</b>	<p>(a) No procurement documents submitted using E-procurement will be considered unless:-</p> <p>(i) it is received in the format specified in the documents;</p> <p>(ii) at the electronic address specified by the Council; and</p> <p>(iii) the electronic submission has been received by the time and date specified as the pre-qualification documents/tender deadline (in all cases being 12 noon).</p>
18.4	<b>Late Submissions</b>	The electronic mailbox identifies pre-qualification documents/tenders received after the date and time deadline specified for return as being late. Pre-qualification documents/tenders received after the date and time deadline specified for return cannot be considered under any circumstances.

- 18.5      **Opening of procurement documents**
- (a) All procurement documents including quotes, pre-qualification documents and tenders submitted using E-procurement shall be opened and be made available for download at the same time via the Council's approved e-procurement system.
  - (b) Sequential opening must be adopted for all procurement exercises, irrespective of value, where the contract will be awarded on the basis of most economically advantageous tender.
- 18.6      **Electronic Auctions**
- (a) The Head of Finance (Transactions) and the Head of Administration and Legal Services may authorise the carrying out of an Electronic Auction where satisfied that:-
    - (i) it is in the interests of the Council to do so and where they are satisfied that the electronic auction is in accordance with the European Procurement Regulations; and
    - (ii) that the likely benefit of an Electronic Auction will outweigh the costs of undertaking the Electronic Auction.
  - (b) An Electronic Auction may only be carried out where the possibility of the use of an Electronic Auction has been stated in the Contract Notice and the tender documents issued to tenderers.
  - (c) Before proceeding with an Electronic Auction the Head of Finance (Transactions) along with a representative of the Resource which requested the electronic auction shall make a full initial evaluation of the tenders in accordance with the award criteria set and with the weighting fixed for them. All tenderers who have submitted admissible tenders shall be invited simultaneously by electronic means to submit new prices (downwards) and/or new values.
  - (d) Prior to the commencement of any Electronic Auction, the Council shall intimate to all tenderers involved the date and time fixed for the carrying out of the electronic auction and the proposed duration of the Electronic Auction together with any proposals for the extension of the duration of the Electronic Auction. An Electronic Auction must not start sooner than 2 working days from the date on which the invitations are sent out.
  - (e) Throughout each phase of an Electronic Auction the Council shall instantaneously communicate to all tenderers involved at least sufficient information to enable them to ascertain their relative rankings at any moment. During the Electronic Auction information relating to all tenderer's new prices and their ranking on price will be instantaneously available to all tenderers electronically (where this has been previously indicated). The Council may also, at any time, announce the number of participants in that Electronic Auction. In no case may the Council disclose the identities of the tenderers during any phase of an Electronic Auction.
  - (f) Any Electronic Auction will be subject to the European Procurement Regulations and such additional procedural requirements as the Head of Finance (Transactions) and/or the Head of Administration and Legal Services considers necessary.

18.7	<b>Dynamic Purchasing System</b>	DELETED
18.8	<b>Electronic Catalogues</b>	<p>(a) The appropriate Executive Director may require tenders to be presented as an electronic catalogue or to include an electronic catalogue.</p> <p>(b) The requirement to provide electronic catalogues shall be subject to the European Procurement Regulations and such additional procedural requirements as the Head of Finance (Transactions) and/or Head of Administration and Legal Services considers necessary.</p>
19	<b>Selection of Tenderers</b>	
19.1	<b>Application</b>	This Standing Order shall apply to all contracts apart from Call Off Contracts where the estimated value exceeds £50,00. The appropriate Executive Director must have regard to any guidance issued by the Scottish Government under the Reform Act in relation to the selection of tenderers.
19.2	<b>Mandatory Exclusion</b>	<p>(a) The appropriate Executive Director must apply the mandatory exclusions as are applicable to a Regulated Procurement or Higher Value Regulated Procurement as are set out in the European Procurement Regulations, Reform Act, the Reform Act Regulations and guidance issued by the Scottish Government under the Reform Act to exclude a bidder from a procurement exercise.</p> <p>(b) The appropriate Executive Director may in exceptional circumstances for overriding reasons relating to the public interest disregard any of the mandatory exclusion grounds when making a decision on the selection of a bidder.</p>
19.3	<b>Discretionary Exclusion</b>	(a) The appropriate Executive Director may apply any of the discretionary exclusions as are applicable to a Regulated Procurement or Higher Value Regulated Procurement as are set out in the European Procurement Regulations, Reform Act, the Reform Act Regulations 2016 and any guidance issued by the Scottish Government under the Reform Act to exclude a bidder from a procurement exercise.
19.4	<b>Limits on Exclusion</b>	(a) A bidder must not be indefinitely excluded from participating in a procurement exercise. The appropriate Executive Director must apply the maximum periods for excluding as set out in the European Procurement Regulations, Reform Act, the Reform Regulations and guidance issued by the Scottish Government under the Reform Act.
19.5	<b>Self Cleansing</b>	<p>(a) Where a bidder is in a situation which may result in its exclusion from a procurement process, the appropriate Executive Director must give the bidder the opportunity to provide evidence that it has taken sufficient and appropriate remedial action to demonstrate its reliability i.e. self cleansed.</p> <p>(b) When considering any self-cleansing measures provided by a</p>

bidder the appropriate Executive Director must consider all relevant factors including the gravity and particular circumstances of the criminal offence or misconduct.

- (c) If the appropriate Executive Director is not satisfied that the self-cleansing measures are sufficient for a bidder to demonstrate its reliability, it must provide a written statement of reasons as soon as is reasonably practicable. The statement of reasons must allow the bidder to understand why the self-cleansing measures taken were insufficient and the basis for the decision.
- (d) All decisions taken by the Executive Director will be recorded in the Report on Tenders.

19.6      **SPD**

- (a) The Council must accept an SPD as preliminary evidence in the form of a self declaration that:-
  - ◆ none of the mandatory or discretionary exclusion grounds apply to a tenderer;
  - ◆ if any of the mandatory or discretionary grounds apply the self-cleansing measures that have been taken; and
  - ◆ the tenderer meets the relevant selection criteria.
- (b) The appropriate Executive Director must set out the specific requirements and minimum standards in the contract notice and tenderers will respond using the SPD.
- (c) The documents in support of the information provided in the SPD can be requested by the appropriate Executive Director at any time during a procurement exercise but in any event:-
  - ◆ in an open tendering procedure must be requested and checked prior to award;
  - ◆ in a restricted tendering procedure, competitive procedure with negotiation, competitive dialogue or innovation partnership must be requested and checked prior to issuing invitations to submit tenders; and
  - ◆ in any procurement exercise where the appropriate Executive Director has a genuine concern that there is a risk to effective conduct of the procurement procedure or ensure the integrity and proper conduct of the procurement process.
- (d) Where the capability or capacity of a sub-contractor or members of a consortia will be relied on to meet the selection criteria in respect of economic and financial standing or technical and professional ability in any procurement process the appropriate Executive Director must request a separate SPD from those parties.

20	<b>Checking of Pre Qualification Responses/Tenders and Reporting</b>	
20.1	<b>Checking pre-qualification responses/Tenders</b>	All pre-qualification documents/tenders received shall, after opening in accordance with <b>Standing Order 18.5</b> be issued to the appropriate client Service for checking.
20.2	<b>Evaluation</b>	<p>(a) The procurement documents shall state the selection and contract award criteria applicable to the procurement exercise. All pre-qualification responses and tenders shall be evaluated strictly in accordance with the evaluation criteria set out in the procurement documents</p> <p>(b) If during the evaluation process any communication is necessary prior to selecting bidders to be invited to tender/participate or contract award in order to clarify or supplement any aspect of their pre-qualification response/tender such communication shall be conducted via the relevant e-procurement system in accordance with <b>Standing Order 20.3</b>.</p>
20.3	<b>Clarification of Pre-qualification responses/Tenders</b>	<p>(a) Between the last date and time for the receipt of pre-qualification responses/tenders and the date on which a decision is taken as to which, if any, tenderer will be invited to submit a bid/tender is to be accepted, contact may be made using the e-procurement system adopted for the procurement exercise with a person who has submitted a pre-qualification response/tender in respect of any contract in cases where it may be necessary to validate or clarify the terms of the pre-qualification response/ tender or to make any necessary arithmetical adjustments to a tender, but not for any other reason.</p> <p>(b) All discussions should be conducted in accordance with the following additional rules:-</p> <ul style="list-style-type: none"> <li>(i) all tenderers must be treated equally and in a fair and transparent manner;</li> <li>(ii) tenderers must not be allowed to change their tenders in a way that allows them to improve their offer;</li> <li>(iii) all matters of clarification (other than arithmetic adjustments which should be dealt with in accordance with <b>Standing Order 20.3(c)</b> or clarification of a matter specific to an individual tender must be notified to all persons submitting a pre-qualification response/tender;</li> <li>(iv) where there is a need for clarification with more than one person those discussions should not be confined to the tenderer most likely to win the contract;</li> <li>(v) there must be no discussions on fundamental aspects of tender changes to which are likely to distort competition including but not limited to prices;</li> <li>(vi) no material change to the specification and/or the criteria on which the tenders are to be assessed; and</li> <li>(vii) clarification process is carried out using the e-procurement system adopted for the relevant procurement exercise with a full written record shall be kept by the appropriate Executive</li> </ul>



Director of all contacts, discussions, communications and meetings with the tenderer and the outcome of these discussions including any adjustments made as a consequence.

- (c) Where having checked all the price bids opened that examination reveals obvious errors or discrepancies which would affect the tender rates/price in any of those price bids opened, these errors will be dealt with in the following manner:-
  - (i) any obvious arithmetic errors will be rectified by the appropriate Executive Director and the amount of the tender shall be held to be the amount of the documents so rectified and the tenderer informed in writing of the corrected amount; and
  - (ii) where there is an obvious and genuine error in the rates quoted, the tenderer will be given the opportunity of either confirming that they agree to their tender being considered with the error remaining or withdrawing their tender. This procedure must be undertaken in writing. If the tenderer decides to withdraw their tender, it will not be considered for acceptance. The tenderer must not be given the opportunity to submit an amended tender.
- (d) Under no circumstances should a procuring officer re-open a SPD/ITT on PCS-T following the return date to allow for clarification by a bidder. All clarifications should be dealt with via the messaging area on PCS-T.

20.4	<b>No fundamental Changes to Tender Conditions Permitted</b>	<b>Standing Order 20.3</b> does <b>not</b> permit the making of fundamental changes to the tender specifications and/or the award criteria as a result of any post tender discussions with a person(s) making a tender. Where changes to the specification and/or the award criteria are required and/or would be advantageous to the Council, the tendering process must be cancelled by the appropriate Executive Director. If the tendering process is cancelled, it shall be re-started from the beginning in relation to the seeking of tenders.
20.5	<b>Report on Pre-Qualification responses/Tenders</b>	Following the checking and assessment of all pre qualifications/tenders received in relation to a particular contract (including a Call Off Contract a Report on Tenders in a format approved by the Head of Administration and Legal Services shall be prepared and approved by the appropriate Executive Director.
20.6	<b>Exclusion of Tenderers before submission of tenders</b>	<ul style="list-style-type: none"> <li>(a) As soon as reasonably practicable after deciding to exclude a tenderer from participating in a procurement exercise in terms of <b>Standing Order 19</b> at any stage before submitting a tender the appropriate Executive Director must notify the tenderer of that decision in accordance with the requirements of the Reform Act Regulations 2016 and any guidance and requirements as the Head of Administration and Legal Services consider appropriate.</li> <li>(b) The letter must be in a format approved by the Head of Administration and Legal Services and should be issued in accordance with <b>Standing Order 21.5</b>.</li> </ul>

21	<b>Acceptance of Tenders</b>	
21.1	<b>£200,000 and Below – Executive Director</b>	<p>Where the estimated aggregated value of any contract for the supply of any goods, the carrying out of any works or the provision of any services does <b>not exceed</b> £200,000:-</p> <ul style="list-style-type: none"> <li>♦ the lowest priced tender (in a price only tender for a works contract where the estimated value is less than £2million); or</li> <li>♦ the most economically advantageous tender</li> </ul> <p>may be accepted by the appropriate Executive Director and a letter of acceptance issued to the successful contractor.</p> <p>A copy of the contract acceptance must be sent to the Procurement Service).</p>
21.2	<b>Over £200,000 – Executive Director in Consultation with Members</b>	<p>(a) Where the estimated aggregated value of any contract for the supply of any goods, carrying out of any works or the provision of any services <b>exceeds £200,000</b>:-</p> <ul style="list-style-type: none"> <li>♦ the lowest tender (in a price only tender for a works contract where the estimated value is less than £2million); or</li> <li>♦ the most economically advantageous tender</li> </ul> <p>may be accepted by the appropriate Executive Director, following consultation and agreement with the Chair or (in his/her absence) Depute Chair of the appropriate Committee, together with one ex officio Member and a letter of acceptance issued to the successful tenderer.</p> <p>(b) Where no such agreement can be reached then the tender can only be accepted on the authority of the appropriate Committee following consideration of a written report specifying reasons for the failure to agree and the details of the relevant tenders.</p> <p>(c) A copy of the contract acceptance must be sent to the Procurement Service.</p>
21.3	<b>Not accepting the Lowest Tender (in a price only tender for works where the estimated value is less than £2million) or where the Cost of the tender exceeds the Financial provision</b>	<p>Where it is proposed to accept a tender</p> <p>(i) which is either:-</p> <ul style="list-style-type: none"> <li>(a) not the lowest priced tender submitted (in a price only tender for a works contract where the estimated value is less than £2million); or</li> <li>(b) the cost of the tender is in excess of the financial provisions which have been made and approved by the Council in terms of the Council's Financial Regulations; or</li> </ul> <p>(ii) where funding is provided by a third party which has been approved by the Council,</p> <p>then such tender shall only be accepted by the appropriate Executive Director and a letter of acceptance issued to the successful tenderer on the authority of the appropriate Committee following consideration by that Committee of a written report advising of that fact, the likely additional costs and where applicable, the reason(s) for not accepting the lowest tender submitted.</p>
21.3A	<b>Abnormally Low Tenders</b>	<p>(a) Where a tender appears, in the opinion of the appropriate Executive Director, to be abnormally low having considered all factors which may affect price or costs and the effective delivery</p>

of the contract he must require a tenderer to explain.

- (b) A tender must be rejected as being abnormally low if:-
  - ◆ the appropriate Executive Director is not satisfied that the evidence supplied explains the low level of the tender; or
  - ◆ it has been established that the tender is abnormally low because it does not comply with environmental, social or labour law.
- (c) A tender must not be rejected solely on the basis of low price or cost.
- (d) In deciding whether to exclude an abnormally low tender the appropriate Executive Director must comply with any guidance issued by the Scottish Government under the Reform Act and any guidance and requirements as the Head of Administration and Legal Services and/or Head of Finance (Transactions) considers appropriate.

21.4	<b>No Tender Being Accepted</b>	If the appropriate Executive Director decides that none of the tenders submitted should be accepted, then that Executive Director shall notify all persons making tenders accordingly.
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| 21.5 | <b>Issue of Letters</b> | <ul style="list-style-type: none"><li>(a) Letters to the unsuccessful tenderer will be issued at the same time as the letter to the successful tenderer.</li><li>(b) Letters to be issued under the Standing Orders shall be in a format approved by the Head of Administration and Legal Services.</li><li>(c) Letters to be issued under this Standing Order shall be issued electronically via the Council's approved e-procurement system and may be followed up by the posting of a hard copy at the discretion of the appropriate Executive Director.</li></ul> |
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| 21.6 | <b>General Conditions</b> | <p>No tender shall be accepted unless:-</p> <ul style="list-style-type: none"><li>(a) <ul style="list-style-type: none"><li>(i) the appropriate Executive Director is satisfied as to the current technical and professional ability of the tenderer; and</li><li>(ii) the appropriate Executive Director in consultation with the Executive Director (Finance and Corporate Resources) is satisfied with the economic and financial standing of the tenderer in question (other than for contracts being procured using the urgency ground of the negotiated tendering procedure in accordance with <b>Standing Order 9.3.2</b>);</li></ul></li><li>(b) where the tender is not within the financial provisions which have been made and approved by the Council in terms of the Council's Financial Regulations or funding is provided by a third party which has been approved by the Council, the additional cost has received prior approval from the appropriate Committee;</li><li>(c) the tenderer and any sub-contractor/consultant who will be used to deliver the contract agrees to comply with the terms of:-<ul style="list-style-type: none"><li>(i) <b>Standing Order 17 (Confidentiality and Requests for Information)</b>;</li><li>(ii) all <b>Standing Orders relevant to contract terms</b>; and</li></ul></li></ul> |
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(iii) **Standing Order 25 (Contract Performance Security);**

- (d) the tenderer has provided the appropriate assurances as required in terms of **Standing Order 16.1 (Assurances – Tendering)**;
- (e) where the contractor will be a Data Processor ( as defined in the Data Protection Laws) the requirements of **Standing Order 16A (Compliance with the Data Protection Laws)** have been complied with;
- (f) where a contract is of a type referred to in the Local Government Contracts Act 1997 (a contract of services lasting or intended to last for a period of 5 years or longer or a financial arrangement relating to such a contract) the contract shall not be entered into by the Council until a certificate in compliance with the Act is issued by the Council where it is requested by the tenderer; and
- (g) the appropriate Executive Director is satisfied with the documentary evidence or certificates produced by the tenderer in support of the information provided in the SPD.

21.7 **Compliance with the Standstill Period**

- (a) Where the European Procurement Regulations apply to any contract (other than a contract for Social and other Specific Services) no acceptance of a successful tender shall be made by the Council unless and until the standstill procedure set out in the European Procurement Regulations has been followed.
- (b) The standstill period referred to in the standstill procedure depends on the method by which the standstill letter is sent. If the standstill letter is sent by fax or email the standstill period is a minimum of 10 calendar days from the date on which the last standstill letter for the particular tender is sent and if sent by any other means the standstill period is a minimum of 15 calendar days. In calculating the standstill period the date the standstill letter is sent must be disregarded and if the last day is not a working day the standstill period must be extended to the next working day.
- (c) The standstill letters must be in a format approved by the Head of Administration and Legal Services and signed by the appropriate Executive Director.
- (d) At the option of the appropriate Executive Director a voluntary standstill period can be observed in relation to the award of any contract and/or setting up of a Framework Agreement, DPS or arrangement established in terms of the light touch regime and/or the award of a Call Off Contract and the provisions of this **Standing Order 21.7** will apply.

21.8 **Notification of Award to Committee**

- (a) Any contract awarded with an estimated aggregated value in excess of £50,000 shall be reported by the appropriate Executive Director to the relevant Committee on a six monthly basis.
- (b) The report shall contain the following information:-
  - (i) the name of the successful tenderer(s);
  - (ii) the value of the contract awarded;
  - (iii) the date of award; and
  - (iv) the brief description of the contractand such other information as may be specified from time to time

by the Head of Finance (Transactions).

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| 21.9  | <b>Debrief</b>  | The Council will offer all unsuccessful tenderers an opportunity for a debrief.  |
| 21.10 | <b>Giving of Reasons – Regulated Procurements</b>                             | <ul style="list-style-type: none"><li>(a) In relation to all Regulated Procurements the appropriate Executive Director must notify its decision to award to all unsuccessful bidders.</li><li>(b) The notification must be in a format approved by the Head of Administration and Legal Services and signed by the appropriate Executive Director.</li></ul>   |
| 21.11 | <b>Provision of Further Information – Regulated Procurements</b>              | Where a written request for further information is received from a person in relation to a Regulated Procurement the Council must comply with the requirements of the Reform Act and seek advice and assistance as required from Legal Services.   |
| 21.12 | <b>Contract Award Notices</b>   | <ul style="list-style-type: none"><li>(a) The Executive Director (Finance and Corporate Resources) shall ensure that Contract Award Notices are published for all Regulated Procurements (including Call Off Contracts) and Higher Value Regulated Procurements (other than Call Off Contracts) as soon as possible after acceptance of the successful tender/appointment to a Framework or DPS and no later than 30 days after the issue of the letter of award of the contract/conclusion of the Framework or DPS in accordance with <b>Standing Order 5.3</b>.</li><li>(b) Where a contract has been awarded based upon a DPS the contract award notices can be aggregated on a quarterly basis and published within 30 days after the end of each quarter.</li></ul>                     |
| 22    | <b>Extension to Contracts</b>   |  |
| 22.1  | <b>Extension of Contracts subject to the European Procurement Regulations</b> | <ul style="list-style-type: none"><li>(a) The extension of a contract which was originally procured under the European Procurement Regulations and includes an option to extend, may be extended under <b>Standing Order 22.2</b> even if the estimated aggregated value of the extension is above the relevant Higher Value Thresholds.</li><li>(b) Where a contract was not originally procured under the European Procurement Regulations and the estimated aggregated value of the proposed extension is above the relevant Higher Value Thresholds, then the proposed extension (whether or not the extension was provided for in the original contract) cannot be made under this Standing Order and <b>Standing Order 15 (European Procurement Regulations)</b> will apply.</li></ul> |
| 22.2  | <b>Authorisation of a Contractual Extension</b>                               | <ul style="list-style-type: none"><li>(a) Where an Executive Director considers that an existing contract should be extended and the option to extend was disclosed in the original contract notice and procurement documents for that contract, that Executive Director may authorise the exercise of that option provided the Executive Director concerned is satisfied:-<ul style="list-style-type: none"><li>(i) the extension secures Best Value (as set out in <b>Standing Order 2.6</b>);</li><li>(ii) the period of the extension does not exceed the original</li></ul></li></ul>   |

		<p>period of the original contract;</p> <p>(iii) the original contract has not been extended previously in terms of this <b>Standing Order 22.2</b> (unless the contractual extension can be exercised in instalments in terms of <b>Standing Order 22.2(b)</b>);</p> <p>(iv) with the financial standing of the contractor; and</p> <p>(v) that the performance of the contractor in the original contract period has been satisfactory in that an average performance rating of 70% or above has been achieved in the performance appraisal(s) carried out during the original contract period.</p> <p>(b) A contractual extension can be exercised in instalments provided that the period of those instalments are stated in the contract notice, procurement documents and any subsequent separate contract document.</p>
22.3a	<b>Non-contractual extension</b>	<p>(a) Where the contract does not make provision for the extension of the contract or the contract has already been extended in terms of <b>Standing Order 22.2</b>, an Executive Director shall not extend the contract unless:-</p> <p>(i) the use of the negotiated procedure can be justified in terms of <b>Standing Order 9 (Negotiated Tendering Procedure – General)</b> or <b>10 Negotiated Tendering Procedure – Social Care Services Contacts</b>); and</p> <p>(ii) the conditions set out in <b>Standing Order 22.3(b)</b> are satisfied.</p>
22.3b	<b>Conditions to be Applied to a Non-contractual Extension</b>	<p>(b) A contract for the supply of goods, the carrying out of works or the provision of services may be extended without fresh competition for further goods, works or services of a similar description provided that:-</p> <p>(i) the original contract was won in competition;</p> <p>(ii) the unit costs in respect of the supply of further goods, or the costs in carrying out the particular works or providing those particular services have not increased by more than 10% (after making allowance for the rate of inflation by use of the Consumer Price Index) over those contained in the original contract;</p> <p>(iii) the extension proposed is reasonable in all the circumstances;</p> <p>(iv) the period of extension does not exceed the original period of the original contract;</p> <p>(v) the original contract has not been extended previously in terms of <b>this Standing Order 22.3</b>;</p> <p>(vi) the appropriate Executive Director is satisfied with the financial standing of the contractor; and</p> <p>(vii) the performance of the contractor in the original contract period has been satisfactory in that an average performance rating of 70% or above has been achieved in the performance appraisal(s) carried out during the original contract period.</p>
22.4	<b>Authorisation of a Non-Contractual Extension</b>	<p>No contract shall be extended in accordance with <b>Standing Order 22.3</b> except with the prior written authorisation of the appropriate Executive Director either in consultation with the Executive Director</p>

(Finance and Corporate Resources) or with his/her agreement (if agreement is required in compliance with Section 20.2 of the Council's Financial Regulations) and the Chair (or in his/her absence) the Depute Chair of the appropriate Committee.

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| 22.5 | <b>Notification to Committee</b>     | Any contract extended under <b>Standing Order 22</b> shall be reported by the relevant Executive Director to the appropriate Committee on a six monthly basis in a format approved by the Head of Administration and Legal Services.   |
| 22.6 | <b>Keeping records</b>               | In all cases where a contract is extended in accordance with this <b>Standing Order 22</b> , a full written record of all contacts, discussions and communications with the contractor shall be kept by the appropriate Executive Director together with a full explanation as to why the Executive Director considered it appropriate to extend the contract and confirming that the extension secures Best Value (as set out in <b>Standing Order 2.6</b> ).   |
| 22.7 | <b>Social Care Services</b>          | Contracts in relation to the provision of Social Care Services may be exempted from the requirements of <b>Standing Order 22.3(b) (i) and (v)</b> , where the Executive Director considers, in consultation with the Chair, (or in his/her absence) the Depute of the appropriate Committee, that it is appropriate under all of the circumstances that the contract should be extended despite having been previously extended. However no contract shall be so extended unless it complies with the requirements of <b>Standing Orders 22.4, 22.5 and 22.6</b> .   |
| 23   | <b>Nomination of Sub-Contractors</b> |  |
| 23.1 | <b>Tendering for Sub-Contractors</b> | <p>Where a contract provides for the nomination by an Executive Director of a sub-contractor for the supply of goods, carrying out of works or provision of services as the case may be, the following provisions shall apply:-</p> <ul style="list-style-type: none"> <li>(a) tenders shall be invited by the Executive Director from not less than five persons whom he/she considers competent (having regard to the technical capability and financial standing of such persons) for the purpose unless, in consultation with the Chair (or in his/her absence) Depute of the appropriate Committee, he/she considers that less than five persons are competent in which case he/she may invite tenders from such lesser number of persons; and</li> <li>(b) all tenders shall then be submitted, opened, checked and accepted in accordance with <b>Standing Orders 18 (E-procurement), 20 (Checking of Pre-Qualification documents/Tenders and Reporting) and 21 (Acceptance of Tenders)</b>.</li> </ul> |

24	<b>Responsible Third Parties</b>	
24.1	<b>Obligations of third parties</b>	<p>Any third party or person (not being an Official of the Council) who is responsible to the Council for a contract on its behalf shall in relation to that contract:-</p> <ul style="list-style-type: none"> <li>(i) comply with these Standing Orders as though he were an official of the Council;</li> <li>(ii) at any time during the carrying out of the contract produce on request to the appropriate Executive Director all records maintained by him in relation to that contract; and</li> <li>(iii) on completion of the contract, transmit to the appropriate Executive Director all such records relating to that contract including information relevant to the Transfer of Undertaking Regulations or amending legislation, where appropriate or applicable.</li> </ul>
24.2	<b>To be a contract Condition</b>	A condition to this effect shall be included in any contract /documentation appointing the third party.
25	<b>Contract Performance Security</b>	
25.1	<b>General right to require security</b>	<p>The Council may ask for security on any contract for the carrying out of works, supply of goods or the provision of services (including any Call Off Contract) where it is in the opinion of the appropriate Executive Director and/or the Executive Director (Finance and Corporate Resources) considered to be appropriate. Such security could include, but not be limited to, a parent company guarantee, performance bond (if the estimated value of the single contract or Call Off Contract is more than £500,000). The terms of any security will be in a form approved by the Head of Administration and Legal Services.</p>
26	<b>Contract Term - Sub-Contractors</b>	
26.1	<b>Obligations on Sub-Contractors</b>	<p>It shall be a condition of every contract entered into by the Council that all conditions to be observed by contractors in terms of these Standing Orders and in the contract itself shall equally apply to sub-contractors, and all contractors shall be responsible for the observance of such conditions by such sub-contractors.</p>
27	<b>Contract Terms – Insurance</b>	
27.1	<b>Contractor must have Insurance to specified level</b>	<p>All specifications issued by and contracts entered into with the Council in connection with the carrying out of works or the provision of services or supplies shall provide that the contractor shall be insured with an Insurance Company approved by the Council or shall demonstrate self insurance to the satisfaction of the Executive Director (Finance and Corporate Resources) against:-</p> <ul style="list-style-type: none"> <li>(i) liability at common law and/or under any legislation including but not restricted to liability under Employer's Liability Compulsory Insurance;</li> <li>(ii) liability to third parties;</li> </ul>



- (iii) any relevant professional indemnity cover; and
- (iv) any other matters relevant to the contract being entered into to such levels as may be specified from time to time by the Executive Director (Finance and Corporate Resources) or by law.

27.2      **Proof of Insurance – Contract Term**      It shall be a condition of every contract entered into with the Council for the carrying out of works for, or the provision of services or supplies to, the Council, that:-

- (a) current certificates of insurance shall be exhibited to the Council prior to the commencement of every contract;
- (b) any new policy of insurance (under which circumstances **Standing Order 27.1** shall apply to that new insurance policy) shall be exhibited to the Council prior to or at its commencement; and
- (c) on demand any renewal receipts shall be exhibited during the period of the contract.

27.3      **Dealing with Claims – Contract Term**      It shall be a condition of every contract entered into with the Council for the carrying out of works for, or the provision of services or supplies to the Council, that the contractor shall require to deal with any claim, potential claim or complaint arising from the carrying out of said works or the provision of said services or supplies, made by the Council, any of its tenants or any other person deriving right or benefit there from,

- (a) by providing in writing within fourteen calendar days of such claim, potential claim or complaint first having been intimated to the contractor, details of the name and address of their Insurance Company, together with the relevant policy number, to enable such claim, potential claim or complaint to be intimated to their Insurance Company by the Council, any such tenant or any such other person;
- (b) declaring that the contractor shall be obliged thereafter to provide timeously to their Insurance Company all relevant details to enable such claim, potential claim or complaint to be processed with the minimum of delay; and
- (c) binding the contractor to update the Council on the progress and outcome of any claim submitted by any of its tenants or any other person deriving right or benefit from the Council.

28      **Contract Terms - Illegal Practices**  
 28.1      **Cancellation of Contract**

Every contract entered into by the Council shall contain a clause entitling the Council to cancel the contract and to receive from the contractor the amount of any loss resulting from such cancellation if the contractor or any of their representatives (whether with or without the knowledge of the contractor) shall have practised collusion in tendering for the contract or any other contract with the Council or shall have offered, promised or given to the Council or any other public body or any person employed by or on behalf of the Council or any other public body any financial or other advantage to induce a person to perform improperly or to reward a person for the improper performance of a relevant function of activity in relation to the obtaining or carrying out the contract or any other contract with the

Council or any other public body.

28.2	<b>Remedies</b>	<p>Where a contract is cancelled in terms of <b>Standing Order 28.1:-</b></p> <ul style="list-style-type: none"><li>(a) the contractor shall be liable for any loss or damage which the Council may thereby sustain; and/or</li><li>(b) where the contractor is included in any list of persons who will be considered for tenders the Executive Director shall immediately remove or require the removal of the contractor from that list; and/or</li><li>(c) where the Contractor is appointed to any Framework, DPS or arrangement established in terms of the light touch regime, the Executive Director shall immediately remove or require the removal of the contractor from that Framework, DPS or arrangement established in terms of the light touch regime.</li></ul>
29	<b>Contract Terms – Assignment/Sub- Contracting</b>	
29.1	<b>No Assignment/Sub- Contracting</b>	Unless specifically permitted in a contract, a contractor shall not assign or sub-contract the contract or any part thereof except with the prior written consent of the Council.
29.2	<b>Permitted Approval</b>	<p>The appropriate Executive Director shall approve any request to sub-contract or assign the contract or any part thereof which meets:-</p> <ul style="list-style-type: none"><li>(a) the requirements of the contract conditions in relation to sub-contractors and assignment and</li><li>(b) the following requirements of Standing Orders:-<ul style="list-style-type: none"><li>(i) <b>Standing Order 16</b> (Assurances – Tendering)(as appropriate);</li><li>(ii) <b>Standing Order 19.1 to 19.5</b> (Selection of Tenderers); and</li><li>(iii) <b>Standing Order 21.6 (a) and (d) to (g)</b> (General Conditions – Acceptance of Tenders).</li></ul></li></ul>
30	<b>Contract Terms - Equalities Legislation</b>	
30.1	<b>To be in compliance with Equalities Legislation</b>	Where the contract relates to the discharge of a Council function, the contractor shall be bound to discharge that function in a manner which encourages the observance of the Equalities Legislation.
30.2	<b>Undertaking in relation to Equalities</b>	<p>Where a contractor is undertaking a function of the Council on its behalf the contract must contain an undertaking by the contractor, when carrying out that function, not to do any act which constitutes discrimination on the grounds of sex, marital status, race, disability, age, gender, sexual orientation, language or social origin, or other personal attributes (including religion or lack thereof) such as religious beliefs or political opinions (or lack of such beliefs or opinions). Further the contract must contain such provision(s) as is/are necessary, having due regard to the need to:-</p> <ul style="list-style-type: none"><li>♦ eliminate unlawful discrimination;</li><li>♦ eliminate harassment;</li><li>♦ promote equality of opportunity;</li><li>♦ take steps to take account of persons disabilities etc , even where that involves treating disabled persons etc more favourably than other persons;</li><li>♦ promote positive attitudes; and</li><li>♦ encourage participation in public life</li></ul> <p>to ensure that the Council can comply with its statutory duties, and</p>

where appropriate to ensure that the contractor will comply with its statutory duties, under the Equalities Legislation.

31	<b>Contract Terms - Human Rights Act 1998</b>	
31.1	<b>To be in compliance with the Human Rights Act 1998</b>	Where appropriate, any contract must contain an assurance in writing, in the form determined by the Head of Administration and Legal Services, that the contractor will comply with the requirements of the Human Rights Act 1998, if applicable and/or subsisting, in so far as they are carrying out a function for the Council and that the contractor will indemnify the Council against any and all claims that may be made against the Council due to a breach of the Act which is caused by, or arises out of, the contract or any actions or omissions of the contractor under the contract.
32	<b>Trading Operations</b>	DELETED
33	<b>Contract Terms – compliance with Environmental, Social and Employment Law</b>	
33.1	<b>Conditions for performing contract</b>	<p>The appropriate Executive Director must include in a contract or Framework Agreement or DPS or arrangement established in terms of the light touch regime conditions relating to the performance of that contract, Framework Agreement, DPS, arrangement established in terms of the light touch regime and Call Off Contract that:-</p> <ul style="list-style-type: none"> <li>(i) are linked to the subject matter of the contract, Framework Agreement, DPS, arrangement established in terms of the light touch regime or Call Off Contract;</li> <li>(ii) are indicated in the call for competition or procurement documents; and</li> <li>(iii) are reasonably necessary to ensure that the successful bidder complies with environmental, social and employment law.</li> </ul>
34	<b>Contract Terms – Termination of Contracts</b>	
34.1	<b>Express Term of contract</b>	<p>It shall be a condition of every contract entered into by the Council, all Framework Agreements, any DPS established by the Council, all arrangements established in terms of the light touch regime and any Call Off Contracts that the Council has the right to terminate the contract, Framework Agreement, DPS, arrangement established in terms of the light touch regime or Call Off Contract where:-</p> <ul style="list-style-type: none"> <li>(i) the contract or Framework Agreement, DPS, arrangement under the light touch rules or Call Off Contract has been subject to substantial modification which would have required a new procurement exercise; and</li> <li>(ii) the contractor at the time of the award was subject to one of the mandatory grounds of exclusion in the European Procurement Regulations or the Reform Act Regulations and should have been excluded from the procurement exercise.</li> </ul>

34.2	<b>Implied Term of Contract</b>	Even if there is no express term in a contract allowing the Council to terminate the contract or Framework Agreement or DPS or arrangement established in terms of the light touch regime or Call Off Contract on any of the grounds mentioned in <b>Standing Order 34.1</b> a term will be implied giving the Council the right to terminate on giving notice.
34.3	<b>Approval</b>	The decision to terminate any contract, Call Off Contract or a contractor's appointment to a Framework Agreement, DPS or arrangement established in terms of the light touch regime shall be authorised by the appropriate Executive Director in consultation with the Head of Administration and Legal Services.
35	<b>Contract Modifications</b>	
35.1	<b>Application</b>	<ul style="list-style-type: none"> <li>(a) A contract, Framework Agreement, DPS, arrangement established in terms of the light touch regime or Call Off Contract may be modified during its term without a new procurement exercise being carried out provided the requirements of Regulation 72 of the European Procurement Regulations are met.</li> <li>(b) This Standing Order will apply to all contracts, Framework Agreements, DPS, arrangement established in terms of the light touch regime or Call Off Contracts where the estimated value exceeds £50,000 and includes all Higher Value Regulated Procurements.</li> </ul>
35.2	<b>Approval</b>	The decision to modify in accordance with this Standing Order shall be authorised by the appropriate Executive Director in consultation with the Head of Administration and Legal Services.
36	<b>Retention of Contract Documents</b>	
36.1	<b>Retention of contracts awarded</b>	<ul style="list-style-type: none"> <li>(a) The appropriate Executive Director must ensure that copies of all contracts awarded are kept in accordance with the Council's retention policy for contract documents.</li> <li>(b) This Standing Order applies to all contracts where the estimated value exceeds £50,000 and includes all Higher Value Regulated Procurements.</li> </ul>
36.2	<b>Retention of documents relevant to awarded contracts</b>	<ul style="list-style-type: none"> <li>(a) The appropriate Executive Director must ensure that the progress of all procurement exercises where the contract value exceeds £50,000 (including all contracts where the value exceeds the relevant Higher Value Thresholds) is documented and that those documents are kept for a period in line with the Council's retention policy for contract documents.</li> <li>(b) The documentation retained must justify decisions taken in all stages of the procurement exercise and comply with the requirements of any relevant Procurement Process.</li> </ul>
37	<b>Procurement Strategy</b>	
37.1	<b>Preparation of the Procurement Strategy</b>	Before the start of each new financial year the Council must review its Procurement Strategy and, if appropriate, revise that Procurement Strategy in accordance with the requirements specified in the Reform

Act and guidance published by the Scottish Government under the Reform Act.

- |      |   |   |
|------|---|---|
| 37.2 | <b>Publication of the Procurement Strategy</b>      | The Council must publish the Procurement Strategy and any revised Procurement Strategy on its website and in any other manner as indicated by the Head of Finance (Transactions).   |
| 38   | <b>Annual Procurement Report</b>                    |   |
| 38.1 | <b>Preparation of the Annual Procurement Report</b> | Within four months of the end of the financial year for which a Procurement Strategy or revised Procurement Strategy was prepared the Council must prepare an annual procurement report in accordance with the requirements specified in the Reform Act and guidance published by the Scottish Government under the Reform Act. |
| 38.2 | <b>Publication of the Annual Procurement Report</b> | The Council must publish the annual procurement report on its website and in any other manner as indicated by the Head of Finance (Transactions).   |



# **Scheme of Delegation**

**Submitted to the First Statutory meeting of South Lanarkshire Council on 18 May 2022**

**Note:** If you need this information in another language or format, please contact us to discuss how we can best meet your needs.  
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## **SECTION 1**

### **Scheme of Delegation to Committees – General Provisions**

#### **1 General Delegations to Committee**

- 1.1 If there is an urgent matter or an emergency, there shall be delegated to all Committees, all the functions, matters, services or undertakings contained in:-
- ◆ the respective terms of reference of Committees
  - ◆ any scheme made under the provisions of an Act of Parliament
  - ◆ any minute of the Council making a specific delegation to a Committee
- 1.2 Delegations are subject to the provisions of the Local Government (Scotland) Act 1973 and any scheme made under that Act or any subsequent amending legislation.

#### **2 Limitations of Delegation**

- 2.1 Each Committee and any officer will observe and comply with the Council's:-
- ◆ Standing Orders on Procedures
  - ◆ Standing Orders on Contracts
  - ◆ Financial Regulations
- and with any resolution, direction and instruction passed by the Council.



## SECTION 2

### Scheme of Delegation to Committees – Specific Provisions

#### 1 Licensing Committee

The Licensing Committee is authorised to exercise all functions in relation to the licensing/regulation of the following activities on behalf of the Council or any other activities relating to licensing in the Civic Government (Scotland) Act 1982 and any new or subsequent amending legislation:-

**(a) Civic Government (Scotland) Act 1982**

- Indoor Sports Entertainments
- Itinerant Metal Dealers
- Late Hours Catering
- Market Operators
- Metal Dealers
- Metal Dealers Exemption Warrants
- Private Hire Car Drivers
- Private Hire Cars
- Public Entertainment
- Second Hand Car Dealers
- Second Hand Dealers
- Street Traders
- Tattooists and Skin Piercings
- Taxi Drivers
- Taxis
- Window Cleaners

**(b) Miscellaneous Licensing and Regulatory Functions or Any Additional Areas of Licensing or Regulatory Responsibility**

- Amusement with Prizes (Lotteries and Amusements Act 1976)
- Amusements with Prizes Machines (not in Public Houses or Hotels) (Gaming Act 1968)
- Cinemas (Cinemas Act 1985)
- Game Dealers (Game Act 1831 and Game Licensing Act 1860)
- Hypnotists (Hypnotism Act 1952)
- Performing Animals (Performing Animals (Regulations) Act 1925)
- Public Charitable Collections (Civic Government (Scotland) Act 1982)
- Societies Lotteries (Lotteries and Amusements Act 1976)
- Theatres (Theatres Act 1968)

## **SECTION 3**

### **A Scheme of Delegation to Officers – General Provisions**

#### **1 Delegated Authority of Officers**

##### **1.1 Officers with delegated authority**

- 1.1.1 can take decisions and authorise actions from time to time as appear to them to be necessary in the interests of South Lanarkshire Council and its inhabitants.
- 1.1.2 will exercise the authority delegated to them in accordance with the policy of the Council and its Committees and Sub-Committees.
- 1.1.3 will exercise the authority delegated to them in accordance with the Council's:-
  - ◆ Standing Orders on Procedures
  - ◆ Standing Orders on Contracts
  - ◆ Financial Regulations
- 1.1.4 will consult local members where it appears to the officer that a proposed decision or action is likely to affect directly the ward interests of local members. This requirement will not apply to proposed decisions or actions which are of general effect throughout the Council area.
- 1.1.5 will consult the Chair and/or Depute Chair of the appropriate Committee on all matters which the officer considers to be sensitive or complex or where consultation appears to be appropriate.

#### **2 General Delegations to Executive Directors, Director of Health and Social Care and Heads of Service**

- 2.1 Making appointments to posts below the level of Head of Service in accordance with the procedures agreed by Council.
- 2.2 Applying all terms and conditions of service as approved by Council.
- 2.3 Applying all personnel policy, practices and procedures as agreed by Council.
- 2.4 Dealing with authorisations for covert directed surveillance and the use of undercover officers and informers in line with the protocols approved to allow the Council to meet its obligations under the Regulation of Investigatory Powers (Scotland) Act 2000 and any new and/or subsequent amending legislation and regulation.
- 2.5 Dealing with approvals for the acquisition and disclosure of communications data in line with the protocol approved to allow the Council to meet its obligations under the Regulation of Investigatory Powers Act 2000 and any new and/or subsequent amending legislation and regulation.
- 2.6 Determining Participation Requests in terms of the Community Empowerment (Scotland) Act 2015.
- 2.7 Authorising the write-off of stock or stores deficiencies or bringing surpluses to account, subject to the agreement of the Executive Director (Finance and Corporate

Resources), who will determine Committee reporting requirements, in line with the Financial Regulations.

- 2.8 Discretion to levy a fee or refuse a request in terms of the Council's Data Protection Policy and Charging Policy. *[Executive Committee of 1 May 2019 (Paragraph 8)]*

### **3 Chief Executive, Executive Directors and Director of Health and Social Care – Authorisation of Other Officers to Exercise Delegation**

- 3.1 The Chief Executive, Executive Directors and Director of Health and Social Care can authorise any other officer to exercise, on their behalf, any authority granted to them other than the function detailed in Clause 2.4 (Covert Directed Surveillance) or Clause 2.5 (Communications Data). To do this the Chief Executive, Executive Director or Director must:-

3.1.1 write to the Head of Administration and Legal Services specifying the post or posts where authority has been granted to exercise the authority on behalf of the Chief Executive, Executive Director or Director.

3.1.2 write to the postholder or holders authorising them to exercise the authority on their behalf.

## **B Statutory Officers**

Statutory officers have specific duties as set out in legislation and discharge this role as part of their wider responsibilities within the Council. They have an important independent role in promoting and enforcing good governance and for making sure that the Council complies with legislation. The 4 main statutory roles and the relevant officers for those roles are as follows:-

### **1 Head of Paid Service – Chief Executive**

The Local Government and Housing Act 1989 established this role. The Head of Paid Service is responsible to councillors for the staffing of the Council and ensuring the work in different departments is coordinated. He or she is responsible for all aspects of the management of the Council. Together with councillors, the Head of Paid Service is responsible for promoting good governance by ensuring processes are in place, fit for purpose and up to date.

### **2 Monitoring Officer – Head of Administration and Legal Services**

The Local Government and Housing Act 1989 established this role. The Monitoring Officer is responsible for advising councillors about the legal position of proposed actions. It is the duty of the Monitoring Officer to prepare a report for the Council if it appears to him or her that the Council, a Committee, Sub-Committee or officer of the Council is likely to contravene the law or give rise to maladministration or injustice.

### **3 Chief Financial Officer – Executive Director (Finance and Corporate Resources)**

The Local Government (Scotland) Act 1973 established this role. The Chief Financial Officer (Section 95 Officer or the Senior Financial Officer) is responsible for the financial affairs of the Council. A fundamental element of the role is to ensure sound financial management through establishing and maintaining internal financial controls and in providing professional advice to councillors on all aspects of the Council's finances.

#### **4 Chief Social Work Officer – Head of Children and Justice Services (Social Work Resources)**

The Social Work (Scotland) Act 1968 established this role. Councils are required to appoint a professionally qualified Chief Social Work Officer to provide members and senior officers with effective, professional advice about the delivery of social work services. The Chief Social Work Officer has a responsibility to highlight where a Council policy may endanger lives or welfare and to ensure that councillors and officers are provided with professional advice in relation to social work and social care services.

## SECTION 4

### Scheme of Delegation to Officers – Specific Provisions

The functions delegated to the Chief Executive, each Executive Director and the Director of Health and Social Care can also be exercised by officers as described in Section 3, Paragraph 3.

#### A Chief Executive

##### **The Chief Executive is authorised:-**

- 1 to allocate resources in the event of an emergency and report any action taken to Committee as appropriate.
- 2 to give a direction in special circumstances that any officer will not exercise a delegated function.
- 3 to give a direction on where the scheme of delegated functions applies to an officer in any specific case.
- 4 to approve the provision of reasonable hospitality up to a value of £3,000 in consultation with the Provost of the Council.
- 5 to approve the provision of reasonable hospitality to representatives of other authorities, organisations, officers of the Council or others.
- 6 to approve visits or attendance by officers at conferences taking place in the UK or abroad.
- 7 to determine and control the standard of furniture, furnishings and equipment within the offices of the Council.
- 8 to accept the lowest tender where the value or estimated cost of any contract does not exceed £200,000 in accordance with Paragraph 21.1 of the Council's Standing Orders on Contracts.
- 9 to accept the lowest tender where the value or estimated cost of any contract exceeds £200,000 in agreement with and following consultation with the Chair or Depute Chair of the appropriate Committee together with an ex officio member in accordance with Paragraph 21.2 of the Council's Standing Orders on Contracts.
- 10 to act as the Proper Officer in terms of Section 190 of the Local Government (Scotland) Act 1973 and any amending legislation for the receipt of Notices of any legal proceedings served on the Council and for the receipt of any Notice, Order or other document required or authorised by any Act to be sent, delivered or served to or upon the Council or to the Proper Officer.
- 11 to act as Proper Officer in terms of Schedule 7A of the Local Government (Scotland) Act 1973 for the purpose of determining, prior to a meeting, whether documents should be made available to the public.
- 12 to act as Returning Officer for election purposes and fulfil the role of Proper Officer in terms of the requirements of the Representation of the People Act 1983.

- 13 to approve any changes to the list of polling districts and designated polling places in terms of Section 142 of the Local Government etc (Scotland) Act 1994 and any new and/or subsequent amending legislation and regulation.
- 14 to deal with any urgent matters arising during recess periods of the Council.
- 15 to designate appropriate officers as Investigation Managers to fulfil the Council's obligations under the Regulation of Investigatory Powers (Scotland) Act 2000 or the Regulation of Investigatory Powers Act 2000 or any amending legislation.
- 16 to deal with applications for the use of covert human intelligence sources (CHIS).
- 17 to make formal determinations in relation to Strategic Environmental Assessments under the Environmental (Scotland) Act 2005 and any new and/or subsequent amending legislation and regulation.
- 18 to act as one of the Proper Officers, together with the Executive Director (Finance and Corporate Resources), the Head of Administration and Legal Services and the Legal Services Managers, authorised to execute deeds on behalf of the Council in terms of Section 194 of the Local Government (Scotland) Act 1973 as amended by the requirements of Writing (Scotland) Act 1995 and any new and/or subsequent or amending legislation.
- 19 to deal with urgent matters relating to periods of national emergency being declared by the Government or other emergency situations involving the closure of public buildings and cancellation of meetings and that, during those periods, the Chief Executive be authorised, in consultation with the Group Leaders (or their representatives), to deal with any issues that would normally be subject to Committee approval, with a report on any issues dealt with during such a period to be submitted to Committee for noting at the earliest opportunity.
- 20 to approve payments without limits.

## **Scheme of Delegation to Officers – Specific Provisions**

### **B Executive Director (Community and Enterprise Resources)**

**The Executive Director (Community and Enterprise Resources) is authorised:-**

#### ***Facilities, Waste and Grounds***

- 1 to manage the Council's Bereavement Services in terms of current legislation and any new and/or subsequent or amending legislation and the Council's approved scheme.
- 2 to carry out the functions of and exercise the powers of the Council in terms of the Land Reform (Scotland) Act 2003 and any new and/or subsequent or amending legislation.
- 3 to fulfil the Council's duties in relation to Waste Management in terms of current legislation and any new and/or subsequent or amending legislation.
- 4 to carry out the functions of the Council in terms of the Environmental Protection Act 1990 (Part IV) and The Code of Practice on Litter and Refuse (Scotland) Act in particular:-
  - ◆ under section 89 – Duty of Local Authorities to keep land and highways clear of litter etc
- 5 to carry out the functions of the Council including maintenance of parks, golf courses, open spaces and allotments in terms of:-
  - ◆ the Community Empowerment (Scotland) Bill December 2014
  - ◆ High Hedges (Scotland) Act 2013
  - ◆ Wildlife and Natural Environment (Scotland) Act 2011
- 6 to carry out the functions of the Council including the delivery of a waste service and refuse collection in terms of:-
  - ◆ Environmental Protection Act 1990
  - ◆ The Landfill Directive (1999/31/EC)
  - ◆ European Waste Framework Directive (2008/98/EC)
  - ◆ Scotland's Zero Waste Plan
  - ◆ The Waste (Scotland) Regulation 2012
  - ◆ Landfill Tax (Scotland) Act 2014
  - ◆ Controlled Waste Regulations 1992
  - ◆ Special Waste Regulations 2011
  - ◆ Waste Management Licensing (Scotland) Regulation 2011
  - ◆ Waste Electrical and Electronic Equipment Regulations 2011
  - ◆ Pollution Prevention and Control (Scotland) (PPC) Regulations 2012
  - ◆ European Waste Incineration Directive (WID) 2000
- 7 to carry out the functions of the Council including providing a catering service and free school meals in terms of:-
  - ◆ The Education (Scotland) Act 1980
  - ◆ The Schools (Health Promotion and Nutrition) (Scotland) Act 2007
  - ◆ Food Safety Act 1990
  - ◆ Food Standards Agency – E Coli 0157 Control of Cross Contamination

- ◆ Commission Directive 1999/21/EC – Dietary foods for special medical purposes
- 8 to carry out the functions of the Council including providing a cleaning service and removal of waste in terms of:-
- ◆ The Health and Safety at Work Act 1974
  - ◆ Factories, Offices and Shops Act 1970
- 9 to carry out the functions of the Council in relation to Countryside Rangers in terms of:-
- ◆ The Nature Conservation (Scotland) Act
  - ◆ Land Reform (Scotland) Act
- 10 to carry out the functions of the Council in relation to the provision of cemeteries and crematorium services in terms of:-
- ◆ The Pollution Prevention and Control (Scotland) Act 2012
  - ◆ Burial Grounds (Scotland) Act 1855
- 11 to carry out the functions of the Council including providing a janitorial service in terms of The Education (Scotland) Act 1980
- 12 to ensure adequate provision in relation to Cultural Services in terms of the Local Government (Scotland) Act 1982 and any new and/or subsequent or amending legislation.

### ***Planning and Economic Development***

#### ***Planning and Building Standards***

- 13 to discharge the Council's Building Standards function in terms of the Building (Scotland) Act 2003, the Building Fees Regulations 2004, Building (Procedures) (Scotland) Regulations 2004 and the Building (Scotland) Regulations 2004, other than the following:-
- ◆ to refuse Building Warrant Applications where representations have been made against the refusal.

#### ***The discharge of duties include:-***

The issue of Statutory Notices including:-

- ◆ Section 25 Notice – Building Regulations Compliance
- ◆ Section 26 Notice – Continuing Requirement Enforcement Notice
- ◆ Section 27 Notice – Building Warrant Enforcement Notice
- ◆ Section 28 Notice – Defective Building Notice
- ◆ Section 29 Notice – Dangerous Buildings Notice
- ◆ Section 42 Notice – Require the removal of occupiers of a defective or dangerous building

#### ***other duties are:-***

- ◆ to issue Building Warrants
- ◆ to extend the period of life of a Building Warrant
- ◆ to accept or reject a Certificate of Completion



- ◆ to carry out Building Standards Assessments
  - ◆ to impose continuing requirements on the building owners
  - ◆ to maintain a publicly accessible Building Standards Register
- 14 to reply on behalf of the Council to relevant consultations from other Authorities and from the Scottish Government on building standards matters which do not have major policy issues.
- 15 to issue permissions and licences for the erection of raised platforms for seating or standing accommodation and for charging fees in respect of expenses incurred, in terms of Section 89 of the Civic Government (Scotland) Act 1982.
- 16 to discharge the Council's Planning function in terms of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006, and the Planning (Scotland) Act 2019, the discharge of duties include the grant of planning applications in the classes listed below (with 'Local Development' category highlighted) subject to first notifying all members of the Council of receipt of the application through the issue of a Weekly List and allowing a period of at least 10 working days to elapse within which any Member may ask the Planning Team, Area Manager Planning and Building Standards Services or HQ Manager Planning and Building Standards Services to consider referring the application to Committee:-
- (a) **Householder applications** not attracting more than 5 objections including house extensions and alterations, dormer windows, garages, accesses, walls, fences and other means of enclosure or where permitted development has been removed by planning condition; (Local Development);
  - (b) **Small scale residential applications** involving up to 10 units not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (or up to 1 hectare if in principle); (Local Development);
  - (c) **Small scale agricultural, industrial, business and general industry, storage and distribution and commercial applications** subject to a maximum of up to 2,000 square metres or up to 5,000 square metres in designated industrial estates or business parks or farmland; or up to 1 hectare where the application is in principle; not attracting more than 5 objections and not involving more than a 50% increase in floorspace of existing buildings; (Local Development);
  - (d) **Small scale applications relating to institutional uses, such as hospitals, health centres, nursing homes** involving up to a 50% increase in floorspace (including extensions and/or new build), entirely consistent with policy and not attracting more than 5 objections; (Local Development provided floorspace does not exceed 5,000 square metres or site area exceeds 2 hectares);
  - (e) **All amended applications** for development in categories (a) and (d) not attracting more than 5 objections and involving changes to previously approved plans relating to changes to layouts, building details, house types, materials, accesses and boundary treatments; (Local Development provided site area does not exceed 2 hectares, housing development does not exceed 49 units and institutional and commercial developments floorspace does not exceed 5,000 square metres);
  - (f) **Applications following the approval of a planning application in principle or detailed planning applications** not attracting more than 5 objections, provided the proposal is mainly consistent with the terms and conditions of any previous consent; (Local Development provided site area does not exceed 2 hectares, housing development does not exceed 49 units and institutional and commercial developments floorspace does not exceed 5,000 square metres);

- (g) **Alterations to shop fronts** not attracting more than 5 objections; (Local Development);
- (h) **Sub-division of an existing house** or conversion of existing buildings to form dwellings in existing residential areas and not attracting more than 5 objections; (Local Development);
- (i) **Listed Building** applications and applications for conservation area consent not attracting more than 5 objections and where there are no Local Development Plan policy implications; (see Note 1 below)  
 Note 1: As the appeal process differs for listed building applications and conservation area consent applications, all refusals of listed building applications and conservation area consent applications and associated planning applications will be considered by the Planning/Area Committee to ensure that any appeal/review against the decisions is considered by the same body for both applications.
- (j) **Advertisement** applications not attracting more than 5 objections;
- (k) **All renewals** of planning permission (Local Development provided site area does not exceed 2 hectares, housing development does not exceed 49 units and institutional and commercial developments floorspace does not exceed 5,000 square metres) for conservation area consent or listed building consent not attracting more than 5 objections;
- (l) **Small scale changes of use** not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (Local Development);
- (m) **Sub-division** of industrial, business, commercial or other non-residential properties not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (Local Development);
- (n) **Telecommunications applications** not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (Local Development);
- (o) **Small scale housing proposals (of up to 10 units) householder developments and change of use proposals** which are not significantly contrary to Development Plan policy where there are no objections; (Local Development);
- (p) **Alterations or deletion of conditions** i.e. section 42 Applications to develop land without compliance with conditions previously attached (including existing mineral consents and the review of old mineral permissions) not attracting more than 5 objections; (Local Development);
- (q) **Extraction of minerals** where the site area is less than 2 hectares not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (Local Development);
- (r) **Waste transfer stations/recycling operations** with a capacity of less than 25,000 tonnes per annum or sludge treatment of less than 50 tonnes (net weight) per day of residual sludge not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (Local Development);
- (s) **Minor engineering operations** which are entirely consistent with Local Development Plan policy not attracting more than 5 objections; (Local Development);

- (t) **Transport and infrastructure projects** where the length of the road, railway, tramway, waterway, aqueduct or pipeline does not exceed 8 kilometres not attracting more than 5 objections and entirely consistent with Local Development Plan policy; (Local Development);
- (u) **Other development (including mixed use projects)** not covered by any of the above uses where the gross floor space of any building, structure or erection constructed is under 2,000 square metres or under 1 hectare where the proposals are in principle and which are entirely consistent with Local Development Plan policy and not attracting more than 5 objections; (Local Development);
- (v) **Wind Turbines** (up to and including 3) which are entirely consistent with Development Plan policy not attracting more than 5 objections. Local Development provided the capacity of the generating station is less than 20 megawatts).

In addition to the above, to handle applications:-

- ◆ made by the Council or which relate to land where the Council has ownership or a financial interest, in accordance with the terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations which came into effect on 30 June 2013;
  - ◆ for overhead electricity lines and electricity sub-stations and gas governor stations;
  - ◆ for fulfilments of conditions attached to planning permissions;
  - ◆ for cutting down, topping, lopping or destruction of trees covered by a confirmed Tree Preservation Order or within a Conservation Area.
- 17 to refuse all applications where the refusal is consistent with Development Plan policy except the following application types:-
- ◆ National and major developments as defined by the Town and Country Planning (Scotland) Act 1997 and any subsequent or amending legislation;
  - ◆ educational and institutional developments, other than extensions to existing facilities;
  - ◆ housing proposals of between 11 to 50 units if in detail and sites of between one and 2 hectares in size if in principle;
  - ◆ industrial, commercial, business and general industry, storage and distribution involving increases in floor space between 2,000 square metres and 10,000 square metres or 5,000 to 10,000 square metres in designated industrial estates or business parks or where the site is between one and 2 hectares in size if in principle;
  - ◆ other development (including mixed uses) where the gross floor area of any building, structure or erection is between 2,000 to 5,000 square metres or the site area is between one and 2 hectares;
  - ◆ listed building/conservation area consent and associated planning applications;
  - ◆ any application generating significant levels of concern, or policy issues, where the Head of Planning and Economic Development Services in consultation with the Chair of the Planning Committee so determines.
- 18 to issue minor approvals/refusals and statutory notices including:-
- ◆ Certificates of Lawful Use or Development
  - ◆ Applications for minor variations of planning consents
  - ◆ Prior Notifications for agricultural and forestry developments
  - ◆ Discontinuance Notices
  - ◆ Prior Notifications for demolition
  - ◆ Prior Notifications for gas and electricity works

- ◆ Prior Notifications for freestanding domestic wind turbines
  - ◆ Prior Notifications for domestic air source heat pumps
  - ◆ Prior Notifications for digital communications
  - ◆ Prior notifications for peatland restoration
  - ◆ Prior notifications for conversion of existing agricultural/forestry buildings to residential or commercial use
- 19 to reply on behalf of the Council to planning consultations from adjacent authorities and the Scottish Government on matters which do not have significant policy implications.
- 20 to conclude Section 75 planning obligations and other minor legal agreements in relation to delegated planning applications (including determining applications for discharge or variation of Section 75 planning agreements/obligations or other minor legal agreements).
- 21 to determine the need for screening and requirements for scoping for an Environmental Impact Assessment and Strategic Environmental Assessment.
- 22 to determine the requirements for a Retail Assessment and matters to be contained in any scoping report.
- 23 to discharge the Council's planning enforcement function, including the service of any notices, for example enforcement, stop, amenity notices and other notices and also the authority to decline to take enforcement action where appropriate.
- 24 to deal with written submissions, hearings and public inquiries in connection with:-
- ◆ appeals to the Scottish Ministers against refusal of consent
  - ◆ deemed refusal appeals (pending consideration by relevant Committee if appropriate)
  - ◆ applications subject to a 'call-in' by the Scottish Ministers
  - ◆ reviews to the Local Review Body
- 25 to add rights of way to the Register for South Lanarkshire Council and, in that connection, to apply, in consultation with the Head of Administration and Legal Services, for a Declarator in the appropriate Sheriff Court where any person with an interest in the land objected.
- 26 in cases of immediate threat, to promote Tree Preservation Orders following consultations with the Chair and/or Depute Chair of the Planning Committee and the Local Members.
- 27 to respond to:-
- ◆ Pre-application screening proposals
  - ◆ Proposal of application notices
  - ◆ Negotiating processing agreements
- 28 to determine, in consultation with the Chair or Depute Chair of the Planning Local Review Body, whether applications for review in terms of Section 43B of the Town and Country Planning (Scotland) Act 1997 and any subsequent or amending legislation and or regulation are competent and relevant and, if necessary and appropriate, to make further enquiry of the applicant and, thereafter, to make further determination on competence and relevance.
- 29 to discharge the Council's Planning function in terms of the High Hedges (Scotland) Act 2013 including:-

- ◆ determining applications requesting that a High Hedge Notice be served, provided that the applications had not attracted more than 5 objections
- ◆ issuing High Hedges Notices where appropriate
- ◆ ensuring compliance with High Hedge Notices, including, if deemed necessary, carrying out any works required and recovering any expenses reasonably incurred in cases where the owner or occupier of the land failed to comply with the notice
- ◆ declining to intervene where considered appropriate
- ◆ dealing with appeals made to the Scottish Ministers

**Note:**

- (1) Planning applications from officers of the Planning Service or a close family relative require to be referred to the appropriate Committee for determination where objections are received.**
- (2) Planning applications from a Member of the Planning Authority or a close relative will also require to be considered by the appropriate Committee.**

**Note: In exercising the delegated functions detailed in paragraphs 21 to 28 the following procedures will apply:-**

- ◆ *a report on the applications to be circulated to all members for their consideration;*
- ◆ *members requiring an application to be determined by the Committee are entitled within 7 days of the dispatch of the report to ask for the applications to be referred to the next meeting of the Committee for consideration;*
- ◆ *all applications to which there are no objections will be processed accordingly at the end of the 7 day period.*

### ***Economic Development***

- 30 to approve loans under the West of Scotland Loan Fund up to and including £50,000.
- 31 to approve loans from £50,000 to £100,000 with the prior approval of the West of Scotland Loan Fund Board.
- 32 to approve loans under Business Loans Scotland (BLS) Loan Fund up to and including £50,000, and in relation to these loans:-
  - 32.1 Sign BLS loan documentation including Loan Agreements and related paperwork such as ranking agreements.
  - 32.2 Approve disbursement of loans by BACS/CHAPS (electronic bank transfer).
  - 32.3 Approve moratoriums for a Borrower where requested and appropriate.
  - 32.4 Release a Borrower from their bond and floating charges where appropriate.
  - 32.5 Authorise the write-off of bad debt if appropriate.
  - 32.6 Authorise subordination of BLS debt, i.e. accept lower ranking position on new debt coming into business if in the best interests of company to do so.
  - 32.7 Where a borrower defaults, authorise negotiation, agreement, implementation, settlement and recovery of monies and execution of necessary correspondence, documentation, deeds and any related matters

on behalf of BLS, including full and final settlement agreements where appropriate on a party to party basis.

- 33 to approve loans from £50,000 to £100,000 with the prior approval of Business Loans Scotland Loan Fund Board and in relation to BLS Loans:
- 33.1 Sign BLS loan documentation including Loan Agreements and related paperwork such as ranking agreements.
  - 33.2 Approve disbursement of loans by BACS/CHAPS (electronic bank transfer).
  - 33.3 Approve moratoriums for a Borrower where requested and appropriate.
  - 33.4 Release a Borrower from their bond and floating charges where appropriate.
  - 33.5 Authorise the write-off of bad debt if appropriate.
  - 33.6 Authorise subordination of BLS debt, i.e. accept lower ranking position on new debt coming into business if in the best interests of company to do so.
  - 33.7 Where a Borrower defaults, authorise negotiation, agreement, implementation, settlement and recovery of monies and execution of necessary correspondence, documentation, deeds and any related matters on behalf of BLS, including full and final settlement agreements where appropriate on a party to party basis.
- 34 to approve applications for grants up to and including £20,000 under the Council's business support programmes.
- 35 to approve applications for grants under the Clyde Gateway Support Scheme.
- 36 to act on behalf of the Council, in consultation with the Chair of the Executive Committee, in relation to:-
- ◆ applications for grant support
  - ◆ acceptance of grants
  - ◆ confirmation of match funding
  - ◆ verification of claims and progress reports
- 37 to award grants from the Aggregate Quarries Fund.
- 38 to award grants of less than £20,000 from the Renewable Energy Fund.
- 39 to award grants of less than £5,000 from the Clyde Wind Farm Community Fund.
- 40 to award grants of up to £25,000 from the Clyde Wind Farm Development Fund.
- 41 to award work to Routes to Work South (RTWS) up to a maximum value of £200,000 with retrospective notification to Committee.

### ***Roads and Transportation***

- 42 in terms of the Construction (Design and Management) Regulations 2007 as follows:-
- ◆ to make appointments as necessary and carry out the duties appropriate to each appointment.

- ◆ in the case of contracts in which the Council acts as agent of the Secretary of State for Scotland in terms of Section 4 of the Roads (Scotland) Act 1984, to consent to the Council being appointed as client's Agent.
- 43 to carry out the following functions of the Council in terms of the Roads (Scotland) Act 1984 and any new and/or subsequent or amending legislation:-
- ◆ under Section 12 in relation to the stopping-up or diversion of roads crossing or entering routes of proposed new roads.
  - ◆ under Section 13 in relation to the imposition of frontagers of the requirements to make up and maintain private roads including the service of appropriate notices.
  - ◆ under Section 15 in relation to the completion of necessary works on private roads occasioned by an emergency (other than an emergency constituted by a danger as defined in Section 91).
  - ◆ under Section 16(1)(b) in relation to the consideration and determination of applications for the adoption of private roads.
  - ◆ under Section 18 in relation to the adoption of footpaths associated with development.
  - ◆ under Section 20 in relation to the construction of new roads within the area
  - ◆ under Section 21 in relation to applications for construction consent.
  - ◆ under Section 23 in relation to stopping up or temporarily closing any new road constructed without consent or in contravention of, or in non-compliance with, a condition imposed by a construction consent.
  - ◆ under Section 25 in relation to the provision of sufficient footways for the safety and convenience of pedestrians.
  - ◆ under Section 30 in relation to the service of notices, subject to Section 31(3), in connection with carrying out works for protecting roads against hazards of nature.
  - ◆ under Section 31(3) in relation to the service of notices in connection with the drainage of public roads.
  - ◆ under Section 34 in relation to the clearance of ice and snow endangering the safe passage of pedestrians and vehicles over public roads.
  - ◆ under Section 35(1) and (4) and after giving notice in terms of Section 35(5) in relation to the provision of road lighting and related structures.
  - ◆ after consultation with the Chief Constable and after informing the Chair, the Depute Chair and the local Members under Sections 36 and 37 in relation to the construction of road humps.
  - ◆ under Section 48 in relation to contributions towards expenditure on constructing or improving roads.
  - ◆ under Section 51 in relation to the authorisation and withdrawal of authorisation for the planting and maintenance of trees, shrubs, grass or other plants within a public road.
  - ◆ under Section 56 in relation to the authorisation of works and excavations in or under a public road.
  - ◆ under Section 57 in relation to the prevention or termination of dangerous works or excavations in or under a public road.
  - ◆ under Section 58 in relation to the granting of permission for the deposit of building materials on roads.
  - ◆ under Section 59 in relation to the control of obstructions in roads.
  - ◆ under Section 60 in relation to the issuing of consent for marking, lighting and

fencing obstructions on roadworks and for shoring buildings requiring protection in similar circumstances.

- ◆ under Section 61 in relation to granting permission to place and thereafter maintain apparatus in or under a public road.
- ◆ after consultation with the Chief Constable and after informing the Chair and the Depute Chair and the local Members under Section 62 in relation to the temporary prohibition or restriction of traffic on roads for reasons of public safety or convenience.
- ◆ under Section 63 in relation to the imposition of the requirement to construct new accesses across road verges or footways where appropriate.
- ◆ under Section 64(2) in relation to the issue of consent to statutory undertakers for work on footways, footpaths or cycle tracks in connection with their apparatus in terms of Section 64(1)(b).
- ◆ under Section 66 in relation to enforcing maintenance of vaults, cellars and related structures within the vicinity of a road.
- ◆ under Section 67 in relation to enforcing safety provisions countering outward opening doors, gates, windows, window shutters or bars interfering with the safety or convenience of road users.
- ◆ under Section 68 in relation to the making of an order to stop up any road that is considered dangerous and unnecessary.
- ◆ under Section 78(2) in relation to the service of notice prior to the diversion of waters, where necessary, in connection with the construction, improvement, and protection of a public road.
- ◆ under Section 79, to negotiate terms and enter into agreements with bridge owners in relation to future maintenance obligations.
- ◆ under Section 83 in relation to the prevention of sight obstructions in the view of road users.
- ◆ under Section 85 in relation to granting permission for the location of builders' skips on roads.
- ◆ under Section 86 in relation to the removal or repositioning of any builder's skip which is causing, or is likely to cause a danger of obstruction.
- ◆ under Section 87 in relation to the removal from roads of unauthorised structures and the consequent reinstatement of the site.
- ◆ under Section 88 in relation to the removal of projections interfering with safe or convenient passage along a road.
- ◆ under Section 89 in relation to the removal of accidental obstructions from roads.
- ◆ under Section 90 in relation to the granting of consent for fixing or placing over or across a road any overhead bridge, beam, rail, pipe, cable, wire or other similar apparatus.
- ◆ under Section 91 in relation to the prevention of danger by the removal of roadside vegetation.
- ◆ under Section 92 in relation to granting consent for planting trees or shrubs within five metres of the edge of the made up carriageway.
- ◆ under Section 93 in relation to the protection of road users from dangers near a road.
- ◆ under Section 94 in relation to the infill of dangerous ditches adjacent to or lying near a road.
- ◆ under Section 96(1) in relation to the issue of a certificate in respect of



extraordinary expenses in repairing roads damaged by heavy vehicles etc.

- ◆ under Section 97 in relation to the issue of consent for trading.
- ◆ under Section 99(2) in relation to the issue of consent to persons undertaking works or excavations necessary to ensure compliance with Section 99(1).
- ◆ under Section 99(3) in relation to the service of notices on owners or occupiers requiring works or excavations to be undertaken to ensure compliance with Section 99(1).
- ◆ under Section 140 in relation to the authorisation of persons taking entry to land for the purposes specified therein.
- ◆ under Section 152(2) in relation to re-determining the means of exercise of a public right of passage over a road.

44 to carry out the following functions of the Council in terms of the Road Traffic Regulations Act 1984 and any new and/or subsequent amending legislation and regulation:-

- ◆ under Section 14 in relation to the temporary prohibition or restriction of traffic on roads.
- ◆ under Section 16 in relation to the prohibition or restriction on roads in connection with certain events.
- ◆ under Section 23 in relation to pedestrian crossings.
- ◆ under Section 65 in relation to the placing of traffic signs.
- ◆ under Section 68 in relation to the placing of traffic signs in connection with the exercise of other powers of the authority as defined in sub-section (1).
- ◆ under Section 69 in relation to the removal of unauthorised signs.
- ◆ under Section 71(1) in relation to the power to enter land in connection with the placing of traffic signs.

45 after consultation with the Chief Constable and after informing the Chair and Depute Chair and the local Members of the Council, to arrange for the advertisement of any proposal for the making, revocation, or variation of Orders and Schemes under:-

- ◆ the Road Traffic Regulations Act, 1984 and any new and/or subsequent amending legislation and regulation; and,
- ◆ Sections 68, 69, 70 and 71 of the Roads (Scotland) Act 1984 and any new and/or subsequent amending legislation and regulation.

46 to carry out the functions of the Joint Road Safety Officer in conjunction with the Chief Constable.

47 to deal with all requests for information in connection with grant applications made under Section 8 of the Railways Act 1974 and any new and/or subsequent amending legislation and regulation.

48 to agree terms for Bridge Agreements with Network Rail or other similar body and terms of discharge of the Council's liability for annual maintenance and renewal charges.

49 after consultation with the Chief Constable, to consider and, where acceptable in road safety terms, approve locations for advertisements on road safety barriers and similar structures.

50 to make arrangements for the management of car parks, etc including, granting the

- use of part of the car park to other persons or bodies and, following consultation with the Executive Director (Finance and Corporate Resources), the imposition or waiving of charges.
- 51 to grant wayleaves in respect of public utilities.
- 52 to carry out the functions of the Council under the New Roads and Streetworks Act 1991 and any new and/or subsequent amending legislation and regulation in relation to roads for which the Council is responsible.
- 53 to issue fixed penalty notices or pursue for prosecution offences under Part IV of the New Roads and Streetworks Act 1991 and Sections 58(1) and 85(3) of the Roads Scotland Act 1994 and any new and/or subsequent amending legislation and regulation.
- 54 under Section 19(5) of the Civic Government (Scotland) Act 1982, after consultation with the local Members, approval of roads issues attached to proposals for taxi stances.
- 55 in terms of the Health and Safety at Work Act 1974 and any new and/or subsequent amending legislation and regulation to carry out all duties set out in the Statements of Responsibilities for “Health, Safety and Welfare in Places of Work” and the “General Statement of Policy on Health and Safety at Work” issued in 1996 as amended.
- 56 after consultation with the local Members, to make grants to householders for the purpose of making good fabric and decoration (excluding curtains) in houses affected by the Council under the Noise Insulation (Scotland) Regulations 1975 and any new and/or subsequent amending legislation and regulation at the rates and on the conditions which may be prescribed from time to time by the Council.
- 57 to carry out, under Part (ii), Roads, Section 4, of the Strathclyde Regional Council Order Confirmation Act 1991 or any amending or subsequent legislation, the erection and keeping in position barriers on roads for the purpose of securing public order or public safety.
- 58 to act as Project Manager, Service Manager or Employer’s Agent (as appropriate) or to appoint a Project Manager, Service Manager or Employer’s Agent (as appropriate) in accordance with the terms and conditions appropriate to Council roads and transportation contracts.
- 59 to approve Traffic Orders in circumstances where no objections were received.
- 60 to approve the provision of new or removal of existing school crossing patrols on the basis that provision was assessed against the approved criteria and took account of comments made by the local Members and the Roads Safety Forum.
- 61 to carry out the following functions of the Council in terms of the Flood Prevention (Scotland) Act 1961 as amended:-
- ◆ under Section 8 in relation to the authorisation of persons taking entry to land for the purposes specified therein
  - ◆ under Section 12 in relation to contributions towards expenditure in carrying out flood prevention operations
- 62 to issue Charge Certificates in terms of Schedule 6(6) of the Road Traffic Act 1991 and any new and/or subsequent amending legislation and regulation.
- 63 in consultation with the Head of Administration and Legal Services as appropriate, to sign Agreements, Memorandum of Understandings, environmental related licences

or other similar documents relating to funding provision, contributions, assets, new infrastructure or maintenance on behalf of the Council in so far as it relates to functions or responsibilities of Roads and Transportation Services as a Roads Authority and Flooding Authority.

- 64 to enter into Contribution Agreements for individual projects pursuant to the terms of the Partnership Agreement between the Council, Clyde Gateway Urban Regeneration Company and Glasgow City Council.
- 65 in terms of Section 7 of the Sewerage (Scotland) Act 1968 and any new and/or subsequent and or amending legislation, to enter into agreements with Scottish Water in relation to drainage infrastructure.
- 66 to carry out the functions of the Council under the Flood Risk Management (Scotland) Act 2009 and any new and/or subsequent or amending legislation.
- 67 to exercise the duties and carry out the functions contained in the Reservoirs Act 1970 and the Reservoirs (Scotland) Act 2011 and any new and/or subsequent or amending legislation.

### ***Fleet and Environmental Services***

- 68 to amend the list of named personnel authorised to serve fixed penalty notices in terms of the Environmental Protection Act 1990 (as amended); the Dog Fouling (Scotland) Act 2003 and the Anti-social Behaviour etc (Scotland) Act 2004 and any new and/or subsequent or amending legislation.
- 69 to amend the list of personnel authorised to act as designated medical officers of the Council in light of any amendments provided by the Health Boards.
- 70 to appoint an officer to act as Chief Inspector of Weights for the purpose of the Weights and Measures Act 1985.
- 71 to appoint named officers of Trading Standards Scotland to undertake enforcement duties in respect of illegal money lending on behalf of South Lanarkshire Council in terms of the Consumer Credit Act 1974 and to authorise named officers of Trading Standards Scotland and any other local authority to carry out the functions of and exercise the powers of the Council in terms of national and/or cross local authority boundary projects to tackle trading malpractice.
- 72 to authorise officers of Glasgow City Council and North Lanarkshire Council to undertake enforcement duties in terms of Part II and Part IV of the Environmental Protection Act 1990.
- 73 to act as an authorised officer and to authorise named personnel to act as authorised officers in terms of Section 5 of the Civic Government (Scotland) Act 1982 to investigate breaches of the said Act and make reports to the Procurator Fiscal as required.
- 74 to designate “competent” persons in terms of Part 1 of the Public Health etc. (Scotland) Act 2008 and to maintain the list of such designated persons.
- 75 to designate authorised persons in terms of the Control of Dogs Act 2010 and any subsequent or amending legislation and maintain a list of such designated persons.
- 76 to undertake the functions of the Council in terms of the various Transport Acts and any new and/or subsequent or amending legislation including the following functions

of the Council in terms of the Goods Vehicles (Licensing of Operators) Act 1995:-

- ◆ under Section 8, to apply for an Operator's Licence
  - ◆ under Section 17, to apply for variations to an Operator's Licence
  - ◆ under Section 18, to publish notice of the application for an Operator's Licence
  - ◆ under Section 21, and corresponding subordinate legislation to ensure that the Council complies with conditions attached to the licence
- 77 to undertake the following requirements in terms of the Financial Regulations:-
- ◆ to set an appropriate charge to user Services for the use of fleet vehicles
  - ◆ to set an appropriate charge to user Services for the use of drivers
- 78 to appoint a proper officer in accordance with the Motor Vehicles (Tests) Regulations 1981 to undertake direct responsibility for MOT testing within the Council.
- 79 to authorise Fleet and Environmental Services personnel to discharge the Council's statutory regulatory duties in relation to public health, housing, including mobile homes, contaminated land, air quality, anti-social behaviour, noise, waste (litter, fly tipping, etc), pest control, dogs, animal health, licensing and inspection of certain animal establishments, water, public health/nuisance, food safety, health and safety at work, the investigation of food and waterborne diseases, vehicle emissions, energy performance, age restricted product sales, weights and measures, consumer safety, fair trading and consumer protection in terms of current legislation and any new and/or subsequent or amending legislation.
- 80 to appoint an officer to act as Lead Officer for food hygiene, safety and standards for the purposes of the Food Safety Act 1990, the Food Hygiene (Scotland) Regulations 2006 and the Official Feed and Food Controls (Scotland) Regulations 2009.

### ***Finance***

- 81 to approve payments up to £2 million.

### ***South Lanarkshire Leisure and Culture***

- 82 to ensure adequate provision in relation to leisure and cultural services in terms of the Local Government and Planning (Scotland) Act 1982 and any new and/or subsequent or amending legislation.

## **Scheme of Delegation to Officers – Specific Provisions**

### **C Executive Director (Education Resources)**

#### **The Executive Director (Education Resources) is authorised:-**

- 1 to carry out the functions of the Council as Education Authority in relation to the provision of education for recorded children in terms of Section 1 and 60 of the Education (Scotland) Act 1980 and any new or subsequent amending legislation including placement in appropriate schools in or outwith South Lanarkshire.
- 2 to approve Co-ordinated Support Plans in respect of individual young people.
- 3 where required, to agree the appointment of suitable escorts and supervising attendants to accompany young people to schools.
- 4 to pay fees and transport costs for pupils with additional support needs attending independent schools and schools in other local authorities.
- 5 to ensure that requisite provision is made for any pupil entitled in terms of Section 53(3) of the Education (Scotland) Act 1980 and any new or subsequent amending legislation to receive refreshment in the middle of the day.
- 6 to carry out the administration, assessment and award of Education Maintenance Allowances. Appeals against award decisions will be dealt with by the Head of Education (Support Services and School Estate) in accordance with the Council's policy on Education Maintenance Allowances.
- 7 to approve the participation of young people and supervising employees in cultural, learning and recreational activities in and outwith the UK and make grants available to individuals and organisations up to a limit of £450 per person or £3,000 per group.
- 8 to consider and deal with placing requests in accordance with the Education (Scotland) Act 1980 and any new or subsequent amending legislation subject to the relevant statutory rights of appeal.
- 9 to approve placing requests in terms of the Education (Scotland) Act 1980, the Education Additional Support for Learning Act 2009 and any new or subsequent amending legislation in respect of individual pupils for whom supporting evidence is provided showing that the child concerned has additional support needs and to make transport arrangements if deemed appropriate.
- 10 to provide services as requested by other local authorities or external agencies and to negotiate appropriate charges for these services.
- 11 to exercise the powers available to the Council as Education Authority in relation to the exclusion of pupils from schools.
- 12 to determine the dates of local school holidays after consultation with the Executive Director (Finance and Corporate Resources) and appropriate trades unions.
- 13 to carry out the functions of the Council in terms of Section 58 of the Education (Scotland) Act 1980 and any new or subsequent amending legislation relating to the cleanliness of pupils at schools.
- 14 to make payment to external examination bodies in respect of candidates presented

for examination.

- 15 to determine the rates of pay to examination invigilators.
- 16 to authorise expenditure on the appointment of School Support Assistants to support pupils with additional support needs.
- 17 to determine the date by which a child must have reached the age of 5 years in order to start school.
- 18 to make arrangements for the implementation of a scheme of appraisal for teachers in accordance with the terms of the Self-Governing Schools (Scotland) Act 1989 (as amended).
- 19 to make joint arrangements with another education authority for the provision of school education and transport in cases where a pupil from South Lanarkshire attends a school under the management of another education authority and meets the distance entitlement as a result of:-
  - ◆ living within the delineated area for a school outwith South Lanarkshire and meeting the distance entitlement requirement, or
  - ◆ having additional support needs.

This delegation does not extend to the provision of services to a pupil who attends a school outwith South Lanarkshire as a result of a placing request.

- 20 to make joint arrangements with another education authority for the provision of secondary school education where a pupil from another education authority attends a primary school associated with a secondary school in South Lanarkshire.
- 21 to enter into arrangements with any partners for school education for children who are under school age or, as the case may be, for pre-schoolchildren in terms of Section 35 of the Standards in Scotland's Schools etc (Scotland) Act 2000.
- 22 to approve placements of children for an additional year of preschool education where:-
  - ◆ the child has a September to December birthday;
  - ◆ the parents have sought to defer entry to primary school; and,
  - ◆ the Admissions Panel has recommended the placement in terms of the Section 34 Guidance on Preschool Education, Standards in Scotland's Schools etc (Scotland) Act 2000.
- 23 to approve constitutions submitted by Parent Forums/Councils in terms of the Scottish Schools (Parental Involvement) Act 2006 and any new and/or subsequent or amending legislation.
- 24 to vary class sizes in primary 1 in response to local circumstances and taking cognisance of the Education (Lower Class Sizes) (Scotland) Regulations 1999 and any new and/or subsequent or amending legislation.
- 25 to reserve places for catchment area children within both primary and secondary schools from the time of consideration of placing requests up to and for the whole of the session to which the placing request related.

- 26 to design and deliver services, policies and processes that meet the requirements of the Children and Young People (Scotland) Act 2014 and the Education (Scotland) Act 2016.
- 27 to make appropriate provision in terms of the Standards in Scotland's Schools Act 2000.
- 28 to support and assist schools, in accordance with the National Operational Guidance, to effectively use their Pupil Equity Funding allocation to improve the educational outcomes of children and young people affected by poverty.
- 29 to sign all agreements, forms, deeds and documents of whatever nature required to be executed by South Lanarkshire Council in its capacity as a member of and host to the SEEMIS Group LLP.
- 30 to approve payments up to £2 million.

## **Scheme of Delegation to Officers – Specific Provisions**

### **D Executive Director (Finance and Corporate Resources)**

**The Executive Director (Finance and Corporate Resources) is authorised:-**

#### ***Administration and Legal***

- 1 to act as Proper Officer in terms of The Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003.
- 2 to exercise the powers of an authorised person in terms of Section 11 of the Safety of Sports Grounds Act 1975 and Section 35 of the Fire Safety and Safety of Places of Sport Act 1987 and any new and/or subsequent amending legislation and regulation (authorisation to enter and inspect sports grounds and make enquiries considered necessary).
- 3 to amend the Council's political management arrangements supporting documentation as required to take account of new or amended legislation, Council policies and procedures, etc.
- 4 to develop the programme of civic twinning visits and agree member representation in light of the particular focus of individual visits and also to make arrangements for incoming civic twinning delegations as required.
- 5 to approve payments, in consultation with the Chair of the Executive Committee, to organisations arranging galas and civic weeks on receipt of their satisfactory applications within the budgetary framework approved by the Executive Committee.
- 6 to engage private legal firms for Court and other legal work if and when it may be considered necessary to enable the legal work of the Council to be carried out.
- 7 to engage Counsel for Sheriff Court, Court of Session and other business as and when it may be considered necessary to enable the legal work of the Council to be carried out.
- 8 to appoint Parliamentary Agents.
- 9 to terminate on behalf of the Council any contract which the Council is entitled to terminate under the appropriate conditions of contract where, after consultation with the appropriate Executive Director, Director or Head of Service, he/she is satisfied that it is in the interests of the Council to do so.
- 10 to take such action as may be necessary on behalf of the Council in appropriate circumstances to protect the legal interests of the Council.
- 11 to act as one of the authorised officers for the Council in terms of Section 11 of the Civic Government (Scotland) Act 1982, together with the Head of Administration and Legal Services, the Licensing and Registration Manager, the Transport Workshop Controller and the Licensing Standards Officers.
- 12 to act as one of the proper officers, together with the Head of Administration and Legal Services and the Legal Services' Managers, authorised to execute deeds on behalf of the Council in terms of Section 194 of the Local Government (Scotland) Act



1973, as amended by the Requirements of Writing (Scotland) Act 1995.

- 13 to make formal appointments to the membership lists of Local Attendance Council Members and of Appeal Committees in terms of Section 28D of the Education (Scotland) Act 1980 and any new or subsequent amending legislation.
- 14 to act in accordance with the recommendations of a Local Attendance Council in relation to prosecution of parents for non-attendance of pupils at school or attendance orders.
- 15 to review and amend the list of standard conditions imposed on the holding of a march or parade.
- 16 to determine applications for a waiver to the legislative requirement to give 28 days' notice in relation to the holding of a march or parade.
- 17 to determine, in consultation with the Chair or Depute Chair of the Licensing Committee, whether objections are relevant and, if necessary, impose conditions on the holding of a march or parade.
- 18 to exercise the following licensing functions, subject to the powers and restrictions noted:-

Function	Power	Restriction
Initial consideration of applications under Section 3(1) of the Civic Government (Scotland) Act 1982	Continue application	
All applications under the Civic Government (Scotland) Act 1982	Grant or refuse all applications where there:- <ul style="list-style-type: none"> <li>◆ are road traffic convictions</li> <li>◆ are non road traffic related fines under £500, whether cumulative or single</li> <li>◆ is a prison sentence of less than 2 years or where the conviction involved a crime of a serious nature attracting a significant penalty</li> <li>◆ are convictions relating to fines over 5 years old</li> <li>◆ are convictions relating to prison sentences of less than 30 months imprisonment which are over 7 years old"</li> </ul>	
	Decide whether there is sufficient reason to entertain an objection/ representation/observation lodged by Police Scotland outwith the objection period.	
All renewals in terms of the Civic Government (Scotland) Act 1982	Grant where no adverse reports or comments are received in line with powers for all applications listed above	
To determine whether "good cause" has been shown in terms of Section 178 of the Criminal Justice and Licensing (Scotland) Act 2010	Accept or reject application for renewal of licence if received after date of expiry of existing licence but within 28 days of same	

<b>Function</b>	<b>Power</b>	<b>Restriction</b>
Applications for substitute vehicles for taxi/private hire car operators	Grant or refuse	
Approval of exterior advertising on taxis; advertisements on exterior front doors of taxis;	Grant or refuse subject to criteria agreed by Committee	
Positioning of stickers/plates issued by the Council	Grant or refuse subject to criteria agreed by Committee	
Applications for protective screens in private hire cars	Grant or refuse in consultation with the Chair or Depute Chair of the Licensing Committee	
Approval of requests for advertising on rear window stickers for taxis	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee	
Approval of requests for aerial flags on taxis	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee <i>[Licensing Committee of 8 July 2015 (Paragraph 5)]</i>	
Approval of vehicles for use as taxis – criteria as agreed by Committee	Grant or refuse subject to criteria agreed by Committee	
Display of name and telephone number on private hire cars	Grant or refuse subject to criteria agreed by Committee	
Approval of taxi signs	Grant or refuse	
Approval of shared hire taxi signs	Grant or refuse	
Applications for taxis in the Clydesdale zone	Grant where no objection received	
Suspension of taxi/private hire car licences under Section 11 of the Civic Government (Scotland) Act 1982	Suspend to the expiry date of the licence or for such shorter period deemed appropriate	Subject to Safety Net Procedure
Applications for exemption from carrying assistance dogs in taxi and private hire car vehicles.	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee	
Applications for the installation of CCTV recording systems in taxi and private hire car vehicles.	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee, subject to consultation with Police Scotland and any appropriate conditions	
Applications for substitute vehicles for Street Traders	Grant where no objection received and subject to prior inspection by Environmental Health	
Applications for Street Trader licences (non-static)	Grant where no relevant objection received and subject to prior inspection by Environmental Health	Subject to Safety Net Procedure
Applications for Street Trader licences (static only) where applicant is an employee and where his/her employer has already been granted a licence for the areas requested by the employee	Grant where no relevant objection received	Subject to Safety Net Procedure
Applications for Public Entertainment licences	Grant where no adverse comments and no objections	

Function	Power	Restriction
Applications for Temporary Public Entertainment licences	Grant or refuse in consultation with Chair of Licensing Committee and local Members	
Applications for Metal Dealer's Exemption Warrants	Grant or refuse	
Applications for Metal Dealer licences	Grant or refuse	Subject to Safety Net Procedure
Applications for Itinerant Metal Dealer licences	Grant or refuse	Subject to Safety Net Procedure
Applications for Second-Hand Car Dealer licences	Grant where no adverse comments and no objections	
Applications for Second-Hand Dealer licences	Grant where no adverse comments and no objections	
Applications for the reclassification of films under the Cinemas Act 1985	Grant or refuse in consultation with the Chair or Depute of Licensing Committee	
Applications for licences to deal with Game	Grant or refuse	
Applications for permission for Public Charitable Collections	Grant where no objections received and subject to statutory criteria being met	
Applications for the Registration of Societies/ Lotteries	Grant where no Police objection received	
Applications for Late Hours Catering licences	Grant where no adverse comments and no objections received if within guidelines	Subject to Safety Net Procedure
Applications for Variations of existing licences	Fix dates for Hearings	
All renewals in respect of the Cinemas Act, Theatres Act and other miscellaneous licensing	Grant where no adverse reports or comments are received	
Applications for the licensing of premises to undertake tattooing and skin piercing activities	Grant where no relevant objections are received	
<p><b>Note: Safety Net Procedure</b></p> <p>The Safety Net Procedure involves a copy of the matter in question being sent to the Chair and Depute of the Licensing Committee and the relevant local members with a request that they contact the Service involved within 7 days if they have any objection to the matter being granted. If no objection is received from any of those Members within that period, the application would be granted. If any comments are received from one of those Members within that period, the matter would be referred to the next available Committee. Where any item to which the Safety Net Procedure applies is contentious, this will automatically be referred to Committee for consideration.</p>		

- 19 to ensure, in consultation with the Chair and Depute Chair of the Finance and Corporate Resources Committee, that the membership of Local Licensing Forums is maintained on an ongoing basis.

- 20 where there are exceptional circumstances, to reduce or waive legal fee charges, as appropriate, to safeguard against undue hardship or in the interests of the commercial viability of a transaction.
- 21 to provide overall strategic responsibility for records management within the Council and to designate an officer with operational responsibility for the Records Management Plan.
- 22 to fulfil and discharge the Council's statutory duties, functions and policies in relation to the registration of private sector landlords, and to maintain a public register in respect of same, including authority and discretion to register and review applications as required in terms of current legislation and any new and/or subsequent or amending legislation. *[Transferred from Executive Director (Housing and Technical Resources)]*

### **Finance**

- 23 to act as the Proper Officer for the Council in terms of Section 95 of the Local Government (Scotland) Act 1973 for the administration of the financial affairs of the Council and the legislation from time to time in force to regulate the way the Council operates its financial affairs.
- 24 to take all executive decisions on borrowing and investment in accordance with the Chartered Institute of Public Finance Accountants' (CIPFA) Code of Practice for Treasury Management in Local Authorities.
- 25 to revise the list of approved organisations to whom the Council lends surplus funds over short periods and the individual sums to be lent (Revision of Counterparty List).
- 26 to vary the Annual Investment Strategy subject to any variations being subsequently reported to the appropriate Committee.
- 27 to approve and implement the uprating of financial loss, special responsibility, travel and subsistence allowances.
- 28 to set aside surplus funds in reserves in consultation with the Chief Executive and the Leader of the Council.
- 29 to approve the granting of rates relief for Credit Unions on an annual basis at an appropriate rate, dependent on the progress made by individual Credit Unions towards financial viability.
- 30 to update and refine the Procurement Strategy to reflect the changing/evolving agenda for procurement on an annual basis.
- 31 in conjunction with the Chair of the Finance and Corporate Resources Committee, in consultation with the Chief Executive and Leader of the Council, to make insurance policy cancellation decisions.
- 32 to approve maintenance work on Lanark and Hamilton Common Good land and properties up to a maximum of £15,000 per year from each Common Good Account.

- 33 to fulfil and discharge the Council's statutory duties, functions and policies in respect of the Housing Benefit Scheme and the Council Tax Benefit Scheme and to administer and operate the Housing Benefit Scheme and Council Tax Benefit Scheme under the appropriate statutory framework and to exercise functions in connection with discretionary powers given to the Council under associated and/or new, subsequent or amending legislation.
- 34 to participate in the National Fraud Initiative and to investigate fraud and potential fraud and to take all necessary and appropriate action as required by the current statutory framework and any current, new and/or subsequent or amending legislation.
- 35 to fulfil and discharge the Council's statutory duties, functions and policies in relation to rent collection, council tax collection, non-domestic rates collection and collection of all debts, payments and accounts due or to become due to the Council in terms of the common law, current legislation and any new and/or subsequent or amending legislation.
- 36 to take action for the recovery of any outstanding debt owed to the Council and to proceed with further legal action, if appropriate, up to and including recovery of possession of property and/or sequestration or liquidation of the debtor.
- 37 to write off debts due to the Council, in consultation with the Executive Director (Finance and Corporate Resources), where recovery has not proved possible, subject to a limit of £100, and to take action for recovery if this should prove possible at some future date.
- 38 to have power to act within any relevant statutory framework in relation to house loans (and Council house sales until all applications have been dealt with).
- 39 to initiate action for the recovery of any outstanding debt owed to the Council (including rent and equivalent to loss of rent in cases where no lease or missive has been concluded) and to proceed, with further legal action, if appropriate, up to and including recovery of possession of property in relation to the Council's estates (other than housing estates).
- 40 to approve payments up to £5 million.

### ***Personnel***

- 41 to approve, in consultation with the Head of Personnel Services, all applications for early release from service with each case being considered on its individual merits.
- 42 to approve, in consultation with the Head of Personnel Services, all requests for flexible retirement.
- 43 to approve requests, in exceptional circumstances, in consultation with the Head of Personnel Services, to re-employ former employees following early retirement, which could be justified as being in the interest of the Council.
- 44 with the exception of Chief Officers and Statutory Officers, to approve requests, in consultation with the Head of Personnel Services, for the application of any of the provisions contained in the Local Government Pension Scheme Regulations (Scotland) Act 1998 and any new and/or subsequent amending legislation and regulation.

- 45 to enter into discussion and conclude agreements with the trades unions on areas where special circumstance exemptions might apply or where the provisions of the Working Time Regulations 1998 could be modified by collective agreement.
- 46 to approve, in consultation with the Head of Personnel Services, the movement of employee and post pay grade placements, within and between Council grades, resulting from the application of the Council's Competence Initiative and subject to any movement being met from existing resources.
- 47 to approve requests for the appointment of temporary workers.
- 48 to establish, in consultation with the relevant Executive Director or Director, the details of each scheme for the recruitment and retention of professional officers.
- 49 to approve, in consultation with the Executive Director (Education Resources), changes to the Education Resources' non-teaching staffing establishment in respect of the implementation of Pupil Equity Funding.

## **D1 The Head of Administration and Legal Services is authorised:-**

- 1 to act as one of the authorised officers for the Council in terms of Section 11 of the Civic Government (Scotland) Act 1982, together with the Executive Director (Finance and Corporate Resources), the Licensing and Registration Manager, the Transport Workshop Controller and the Licensing Standards Officers.
- 2 to act as one of the Proper Officers, together with the Chief Executive, Executive Director (Finance and Corporate Resources) and the Legal Services' Managers, authorised to execute deeds on behalf of the Council in terms of Section 194 of the Local Government (Scotland) Act 1973, as amended by the Requirements of Writing (Scotland) Act 1995.
- 3 to arrange for the common seal of the Council to be fixed to all deeds executed in accordance with Section 194(1) of the Local Government (Scotland) Act 1973 as amended by Schedule 2, paragraph 4 of the Requirements of Writing (Scotland) Act 1995.
- 4 to arrange, as necessary, for the common seal of the Council to be fixed to stock certificates, bonds and mortgages.
- 5 to sign missives and other similar documents binding the Council and to nominate solicitors within Legal Services to sign missives and other similar documents binding the Council.
- 6 to discharge the functions of the Council in relation to any type of judicial or quasi judicial proceedings. To initiate, institute, enter, defend and withdraw from those proceedings, to mark and defend appeals except in the case of appeals to the Supreme Court and, where appropriate, to provide written apologies on behalf of the Council.
- 7 to act as Clerk to the Licensing Board within the South Lanarkshire area and to:-
  - ◆ authorise Solicitors in Legal Services to act as Assistant Clerks to the Divisional Licensing Boards
  - ◆ assign any duties to those officers necessary for the efficient administration of the Licensing Boards
- 8 to act, in addition to the Executive Director (Finance and Corporate Resources), as a Proper Officer for the purpose of signing returns in relation to Stamp Duty Land Tax.
- 9 to act as the Council's Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989.
- 10 to determine, in consultation with the Executive Director (Finance and Corporate Resources), the appropriateness of the use of the power to advance well being in terms of Part 3 of the Local Government in Scotland Act 2003.
- 11 to discharge the Council's functions under the Regulation of Investigatory Powers (Scotland) Act 2000 or the Regulation of Investigatory Powers (Scotland) Act 2000 or any new and/or subsequent or amending legislation.

## **D2 The Head of Finance (Transactions) is authorised:-**

- 1 to object to the granting and/or renewal of licences to traders in arrears relative to Non Domestic Rates payments.
- 2 to lodge complaints and/or request the suspension of existing licences of traders in arrears relative to Non Domestic Rates payments.
- 3 in circumstances of new ownership of long-term empty properties, to determine, on a case by case basis, the entitlement and duration of any reduction in levy. *[Executive Committee of 21 November 2018 (Paragraph 11)]*



## **Scheme of Delegation to Officers – Specific Provisions**

### **E Executive Director (Housing and Technical Resources)**

**The Executive Director (Housing and Technical Resources) is authorised:-**

- 1 to fulfil and discharge the Council's statutory duties, functions and policies in relation to the provision and management of social sector housing, and, where appropriate, competent and relevant, private sector housing in terms of current legislation and any new and/or subsequent or amending legislation.
- 2 to fulfil and discharge the Council's statutory duties, functions and policies in relation to statutory homelessness and housing support in terms of current legislation and any new and/or subsequent or amending legislation.
- 3 to collect service charges levied by the Council where required.
- 4 to implement the Council's policies regarding Property Construction and Maintenance ensuring that proper regard is given to all statutes and regulations.
- 5 to allocate all the Council's houses and make referrals and nominations to Registered Social Landlords or such other bodies as are deemed appropriate.
- 6 to effectively implement all legislation and issue appropriate leases, which reflect legislative requirements, to prospective tenants and to sign leases and other documentation arising from this legislation on behalf of the Council.
- 7 to manage the Council's housing estates and housing estate properties in accordance with the policies of the Council in respect of:-
  - ◆ Conditions of Tenancy
  - ◆ Neighbour Disputes
  - ◆ authority to initiate and pursue legal action as required in consequence of the above
- 8 to fulfil and discharge the Council's statutory duties, functions and policies in relation to anti-social and nuisance behaviour, including authority to initiate and pursue such legal action as is required, in terms of current legislation and any new and/or subsequent or amending legislation.
- 9 to discharge the Council's responsibility for waste (litter) and dog fouling.
- 10 to allocate ancillary letting subjects such as lock-ups and garage sites in accordance with the Council's policies.
- 11 to approve street naming and numbering in consultation with the local Members.
- 12 to settle, without reference to Committee, claims arising in terms of the Land Compensation (Scotland) Act 1973 and any new and/or subsequent or amending legislation in respect of home loss or similar payments following compulsory acquisitions or Housing Action Areas and also to settle any discretionary payments as a result of acquisitions by voluntary agreement, provided that the statutory requirements have been met.
- 13 to authorise payments to account to sellers of property to the Council in cases where negotiations through the District Valuer are protracted for any reason, up to a value

of 90% of the valuation by the District Valuer.

- 14 to authorise payments to account to sellers of property to the Council in cases where conveyancing procedures are protracted for any reason, subject to the exhibition of a good title and the grant of the appropriate undertaking.
- 15 to enter into, renew, vary and terminate annual short-term leases in respect of residential property with rentals up to £10,000 per annum for the purposes of provision of residential accommodation and to sign leases and documentation in respect of same.
- 16 to fulfil and discharge the Council's functions and policies in relation to the repair, improvement and maintenance of the Council's property, and, where appropriate, competent and relevant, private sector property and to have discretion to provide a paid factoring service.
- 17 to sign statutory leases and the annual short-term leases in respect of residential property with rentals up to £10,000 per annum for the purposes of provision of residential accommodation.
- 18 to fulfil and discharge the Council's statutory duties, functions and policies in relation to the Scheme of Assistance in terms of the Housing (Scotland) Act 2006 and any new and/or subsequent or amending legislation and to comply with the requirements of the FSA.
- 19 to approve the suspension of the current policy and approve the implementation of proposals to ensure that all resources are focused towards prioritised areas of work during periods of emergency e.g. due to severe adverse weather, pandemic or natural disaster.
- 20 in consultation with the Head of Administration and Legal Services, to enter into agreements with Housing Associations for the provision of services by the Council's Anti-social Investigation Team.
- 21 to exercise the function of the Council in relation to the provision of accommodation for refugees in accordance with Council policy.

### ***Estates***

- 22 to negotiate and approve terms and conditions of leases and licences by and to the Council at open market value for periods not exceeding 20 years and with property rentals of up to £50,000 per annum.
- 23 to renew, extend or vary existing leases with existing tenants provided these are minor variations or carried out in accordance with the existing terms of the lease.
- 24 to terminate leases and take the appropriate action to regain or surrender possession of the property and recover rent arrears. To allow the surrender of leases where a business intends to expand into larger Council premises or when a business runs into trading difficulties.
- 25 to carry out rent reviews in accordance with the Royal Institute of Chartered Surveyors Appraisal and Valuation Manual, up to an increased rental level of no more than £20,000 over the existing annual rental.
- 26 to approve sub-leases and assignments provided that there are no material variations to the terms of the lease.

- 27 to approve the necessary alterations or adaptations, excluding maintenance, up to a value of £50,000 on any one project, only in respect of the rental portfolio.
- 28 to initiate and pursue all legal actions necessary as part of the good management of the Council's estates (other than housing estates).
- 29 to dispose of surplus property in accordance with the Surplus Assets Procedure.
- 30 to negotiate and agree terms for the disposal of interests in land and property up to a value of £200,000.
- 31 to reject offers of £200,000 or less which do not reflect open market value to enable immediate remarketing.
- 32 to prepare a register of all transactions carried out under delegated powers. This register will be made available for inspection by members and submitted to Committee at quarterly intervals.
- 33 to agree and enter into wayleaves, servitudes, etc to statutory bodies who require rights over Council land for particular purposes.
- 34 to approve wayleaves and servitudes, etc up to and including a value of £50,000.
- 35 to approve exchanges where the value of the Council land to be exchanged together with any additional monies do not exceed £50,000.
- 36 to negotiate and agree terms for the acquisition of land and property up to a value of £200,000.
- 37 to negotiate and agree the terms of leases for electoral sub-stations.
- 38 to negotiate and settle compensation claims in connection with the use of the Council's powers to enter upon and take land/property in the discharge of their statutory powers, up to a maximum of £50,000.
- 39 to negotiate and agree abnormal costs in respect of disposals of interest in land and property up to a value of 10% of the disposal price subject to approval by the appropriate specialists.
- 40 to negotiate and agree terms for the acquisition of properties under the Mortgage to Rent Scheme.
- 41 to sign leases and other documentation on behalf of the Council but only in relation to leases and licences with property rentals up to £50,000 per annum and for a period not exceeding 1 year.
- 42 to agree terms and instruct Legal Services to conclude transactions, under the Part Exchange Plus Scheme, where the value exceeded the current £50,000 acquisition limit.
- 43 to agree terms and instruct Legal Services to conclude transactions, under the Mortgage to Rent Scheme, where the value exceeded the current £50,000 acquisition limit.

## ***Finance***

- 44 to approve payments up to £2 million.

## **Scheme of Delegation to Officers – Specific Provisions**

### **F Director of Health and Social Care**

**The Director of Health and Social Care is authorised:-**

- 1 to exercise the functions of the Council in relation to the Community Care and Health (Scotland) Act 2002 and any new and/or subsequent or amending legislation and any associated relevant Regulations, for the purposes of implementing the Council's policy in relation to financial assessment systems for chargeable services.
- 2 to determine applications for structural adaptations to dwelling houses within the Council's approved policy.
- 3 to determine the termination of access rights in respect of children under supervision.
- 4 to exercise the functions of the Council as specified by the Children (Scotland) Act 1995 and any regulations made thereunder and any new and/or subsequent or amending legislation.
- 5 to exercise the functions of the Council as specified within the Children's Hearings (Scotland) Act 2011 and any associated or amending legislation.
- 6 to implement annual increases in respect of Foster Care Allowances (including skills fees), Adoption Allowances, Shared Care Allowances, Supported Care Allowances and Kinship Care Allowances.
- 7 to exercise the functions of the Council as specified by the Adults With Incapacity (Scotland) Act 2000 and any associated and subsequent amending regulations.
- 8 to exercise the functions of the Council as specified by the Mental Health (Care and Treatment) (Scotland) Act 2003 as amended and any subsequent or similar legislation replacing or expanding that legislation.
- 9 to exercise the functions of the Council as specified by the Adoption and Children (Scotland) Act 2007 and any associated and subsequent amending regulations.
- 10 to exercise the functions of the Council as specified by the Management of Offenders (Scotland) Act 2005 and any associated and subsequent amending regulations.
- 11 to exercise the functions of the Council as specified by the Custodial Sentences and Offensive Weapons Act 2007 and any associated and subsequent amending regulations.
- 12 to exercise the functions of the Council as specified within the Adult Support and Protection (Scotland) Act 2007 and any associated and subsequent amending regulations.
- 13 to exercise the functions of the Council as specified within the Criminal Justice and Licensing (Scotland) Act 2010 and any associated and subsequent amending legislation.

- 14 to implement self directed support arrangements where the giving of assistance to, or in respect of, a person is to promote social welfare and avoid the local authority being caused greater expense in the giving of assistance in another form.
- 15 to approve payments up to £2 million.
- 16 to accept National Care Home Contract terms.
- 17 to set provider rates for social care services.

The Director of Health and Social Care will act as Chief Officer to the South Lanarkshire Integration Joint Board (IJB) and has the following responsibilities:-

- 18 The Chief Officer will be accountable directly to the Integration Joint Board for the preparation, implementation and reporting on the Strategic Plan, including overseeing the operational delivery of delegated services as set out in Annex 1 and 2 of the Integration Scheme that do not relate to acute or Accident and Emergency Services provided within NHS Board. The services set out in section 5.1.1.1 and 5.1.1.2 will continue to be operationally managed by the NHS Board through the Director of Acute Services in line with the Integration Joint Board's Joint Strategic Commissioning Plan. Therefore, the Acute Director will provide updates to the Integration Joint Board and the Chief Officer on the operational delivery of integrated functions delivered within an acute setting.
- 19 The Chief Officer will report to the Council's Chief Executive and the NHS Board's Chief Executive. The Chief Officer's formal contract of employment will be with one of the Parties and whichever holds the contract of employment, will manage the Chief Officer on a day to day basis.
- 20 At the request of the IJB where there is to be a prolonged period where the Chief Officer is absent or otherwise unable to carry out their responsibilities, the Council's Chief Executive and NHS Board Chief Executive will jointly propose an appropriate interim arrangement for approval by the Integration Joint Board's Chair and Vice-Chair.
- 21 The Chief Officer's objectives will be set annually by the Integration Joint Board. This will form the basis of the Chief Officer's performance appraisal with the Council's Chief Executive and the Chief Executive of the NHS Board.
- 22 The Chief Officer will be a full member of both the Council's and NHS Board's corporate management teams, as well as a member of the Integration Joint Board.
- 23 The Chief Officer will liaise with the Executive Director of the NHS Board's Acute Division in respect of agreeing how the Joint Strategic Commissioning Plan will inform and contribute to the strategic planning of NHS acute services and provision (as per the Act) and the delivery of agreed targets of mutual responsibility.
- 24 The Chief Officer shall establish and maintain effective working relationships with a range of key stakeholders across the NHS Board, the Council, the Third and Independent Sectors, service users and carers, the Scottish Government, Trade Unions and relevant professional organisations.
- 25 Current hosted services arrangements are as set out in Annex 3 of the Integration Scheme. However, with regards to the future shaping of these services from a strategic planning perspective, the IJB will discuss with relevant neighbouring Integration Joint Boards how these will be shaped in the future. The Chief Officer will take direction from the IJB in respect of this.

**F1 Head of Children and Justice Services (Social Work Resources) is authorised:-**

- 1 to exercise the duties of the Chief Social Work Officer under the Social Work (Scotland) Act 1968 and related legislation as amended. The Head of Children and Justice Services (Social Work Resources) is authorised to carry out all functions and responsibilities in terms of all relevant legislation and regulations concerning the Council's functions relating to the provision of Social Care Services.



# Financial Regulations

**Submitted to the First Statutory meeting of South Lanarkshire Council on 18 May 2022**

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## **SOUTH LANARKSHIRE COUNCIL**

### **FINANCIAL REGULATIONS**

Section 1	Interpretation
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Section 25	Travelling, Subsistence etc. Allowances
Section 26	Security
Section 27	Risk Management
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Section 29	Following the Public Pound



## **1. INTERPRETATION**

- 1.1 The Interpretation Act 1978 or any amending legislation, will apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.
- 1.2 Reference in these Regulations to Chief Officers means a reference to the Chief Executive, Executive Directors and Director, Health and Social Care or any one or more of them as the context may require.
- 1.3 Any matter requiring legal interpretation shall be referred to the Head of Administration and Legal Services as Solicitor to the Council.

## **2. GENERAL**

### **2.1 New Policy Proposals Affecting the Council's Finances**

- 2.1.1 Where a Committee proposes a new policy, a variation of an existing policy or a variation of the means or timescale of implementing an existing policy, which affects or may affect the Council's finances, a report will be submitted to the Executive Committee for consideration.

### **2.2 Matters Affecting Materially the Finances of the Council**

- 2.2.1 Each Executive Director will consult the Executive Director (Finance and Corporate Resources) with respect to any matter that is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to another Committee.

### **2.3 Cross reference to Scheme of Delegation**

- 2.3.1 It should be noted that the Financial Regulations should be read in conjunction with the Scheme of Delegation.

### **3. FINANCIAL ADMINISTRATION**

#### **3.1 Responsibility of the Executive Director (Finance and Corporate Resources)**

- 3.1.1 Subject to the terms of reference of Committees, the Executive Director (Finance and Corporate Resources) will be the Proper Officer of the Council for the purposes of Section 95 of the Local Government (Scotland) Act 1973 for the administration of the financial affairs of the Council and the legislation in force from time to time to regulate the way in which the Council operates its financial affairs.

#### **3.2 Executive Director (Finance and Corporate Resources) as Adviser**

- 3.2.1 The Executive Director (Finance and Corporate Resources) will act as Financial Adviser to the Council and all its Committees.
- 3.2.2 The Executive Director (Finance and Corporate Resources) will report to the Executive Committee/Council with respect to the level of financial resources proposed to be utilised in each financial year by the Council and shall keep the Executive Committee/Council informed as to the detailed administration and application of such resources. The Executive Director (Finance and Corporate Resources) is charged with ensuring that adequate arrangements exist whereby committees are informed with respect to the financial implications of their activities.

#### **3.3 Responsibility of the Finance and Corporate Resources Committee.**

- 3.3.1 The Finance and Corporate Resources Committee and Executive Committee will be responsible for regulating and controlling the financial activities of the Council within the guidelines determined by the Council and the legislation in force from time to time to regulate the way in which the Council operates its financial affairs.
- 3.3.2 The Finance and Corporate Resources Committee and Executive Committee will be responsible for making and revising from time to time such Financial Regulations as it considers necessary for the supervision and control of the finances, accounts, income, expenditure and assets of the Council.

#### **3.4 Responsibility of Resource Committees**

- 3.4.1 Each Committee of the Council will at all times endeavour to secure value for money, make full use of all common supplies and services provided by any other Committee of the Council and encourage the use throughout Resources or services of best management techniques.
- 3.4.2 Each Committee will at all times be responsible for complying with Standing Orders and these Regulations in relation to all manner of contractual arrangements and other arrangements in relation to income and expenditure falling within its area of responsibility.

#### **3.5 Responsibility of Executive Directors**

- 3.5.1 Except in an emergency, and as authorised by Standing Orders relating to Contracts (SO 5.2 – Competition Requirement as it relates to the circumstances set out in SO 9.3.2 – Negotiated Procedure) or the Scheme of Delegation of Powers, each Executive Director will consult with the Executive Director (Finance and Corporate Resources) with respect to any matter affecting the Executive Director's Resource area which is liable to affect materially the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to a Committee.
- 3.5.2 Each Executive Director should at all times endeavour to secure the best value for expenditure incurred by them, and monitor said expenditure incurred by them, with the objective of achieving the policies of the Council in terms of securing the best price for the

required quality / standard and should be prepared to demonstrate their compliance with this regulation to the Executive Director (Finance and Corporate Resources). Executive Directors should comply with the Standing Orders relating to Contracts where applicable.

#### **4. FINANCIAL POLICY**

- 4.1 The Executive Committee will advise the Council generally as to the financial and economic policies and the allocation and control of financial resources and the compliance with all statutory or other guidance relevant to the Council.

## **5. THE REVENUE BUDGET AND BUDGETARY CONTROL**

### **5.1 Revenue Estimates**

- 5.1.1 The detailed procedures for and form of Revenue Estimates will be determined by the Executive Director (Finance and Corporate Resources) in accordance with the general directions of the Executive Committee.

### **5.2 Financial Plan for Revenue Expenditure**

- 5.2.1 It will be the duty of each Executive Director, in conjunction with the Executive Director (Finance and Corporate Resources), to prepare Annual Estimates of Income and Expenditure on the Revenue Account in respect of the Executive Director's Resource area in accordance with the guidelines laid down by the Executive Committee and to a timetable set by the Executive Director (Finance and Corporate Resources) with the approval of the Chief Executive.
- 5.2.2 Each Executive Director will, therefore, provide timeously to the Executive Director (Finance and Corporate Resources) all relevant information regarding the Resource's requirements and such details as may be required for the purpose of reporting to the Executive Committee on the financial planning of revenue expenditure including data on the levels of existing services.

### **5.3 Committee Approval**

- 5.3.1 The Revenue Estimates will be considered by the appropriate Committee and, thereafter, will be submitted to the Council for approval.
- 5.3.2 Any proposal to a Committee which would involve Committee approval as above shall be accompanied by a report from the Executive Director concerned and the Executive Director (Finance and Corporate Resources) as to the sufficiency or otherwise of the financial provision thereof in the Revenue Estimates. All reports presented to Committee by Executive Directors must specifically identify the extent of any financial implications. Any such implications must be clearly stated in the reports to Committee, identifying cost and income in the current and future years and the impact on capital and revenue spending.
- 5.3.3 Each Member of the Council will be provided with a summary of the proposed Revenue Estimates together with a report by the Executive Director (Finance and Corporate Resources) of the effect on the Council's finances and the rate of Council Tax to be levied before the meeting of the Council at which such matters will be considered.
- 5.3.4 No Resource will submit to a Committee any proposal that has financial implications without first consulting with the Executive Director (Finance and Corporate Resources).

### **5.4 Authorisation Procedure**

- 5.4.1 The inclusion of an item of expenditure in the Revenue Estimates will confer authority upon the Executive Director to incur that expenditure, subject to the contractual provisions of Standing Orders and these Regulations, unless inclusion of the item is subject to further Committee consideration and approval.

### **5.5 Budgetary Control Statements**

- 5.5.1 In liaison with Executive Directors and under arrangements approved by the Executive Director (Finance and Corporate Resources), all Committees will be provided with Budgetary Control Statements to allow a valid comparison of actual results with the estimated income and expenditure of the service.

- 5.5.2 It shall be the responsibility of each Executive Director concerned to provide such information as may be required for this purpose and to ensure that there is not an overspend against the Annual Revenue Budget in totality, or across Services and Subjective heads, and that income and expenditure conforms to the requirements of Standing Orders and these Regulations subject to any variations which may have been agreed with the Executive Director (Finance and Corporate Resources) due to special or unforeseen circumstances (See Financial regulation 5.7.1).
- 5.5.3 Each Executive Director will comment timeously on all Budgetary Control Statements to the Executive Director (Finance and Corporate Resources).
- 5.5.4 Executive Directors will also provide the Executive Director (Finance and Corporate Resources) with whatever assistance and information considered necessary in order to ensure the effectiveness of the budgetary control system. This will include the allocation of budgets to cost centres and subjective/sub-analysis codes, the phasing of budgets over accounting periods, the explanation of budgetary variances and the determination of probable outturns.
- 5.5.5 Under the heading of Other Implications, each financial report shall contain a paragraph in respect of the main risks associated with the financial information contained within the report.
- 5.5.6 The Financial Resources Scrutiny Forum will carry out detailed monitoring and review of the financial information provided by each Resource.
- 5.6 Monitor and Review Performance
- 5.6.1 It will be the duty of each Committee to monitor or regulate its financial performance during each reporting period, throughout the financial year.
- 5.7 Variances
- 5.7.1 Where it appears that the amount of any subjective head approved revenue income or expenditure has or may significantly deviate from that included in the Revenue Estimates, resulting in a significant change to the Resource's overall financial position, or impacting upon the policy of the Council, or revenue implications for future years, it will be the duty of the Executive Director concerned to consult with the Executive Director (Finance and Corporate Resources) timeously.
- 5.7.2 If the Executive Director (Finance and Corporate Resources) is advised that significant change is likely to the Council's overall financial position, the deviation involves a change of policy of the Council, or results in revenue implications for future years, a report will be provided for the Committee concerned in good time detailing the financial consequences to enable appropriate action to be taken timeously.
- 5.8 Exemptions
- 5.8.1 No Executive Director shall incur, and no Committee will cause or allow to be incurred, expenditure chargeable to the Revenue Account unless it has been included in the Revenue Estimates except:-
- (i) in emergency situations in consultation with the Chair and appropriate Chief Officers and thereafter reported to the appropriate Committee and the Executive Committee.
  - (ii) as authorised by the Scheme of Delegation.
  - (iii) as authorised by Standing Orders.

## 5.9 Virement

- 5.9.1 Any proposal for virement will be discussed and agreed with the Executive Director (Finance and Corporate Resources) in advance.
- 5.9.2 Unless excepted by a scheme of devolved management approved by the Executive Director (Finance and Corporate Resources), virement will be permitted only after consultation with the Executive Director (Finance and Corporate Resources) in the following circumstances:-
- (i) where the proposal for virement is less than £100,000 and does not involve a change in the policy of the Council, the transfer will be agreed between the Executive Director (Finance and Corporate Resources) and the Executive Director concerned, with the provision that there are no ongoing revenue consequences and the transfer would not involve a change of policy of the Council.
  - (ii) where the cumulative amount exceeds £100,000 in the financial year and/or involves a change in the policy of the Council the transfer will be approved by the appropriate Committee.

## 5.10 Additional Expenditure

- 5.10.1 No expenditure may be incurred for an individual revenue project estimated to cost above £100,000 unless and until the project has been the subject of a report to the Executive Director (Finance and Corporate Resources) as to the estimated annual income and expenditure which will arise from the project. The report should include a reference to the extent to which the project has been included in the Revenue Estimates for that year and shall seek permission to go to tender, where appropriate.
- 5.10.2 Any item of expenditure of an 'emergency' nature is subject to Section 7 Emergency Expenditure.



## **6. THE CAPITAL BUDGET AND BUDGETARY CONTROL**

### **6.1 Capital Programme**

- 6.1.1 In line with the revised Prudential Code for Capital Finance in local authorities, the Council will produce a Capital Strategy which will demonstrate that the Council takes capital expenditure and investment decisions in line with service objectives and properly takes account of stewardship, value for money, prudence, sustainability and affordability.
- 6.1.2 The Strategy should set out the long-term context in which capital expenditure and investment decisions are made. This includes funding available and how the Council's Treasury Management decisions link with its Capital Investment.
- 6.1.3 The Council is required to consider factors contributing to its requirements to maintain Council assets. In order to do this, costs will be confirmed and budget requirements will be identified throughout the life of the Strategy. This information will then be used to inform the Council's decision-making process when considering future capital programmes.
- 6.1.4 It is the duty of the Executive Director (Finance and Corporate Resources) to determine the procedures for, and co-ordinate the preparation of, a Capital Strategy. All Executive Directors will provide any such information as may be required for the preparation of the Capital Strategy on a timeous basis.
- 6.1.5 The Capital Strategy will be submitted to, and considered by, the Council on an annual basis, as required by the Prudential Code for Capital Finance in Local Authorities 2017.
- 6.1.6 The annual Capital Programme will detail committed capital projects and new capital projects on which the Council intends to incur expenditure. This will form part of an approved programme, which will be revised on an annual basis. The length of the approved programme may vary.
- 6.1.7 The Capital Programme will also detail the various funding sources used to finance the capital expenditure. This will provide the basis for the calculation of the Prudential Code indicators.
- 6.1.8 It is the duty of the Executive Director (Finance and Corporate Resources) to determine the procedures for and co-ordinate the preparation of a Capital Programme for capital expenditure on Non Housing projects.
- 6.1.9 It is the duty of the Executive Director (Housing and Technical Resources), in conjunction with the Executive Director (Finance and Corporate Resources), to co-ordinate the preparation of the Housing Capital Programme in accordance with the policies set out in the Housing Programme.
- 6.1.10 It is the duty of the appropriate Executive Director, in conjunction with the Executive Director (Finance and Corporate Resources), to submit details of the estimated revenue costs of capital projects and of the Resource's requirements at the time of preparation of the Capital Programmes.
- 6.1.11 All Executive Directors will provide timeously such information as may be required for the purposes of preparation of the above programmes. In particular, a Capital Bid Form will be prepared by the appropriate Executive Director and submitted with each project. The Capital Bid form should be complete and should include requested details on the project's link to fixed assets, impact on the revenue budget, service risks if the project is not undertaken, link to Council Plan, link to the Capital Strategy, link to Asset Management Plan and Options Appraisal for projects in excess of £1 million. All forms should be authorised by the appropriate signatories, however, in the absence of a physically signed document/form, the authorising signature should be backed up with an authorising statement sent via email from the authoriser's account. If future developments implement

an electronic signature solution this will supersede any previous requirement for email backup.

## 6.2 Asset Management Planning

- 6.2.1 The appropriate Executive Director will ensure that an Asset Management Plan is produced annually for every Resource within the Council. The outcome of these Resource Asset Management Plans will contribute to the Corporate Asset Management Plan relating to all Council operational properties.

## 6.3 Committee Approval

- 6.3.1 The Capital Programme, together with reports by the appropriate Officials, will be submitted to and considered by the Executive Committee in such form and by such dates as the Committee shall require.
- 6.3.2 The Executive Committee will determine the overall programme of priorities for the Capital Programme of the Council that thereafter shall be considered by the Council for approval.
- 6.3.3 The Prudential Code indicators for the three year period based on the programme of capital expenditure and funding will be submitted to committee for approval. These indicators will be updated annually based on the Council's capital borrowing and funding requirement each year and throughout the year as necessary.
- 6.3.4 The approval of the Executive Committee is required before a capital project contained within the Capital Programme for future years is advanced into the Capital Programme for the current year, or before a new capital project is introduced into the Capital Programme. The Financial Resources Scrutiny Forum, who will also be responsible for ongoing detailed monitoring, will be notified of any future years' projects or introduction of new projects to the capital programme.
- 6.3.5 Money may be diverted from one project to another only with the approval of the Executive Committee and any application for such approval shall be accompanied by an explanation of the financial implications of the proposal showing the likely effect of the proposal on the current and future years' finances as appropriate.

## 6.4 Authorisation Procedure

- 6.4.1 The approval of the capital programme will give authority to an Executive Director to incur expenditure contained therein.
- 6.4.2 The approval of the Capital Programme by the Council permits Executive Directors:-
- (i) to incur preliminary expenses and design costs in respect of projects included in subsequent years of the approved Programme. Capital expenses must be included in the Capital Programme of the financial year in which the expenditure will be incurred.
  - (ii) in prior consultation with the Head of Administration and Legal Services and the Executive Director (Housing and Technical Resources), to take the steps necessary to acquire land associated with projects included in the Programme. Capital expenses must be included in the Capital Programme of the financial year in which the expenditure will be incurred.
- 6.4.3 No expenditure chargeable to the Capital Account shall be incurred unless the appropriately phased expenditure is provided for in the Capital Estimates and arrangements are made, with the prior approval of the appropriate Committee, to contain such expenditure within the limits as defined by the Prudential Code (see 6.4.4). This limit may be adjusted by over and under spending brought forward from the previous year, usable capital receipts applied, external funding and capital financed from current revenue.

- 6.4.4 No expenditure should be incurred on a capital project until a CR1 Form (Proposal to Incur Capital Expenditure Liability) has been completed to the satisfaction of the Executive Director (Finance and Corporate Resources). The CR1 form must be signed by Housing and Technical Resources, Finance and Corporate Resources and the spending Resource.
- 6.4.5 The approval of the Capital Estimates and the Prudential Code indicators by the Council permits Executive Directors to proceed with projects within the Capital Estimates unless:-
- (i) the actual tender cost of the project or the revised estimate of the project exceeds the provision in the Capital Estimates; or
  - (ii) the nature and size of the capital project has changed substantially from that envisaged when the Capital Estimates were approved.

In these cases, confirmation of approval is necessary from the Executive Committee before the project proceeds.

- 6.4.6 Where special circumstances may arise, the Executive Director (Finance and Corporate Resources), in consultation with the Chair of the Executive Committee, allows expenditure to be incurred in respect of a new capital project outwith the Capital Programme, or in respect of a capital project contained within the Capital Programme in future years which is advanced into the Capital Estimates for that year, such expenditure being contained within the total capital allocation for that year. Formal approval for any such projects should be sought from the Executive Committee.

## 6.5 Availability of Land and Buildings for Capital Programmes

- 6.5.1 Upon approval by the Council of these Capital Programmes, Executive Directors will take steps as are reasonably practicable to ensure that all statutory and non-statutory approvals and permissions including legal entry to any land or buildings, are available in due time.

## 6.6 Budgetary Control

- 6.6.1 In liaison with Executive Directors and under arrangements approved by the Executive Director (Finance and Corporate Resources), the Resource Committees, as appropriate, will be provided with Budgetary Control Statements to allow a valid comparison of actual financial performance with the respective Capital Estimates.
- 6.6.2 The Financial Resources Scrutiny Forum will carry out monitoring of the Capital Budget at a detailed level.
- 6.6.3 It is the duty of the Executive Director concerned to ensure that the provision in the Capital Estimates is not exceeded and that the expenditure conforms to the requirements of these Regulations.
- 6.6.4 The Executive Director will provide the Executive Director (Finance and Corporate Resources) with whatever assistance and information considered necessary to ensure the effectiveness of the budgetary control process.

## 6.7 Monitor and Review Performance

- 6.7.1 It is the duty of the Executive Committee to monitor and regulate overall capital spending and the Executive Director (Finance and Corporate Resources) will make the appropriate arrangements to ensure that a continuous assessment of capital spending as against the approved Programmes is carried out.

6.7.2 The Executive Director (Finance and Corporate Resources) will make suitable arrangements for monitoring the Prudential Code indicators. These arrangements will ensure that any changes to the financing structure of the capital programme are accurately reflected in the indicators and reported accordingly.

6.7.3 The monitoring arrangements for the Prudential Code indicators will also ensure that the Council is able to report on the authorised limit for external debt. Any breaching of this limit will be reported to the Finance and Corporate Resources Committee and will highlight any corrective action that is considered necessary.

## 6.8 Variance during the Life of a Project

6.8.1 If it becomes apparent that;

- (i) after commencement of a major capital project, it will be under or overspent by more than £100,000 or by 5% of the total contract figure, whichever is the greater, or
- (ii) the phasing of expenditure within current year and project life will be materially different from that planned,

it is the duty of the Executive Director concerned, in conjunction with the Executive Director (Housing and Technical Resources), as project managers, to report at the earliest opportunity to the Executive Director (Finance and Corporate Resources) and agree the appropriate action to be taken with regard to that project or to other projects within the Capital Estimates.

## 6.9 Exemptions

6.9.1 No expenditure will be incurred without the approval of the appropriate Committee or Committees except if authorised by the Scheme of Delegation or Standing Orders on Contracts.

## **7. EMERGENCY EXPENDITURE**

### **7.1 Procedures for Incurring Expenditure of an "Emergency" Nature**

- 7.1.1 Where financial provision has not been made in either capital or revenue budgets, nothing in these Financial Regulations will prevent the Executive Director (Finance and Corporate Resources) from incurring, or allowing to be incurred, expenditure which is essential to meet any immediate needs arising from a statutory requirement or which is referable to Section 84 of the Local Government (Scotland) Act 1973 subject to such action being approved by the appropriate Committee (power to incur expenditure in time of emergency).
- 7.1.2 Where it is not practicable for action to be deferred pending Committee approval, the Executive Director (Finance and Corporate Resources) may incur, or allow to be incurred, such expenditure subject to the estimated cost not exceeding £100,000.
- 7.1.3 Where such expenditure exceeds £100,000 the agreement of the Chief Executive (or in the absence of the Chief Executive, the appropriate nominee) to such expenditure must be sought.
- 7.1.4 In all cases where a Committee has not approved such expenditure, a report must be made as soon as possible after such expenditure has been incurred and thereafter reported to the Executive Committee.

## **8. LEGALITY OF EXPENDITURE**

- 8.1 It shall be the duty of the Executive Directors to ensure that no expenditure is incurred unless it is within the Legal Powers of the Council. In particular, the Executive Director must be satisfied that expenditure on existing service developments including public/private sector arrangements, contributions to existing client organisations and responses to existing emergency situations are within the legal powers of the Council. Clarification as to legality should be obtained from the Head of Administration and Legal Services prior to expenditure being incurred.
- 8.2 In cases of doubt, Executive Directors must consult the Head of Administration and Legal Services before incurring expenditure.
- 8.3 Expenditure on new service developments, initial contributions to new client organisations and responses to new emergency situations which require expenditure must be clarified as to legality prior to being incurred. Similarly, public/private sector arrangements and initiatives should also be subject to the legality of the proposed arrangement being clarified prior to expenditure being incurred.

## **9. CONTROL OF INCOME**

### **9.1 Responsibility of the Executive Director (Finance and Corporate Resources)**

- 9.1.1 It is the duty of the Executive Director (Finance and Corporate Resources) to make adequate financial and accounting arrangements to ensure the proper and prompt recording of all monies due to the Council and the proper and prompt collection, custody, control and disposal of all cash in all departments of the Council.
- 9.1.2 All accounts for income due to the Council will be rendered by, or under arrangements approved by, the Executive Director (Finance and Corporate Resources) in consultation with the Head of Administration and Legal Services, to ensure proper and prompt collection.

### **9.2 Notification of all Income to Executive Director (Finance and Corporate Resources)**

- 9.2.1 The appropriate Executive Director will ensure that particulars of all charges to be made for work done, services rendered or goods supplied by the Services of the Council and of all other amounts due to the Council will be promptly notified to the Executive Director (Finance and Corporate Resources) in a form approved by the Executive Director (Finance and Corporate Resources). This includes claim values for all externally funded projects where the Council has been awarded grant funding in order to deliver the requirements of a particular programme such as European Structural funds or Lottery.
- 9.2.2 At a date as may be required by the Executive Director (Finance and Corporate Resources), each department will provide the Executive Director (Finance and Corporate Resources) with details of all accounts relating to goods and services provided to 31 March in each year and which have still to be rendered. This includes claim values for all externally funded projects which are due to be received by the Council.
- 9.2.3 The Executive Director (Finance and Corporate Resources) will also be notified without delay of all contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Executive Director (Finance and Corporate Resources) shall have the right to inspect any documents or other evidence relating to such matters. Notification is also required of all externally funded projects with documentation from Resources required to be submitted to the Executive Director (Finance and Corporate Resources) via the funding and compliance function, for review.

### **9.3 Determination and Review of Charges**

- 9.3.1 Each Executive Director will, in consultation with the Executive Director (Finance and Corporate Resources) and, where necessary, the Head of Administration and Legal Services, review in line with the revenue budget exercise, all charges for goods or services provided by the Executive Director's Resource Area and, except where the charge is fixed externally, shall submit proposals to the relevant Committee for consideration and approval unless otherwise provided for in the Scheme of Delegation of Powers, or in the Terms of Reference of Committees. In order to preserve the real value of such income, increases recommended to Committee should have regard to the current rate of inflation and should highlight the impact of any change in the rate of value added tax. Increases, where practicable, should be applied from the 1st April co terminus with each financial year. Where this is not practicable due to contractual constraints, a mutually acceptable revision date will be agreed with the appropriate Executive Director and Executive Director (Finance and Corporate Resources).
- 9.3.2 The Council's approved charging policy allows for inflationary increases each year. Subject to the Scheme of Delegation of Powers, the rate of charges for goods or services will be approved by the appropriate Committee and not altered without the approval of that Committee.

- 9.3.3 Each Executive Director will also, in consultation with the Head of Administration and Legal Services, regularly give consideration to activities or services provided by the Resource Area for which a charge could be made.
- 9.4 Treatment of Monies Collected
- 9.4.1 All monies received on behalf of the Council by any employee in any service will be recorded and deposited without delay with the Executive Director (Finance and Corporate Resources) or the Council's bankers in accordance with arrangements approved by Executive Director (Finance and Corporate Resources). Sums in excess of £500 must be banked within 24 hours of receipt unless the establishment has an uplift by a security carrier agreed by the Executive Director (Finance and Corporate Resources). Sums of money should not be retained within safes in excess of existing insurance cover. Further guidance is provided in section 26.2.1.
- 9.5 Transfers of Cash, Cheques, etc.
- 9.5.1 All transfers of the Council's cash, cheques (pre-signed), and Investment Certificates, etc from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving employee.
- 9.6 Forms, Books and Tickets
- 9.6.1 All official receipts, forms, books, tickets and other such items for the disbursement and collection of monies will be in a form approved by the Executive Director (Finance and Corporate Resources) and will be ordered, controlled and issued to services by, or under arrangements agreed by, the Executive Director (Finance and Corporate Resources) who will be satisfied as to the arrangements for effective control.
- 9.6.2 It is a requirement that all such records, forms etc. will be retained by each department for a period of five years or in line with statutory regulations. Appropriate advice can be obtained from the Head of Finance (Transactions).
- 9.7 Deductions, Discounts and Write-offs
- 9.7.1 No deduction may be made from all monies received on behalf of the Council except under the authorisation of the Executive Director (Finance and Corporate Resources).
- 9.7.2 Cash discount will not be offered to any debtor.
- 9.7.3 Sums due to the Council will not be written off except with the prior consultation of the Executive Director (Finance and Corporate Resources) and after consideration and approval by the Finance and Corporate Resources Committee.
- 9.8 Personal Cheques
- 9.8.1 Personal cheques will not be cashed out of Council monies or monies held on behalf of the Council.
- 9.9 Grants
- 9.9.1 The Executive Director (Finance and Corporate Resources) will be advised timeously of all relevant information necessary to submit or certify applications for grants due to the Council.



## **10. TREASURY MANAGEMENT**

### **10.1 General**

- 10.1.1 South Lanarkshire Council adopts CIPFA's 'Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes 2017' or any subsequently approved and adopted code.
- 10.1.2 The content of the policy statement and TMPs will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
- 10.1.3 South Lanarkshire Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

### **10.2 Treasury Management Policy Statement**

- 10.2.1 South Lanarkshire Council defines its treasury management activities as:

"The management of the organisation's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."
- 10.2.2 South Lanarkshire Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation and any financial instruments entered into to manage these risks.
- 10.2.3 South Lanarkshire Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.
- 10.2.4 South Lanarkshire Council's borrowing will be affordable, sustainable and prudent and consideration will be given to the management of interest rate risk and refinancing risk. The source from which the borrowing is taken and the type of borrowing will allow the Council transparency and control over its debt.
- 10.2.5 South Lanarkshire Council's primary objective in relation to investments remains the security of capital. The liquidity or accessibility of the Authority's investments followed by the yield earned on investments remain important but are secondary considerations.

### **10.3 Borrowing, Investment and Financing**

- 10.3.1 All executive decisions on borrowing, investment or financing are delegated to the Executive Director (Finance and Corporate Resources) or through him/her to his/her staff, who are required to act in accordance with CIPFA's 'Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes 2017' or any subsequently approved and adopted code.
- 10.3.2 All money market transactions arranged through a broker should be carried out in accordance with the UK Money Markets Code.

#### 10.4 Committee Approval

- 10.4.1 South Lanarkshire Council delegates responsibility for the implementation and regular monitoring of the Council's treasury management policies and practices to the Finance and Corporate Resources Committee and for the execution and administration of treasury management decisions, to the Executive Director (Finance and Corporate Resources), who will act in accordance with the organisation's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*.
- 10.4.2 The Finance and Corporate Resources Committee will be responsible for ensuring effective scrutiny of the treasury management strategy and policies. The Executive Director (Finance and Corporate Resources) will provide quarterly reports to the Finance and Corporate Resources Committee on the activities of the Treasury Management operation and on the exercise of the Treasury Management powers delegated to him/her. These will include the mid-year review and annual review that will be referred to Council as set out in paragraph 10.4.4.
- 10.4.3 South Lanarkshire Council is required to prepare an Annual Investment Strategy prior to the start of the financial year which requires to be approved by the full Council as required by the Local Government Investments (Scotland) Regulations 2010.
- 10.4.4 The Annual Investment Strategy will be combined with the Treasury Management Strategy and the Prudential Indicators and will be presented to Council prior to the start of the new financial year. This will be followed by a mid-year review, and an annual review following the close of the financial year.

#### 10.5 Borrowings, Investments and Trust Funds To Be In The Name of the Council

- 10.5.1 All Council monies will be aggregated for the purposes of treasury management and is under the control of the Executive Director (Finance and Corporate Resources).
- 10.5.2 All borrowings on behalf of the Council will, unless they are for the purposes of any trust under any deed of trust or other document, be secured on the rates and revenues and shall be effected in the name of the Council.
- 10.5.3 All securities save in respect of existing heritable securities the property of, or in the name of the Council or its nominees, shall be held in the custody of the Executive Director (Finance and Corporate Resources) or the Council's bankers.
- 10.5.4 The Executive Director (Finance and Corporate Resources), or the Deputies or agents nominated by the Executive Director (Finance and Corporate Resources), are authorised to sign all loan documents unless:-
- (i) statute or other legal requirements provide that other signatures are required; or
  - (ii) alternative arrangements have been approved by the Finance and Corporate Resources Committee.

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

- 10.6.1 The Executive Director (Finance and Corporate Resources) will be the Council's Registrar of Stocks, Bonds and Mortgages and shall maintain records of all borrowing of money by the Council except where another Registrar has been appointed by the Council, subject to the approval of the Executive Director (Finance and Corporate Resources) and Finance and Corporate Resources Committee, when the Executive Director (Finance and Corporate Resources) will maintain records of the total sums borrowed and will at all times act within its statutory powers. The Head of Administration and Legal Services shall be consulted in all matters that require legal interpretation.

## 10.7 Trust Funds and Deposit of Trust Securities

- 10.7.1 All trust funds shall, whenever possible, be held in the name of the Council.
- 10.7.2 The approval of the Executive Director (Finance and Corporate Resources) and the Finance and Corporate Resources Committee shall be required whenever trust funds are held other than in the name of the Council.
- 10.7.3 All officers and/or members acting as trustees by virtue of their official position will deposit all securities, bank books and documents (other than title deeds to heritable property) and articles of value relating to any trust with the Executive Director (Finance and Corporate Resources) unless the relevant trust deed otherwise provides.

## 10.8 Control and Custody of Charitable Funds

- 10.8.1 The Executive Director (Finance and Corporate Resources) will ensure the proper and safe custody and control of all charitable funds held by the Council and that all expenditure is in accordance with the conditions of the fund and the general law relating to charities.

## 10.9 Leasing of Equipment and Capital Assets

- 10.9.1 With the exception of Heritable Property and subject to Standing Orders and the Scheme of Delegation of Powers, no leasing of equipment or capital assets will be undertaken on behalf of the Council without the prior approval of the Executive Director (Finance and Corporate Resources) in consultation with the Head of Administration and Legal Services.

## 10.10 Appointment of External Professional Advisers

- 10.10.1 The Executive Director (Finance and Corporate Resources) may appoint external professional advisers who are specialists in Treasury Management issues in order to assist the Executive Director in carrying out Treasury Management responsibilities and subject always to the terms of Standing Orders.

## **11. TAX MANAGEMENT**

### **11.1 Responsibility of Executive Director (Finance and Corporate Resources)**

11.1.1 The Executive Director (Finance and Corporate Resources) is responsible for the taxation procedures necessary to ensure that all reasonable steps have been taken to properly report and account for tax liabilities and obligations ensuring the avoidance of any losses.

11.1.2 In particular, the Executive Director (Finance and Corporate Resources) is responsible for:-

- (i) ensuring that the transactions comply with all relevant statutory requirements and authorities.
- (ii) minimising the Council's tax liability.
- (iii) maximising the Council's cash flow.

11.1.3 In carrying out such responsibilities the Executive Director (Finance and Corporate Resources) will:-

- (i) define and allocate duties in relation to taxation and tax management.
- (ii) ensure that financial control systems are operating effectively to produce the necessary information and minimise the risk of error.
- (iii) secure an appropriate level of knowledge and financial awareness amongst staff involved in processing transactions involving elements of tax.
- (iv) ensure that proper assistance is given to any routine or special investigation undertaken by a Collection Agency, under arrangements approved by the Executive Director (Finance and Corporate Resources) in consultation with the Head of Administration and Legal Services, and that justification for any assessment made as a result of an investigation is properly reviewed.
- (v) make such arrangements as necessary to monitor the discharge of these responsibilities.
- (vi) report any significant changes relating to the Council's tax affairs to the Finance and Corporate Resources Committee.

### **11.2 Appointment of External Professional Advisers**

11.2.1 The Executive Director (Finance and Corporate Resources) may appoint external professional advisers who are specialists in tax matters in order to assist the Executive Director in carrying out tax management responsibilities and subject always to the terms of Standing Orders.

### **11.3 Dissemination of Information on Tax Matters**

11.3.1 The Executive Director (Finance and Corporate Resources) is responsible for the dissemination of information on tax matters as appropriate and each Chief Officer will be responsible for implementing any guidelines laid down by the Executive Director (Finance and Corporate Resources) with regard to any particular aspect of tax.

- 11.4     Consultation with the Executive Director (Finance and Corporate Resources)
- 11.4.1   No transaction that has tax implications will be conducted without first consulting the Executive Director (Finance and Corporate Resources).
- 11.5     Calculation of employees' Personal Tax Liability
- 11.5.1   Information should be passed to the Executive Director (Finance and Corporate Resources) to allow the calculation of employees' Personal Tax Liability as requested.

## **12. INVESTMENT IN TRUST AND COMMON GOOD FUNDS**

### **12.1 Procedure for Investment of Trust Funds and Common Good Monies**

- 12.1.1 All investments of Trust Funds and Common Good Monies under its control shall be made by the Executive Director (Finance and Corporate Resources) in the name of the Council. All investments will be made in accordance with the policy determined by the Finance and Corporate Resources Committee.

### **12.2 Custody of Trust Funds and Common Good Securities**

- 12.2.1 All securities except heritable securities, which are the property of or in the name of the Council, shall be held in the custody of the Executive Director (Finance and Corporate Resources) or the Council's Bankers under the supervision of the Executive Director (Finance and Corporate Resources).

### **13. BANKING ARRANGEMENTS AND CHEQUES**

#### **13.1 Arrangements with Bankers**

13.1.1 All arrangements with the Council's Bankers concerning the Council's bank accounts and the issue of cheques will be made by or under arrangements approved by the Executive Director (Finance and Corporate Resources) who is authorised to operate such banking accounts where considered necessary.

13.1.2 The Executive Director (Finance and Corporate Resources) shall be responsible for arranging any payments through the Bankers Automated Clearing System (BACS) and Clearing House Automated Payment System (CHAPS) and shall ensure that proper security control procedures are effected and reviewed.

#### **13.2 Opening and Closing of Bank Accounts**

13.2.1 Official bank accounts bearing the Council's name will only be opened or closed by the Executive Director (Finance and Corporate Resources).

#### **13.3 Project Bank Accounts**

13.3.1 The use of Project Bank Accounts in any relevant contracts can only be undertaken with the prior written approval of the Executive Director (Finance and Corporate Resources) and the Executive Director of the Resource responsible for the relevant project.

#### **13.4 Payments into Bank Accounts**

13.4.1 All monies received will be paid into the Council's bank account (in line with the recommendations detailed at Section 9.4).

13.4.2 Each employee banking money will enter a reference to the source of the income on the bank pay-in slip. The reference should include the establishment, location or office name and sundry debtor account number where appropriate.

13.4.3 It is the responsibility of any employee handing over the custody of monies to a security firm, approved by the Council to deliver such monies to the bank on behalf of the Council, to ensure that such monies are properly and satisfactorily secured in a sealed receptacle and the security firm employee displays an authorised identity card. The seal on such receptacles must not be broken or damaged in any manner when handed over to the authorised personnel of the security firm.

#### **13.5 Cheque Control**

13.5.1 All cheques shall be ordered only on the authority of the Executive Director (Finance and Corporate Resources) who will make appropriate arrangements for their safe custody.

13.5.2 Any arrangements for controlling and signing of cheques on behalf of the Council will be made by the Executive Director (Finance and Corporate Resources).

13.5.3 Cheques on the Council's main bank accounts will bear the facsimile signature of the Executive Director (Finance and Corporate Resources) or be signed by the Executive Director (Finance and Corporate Resources), the Head of Finance (Transactions), Finance Managers and nominated Finance Advisers.

## **14. ASSET REGISTER, TITLE DEEDS and PROPERTY**

### **14.1 Requirement for Asset Register and Capital Accounting**

- 14.1.1 The Executive Director (Housing and Technical Resources) will be required to maintain a register of all land and property assets within the Council in such form as required by or agreed with the Executive Director (Finance and Corporate Resources). The Executive Director (Finance and Corporate Resources) will maintain the Fixed Asset Register for all other Council assets as notified by Resources. The information maintained within the Fixed Asset Register will be required to support the requirements of the Capital Accounting legislation.
- 14.1.2 The care, custody and control of assets owned by or used within any department will be the responsibility of the appropriate Executive Director who will comply with all instructions as directed by the Executive Director (Finance and Corporate Resources) and the Executive Director (Housing and Technical Resources), in particular with the year end certification procedures.

### **14.2 Title Deeds**

- 14.2.1 The Head of Administration and Legal Services will have the custody of all title deeds held by the Council under secure arrangements agreed by the Executive Director (Finance and Corporate Resources).

### **14.3 Register of Heritable Property**

- 14.3.1 The Executive Director (Housing and Technical Resources) will maintain a land register of all Heritable Property owned or leased to or by the Council including dwellings held on the Housing Revenue Account. The details recorded should, as far as is practicable, include the location address, description, plan reference, purchase details, particulars and nature of interest and any rents payable, particulars of tenancies of rents granted and where possible the holding committee. The register will be cross-referenced to Title Deed references.



## **15 INVENTORIES**

### **15.1 Control and Custody of Inventory**

- 15.1.1 Arrangements made by the Executive Directors for inventory control will be subject to the approval of the Executive Director (Finance and Corporate Resources).
- 15.1.2 The care, custody and control of furniture, fittings and equipment owned by or used within any Resource Area will be the responsibility of the appropriate Executive Director who will comply with all instructions as directed by the Executive Director (Finance and Corporate Resources), in particular with the year end certification procedures.

### **15.2 Recording of Inventory**

- 15.2.1 Such inventories as, in the opinion of the Executive Director concerned and the Executive Director (Finance and Corporate Resources), are necessary, will be maintained by all departments of the Council and shall be recorded on the official inventory forms.
- 15.2.2 Official inventory forms, guidelines and procedures will be subject to regular update but must follow corporate instructions and be agreed by the Executive Director (Finance and Corporate Resources).
- 15.2.3 Each Executive Director will be responsible for maintaining an annual check of all items on the inventory and for taking action in relation to surpluses, deficiencies and/or discrepancies and noting the inventory accordingly.
- 15.2.4 All discrepancies will be reported without delay to the Executive Director (Finance and Corporate Resources) for further action as appropriate.
- 15.2.5 Each Executive Director will, at a date determined by the Executive Director (Finance and Corporate Resources), prepare and make available, if required, inventories of furniture, fittings, equipment and museum collections including exhibits on hand as at 31 March preceding.

### **15.3 Use of Inventory**

- 15.3.1 The Council's property will not be removed otherwise than in accordance with the ordinary course of the Council's normal business or used elsewhere otherwise than for the Council's purposes except in accordance with the specific directions and approval of the Executive Director concerned and in accordance with the Code of Conduct for Employees. If inventory is to be removed from the premises in the course of this business then the insured status of the inventory should be checked with the Council's Risk Management Section and the issue of the item recorded in line with the appropriate guidelines.

### **15.4 Surplus Inventory**

- 15.4.1 Subject to the Scheme of Delegation of Powers and, specifically in relation to museum collections government guidelines, all surplus plant, equipment, furnishings, materials, vehicles, commodities or supplies to be disposed of by any Service will be advertised for sale. The sale will be effected either by competitive tender or by public auction unless otherwise approved by the Executive Director (Finance and Corporate Resources). Any method of disposal should demonstrate Value for Money and comply with Council recycling arrangements.

### **15.5 Museum and Art Gallery Collections and Exhibits**

- 15.5.1 These assets will be classified as Heritable Assets in accordance with CIPFA recommended Code of Practice.

- 15.5.2 Assets forming part of the Museums collection will be governed by the minimum standards set by the Museums, Libraries and Archives Accreditation Scheme or such other scheme as may from time to time be in place. Guidelines include inventory, and record keeping and validation, preservations and acquisitions and disposal policies and will be adhered to.

## **16. INSURANCE**

### **16.1 Responsibility for Insurance**

- 16.1.1 Subject to Standing Orders (SO 27: Insurance), the Scheme of Delegation of Powers and the general supervision of the Finance and Corporate Resources Committee and except as authorised by them, the Executive Director (Finance and Corporate Resources) shall make appropriate insurance arrangements for all aspects of the Council's activities. As directed by the Executive Director (Finance and Corporate Resources), the negotiation of all insurance claims shall also be arranged by or for the authority, in consultation with any other Executive Director concerned, and where necessary, in consultation with the Head of Administration and Legal Services and/or the Head of Personnel Services or other officers.

### **16.2 Notification of Risks and Losses**

- 16.2.1 Executive Directors shall give prompt notification to the Executive Director (Finance and Corporate Resources) of all new or increased risks, properties, vehicles or significant changes to operations that should be covered by insurance or of any alterations affecting existing insurance within their Resource.

### **16.3 Notification of Claims**

- 16.3.1 Executive Directors shall notify the Executive Director (Finance and Corporate Resources) immediately in writing of any loss, liability or damage or any event likely to lead to a claim and, in consultation with the Executive Director (Finance and Corporate Resources) and Head of Administration and Legal Services, inform the Police where appropriate. Thereafter the Executive Director (Finance and Corporate Resources) shall be responsible where applicable for advising the Insurance Company concerned where appropriate.

### **16.4 Fidelity Guarantee Insurance**

- 16.4.1 All appropriate employees of the Council shall be included in suitable fidelity guarantee insurance.

### **16.5 Review of Insurance Cover**

- 16.5.1 The Executive Director (Finance and Corporate Resources) shall annually or at such other period as is considered necessary review all insurance in consultation with other Executive Directors as appropriate.

### **16.6 Indemnities**

- 16.6.1 Each Executive Director shall consult with the Executive Director (Finance and Corporate Resources) who may consult the Chief Executive as necessary respecting the terms of any indemnity, which the Council is requested to give.
- 16.6.2 Each Executive Director shall put in place arrangements with contractors and other bodies for the Council to be indemnified for any loss, damage or injury caused by said contractors and other bodies in line with guidelines and advice provided by Finance and Corporate Resources.

### **16.7 Fund**

- 16.7.1 The Council's Insurance Fund will be managed with reference to guidance provided by Local Authority Agencies, Audit Scotland and Best Practice Guidance approved by the Local Authority (Scotland) Accounts Advisory Committee. The fund will be subject to regular actuarial reviews.
- 16.8 Regular internal reviews of the fund will be undertaken to ensure that cost of loss can be met from the Council's Insurance Fund and Resource contributions.

## **17. STOCKS AND STORES CONTROL**

### **17.1 Costing Systems and Stores Control**

17.1.1 Arrangements made by the Executive Directors for costing systems and stock and stores control shall be subject to the approval of the Executive Director (Finance and Corporate Resources).

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

### **17.2 Custody of Stores and Stocktaking**

17.2.1 The care, custody and level of stores in any department shall be the responsibility of the appropriate Executive Director who will ensure that:-

- (i) stocktaking is carried out at regular intervals throughout the financial year under arrangements approved by the Executive Director (Finance and Corporate Resources).
- (ii) stocktaking is, as far as practicable, carried out by persons other than Stores Persons.
- (iii) all obsolete or excess stock or scrap material is identified and disposed of in accordance with Financial Regulation 15.4.1. and the Scheme of Delegation.
- (iv) the Executive Director (Finance and Corporate Resources) shall, at a date determined and in a form prescribed by the Executive Director (Finance and Corporate Resources), be furnished with an inventory of stock and stores on hand as at 31 March preceding.

Executive Directors should ensure appropriate systems are in place to control and record transactions and balances.

17.2.2 Inventories of stock shall be maintained by all Resources in a form determined by the appropriate Executive Director in consultation with the Executive Director (Finance and Corporate Resources).

17.2.3 Duly authorised certificates of stock valuations at 31 March shall be submitted by the appropriate Executive Director to the Executive Director Finance and Corporate Resources as soon as possible after the year end and valued in accordance with principles agreed with the Executive Director (Finance and Corporate Resources).

### **17.3 Write-offs or Surpluses of Stores**

17.3.1 No adjustment shall be made to write off stock or stores deficiencies or bring surpluses into account unless, in consultation with the appropriate Executive Director, agreed by the Executive Director (Finance and Corporate Resources) who will then determine Committee reporting requirements.

### **17.4 Use of Stock**

17.4.1 The Council's stock shall not be removed otherwise than in accordance with the ordinary course of the Council's normal business or used elsewhere otherwise than for the Council's purposes except in accordance with the specific directions and approval of the Executive Director concerned and in accordance with the Code of Conduct for Employees.

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

### **18.1 Official Orders and Exemptions**

- 18.1.1 Official orders or acceptances of tenders or offers shall be in a form approved by the Executive Director (Finance and Corporate Resources) and the Head of Administration and Legal Services and shall be approved only by officers authorised by the appropriate Executive Director who shall be responsible for official orders, tenders or offers issued from the Service.

All official orders or acceptances of tenders or offers shall conform to the Scheme of Delegation, the Council's Standing Orders and all statutory requirements as well as the Financial Regulations of the Council.

- 18.1.2 Executive Directors or appropriately nominated officers shall approve official orders for works, goods or services only in accordance with any relevant requirements of Standing Orders (Nos: 18 E-procurement; 20 Checking of Pre-qualification documents/Tenders and Reporting; 21 Acceptance of Tenders; 14 Collaboration; and 23 Nomination of Sub-Contractors, 9 Negotiated Tendering Procedure – General, 10 Negotiated Tendering Procedure – Social Care Services Contracts and 22 Extensions to Contracts) and the relevant requirements imposed by Statute, regulation or EU public procurement directives. In the absence of a physically signed document/form, the authorising signature should be backed up with an authorising statement sent via email from the authoriser's account. If future developments implement an electronic signature solution this will supersede any previous requirement for email backup.
- 18.1.3 Except for petty cash purchases, supplies of Public Utility Services and periodic payments such as rent and rates or such other exceptions as the Executive Director (Finance and Corporate Resources) may from time to time approve and, subject to the provisions of Standing Orders and the Scheme of Delegation, goods, materials or services supplied to or work executed for the Council shall be ordered or confirmed by means of an official order or by formal acceptance of a tender or offer.
- 18.1.4 Purchases made via the Council's Purchase Card Scheme are approved and reconciled using an e-solutions online system.
- 18.1.5 A copy of each official order, tender, offer or formal acceptance thereof, shall, if so required, be supplied to the Executive Director (Finance and Corporate Resources). In terms of iProcurement, e-mailed / printed orders are held on the database but copies can be provided if required.

### **18.2 Authorised Persons**

- 18.2.1 A current list of persons authorised to place orders shall be maintained by each Executive Director in a form determined by the Executive Director (Finance and Corporate Resources), together with the specimen signatures, initials and approved level of purchasing power of the persons authorised. For iProcurement approvers, a separate hierarchy document has been produced illustrating all approvers and approval levels for each Resource. Any changes to the hierarchy will be carried out by the eProcurement support team on receipt of an authorised iProcurement user amendment form.
- 18.2.2 Persons authorised to purchase by Purchase Cards, must have the specific approval in writing of the Executive Director (Finance and Corporate Resources) before being added to the aforesaid list. Maximum buying power, types of goods and services, and range of suppliers, must be noted in such an approval.
- 18.2.3 Some organisations accept orders and services via the Internet. The fact that Internet access has been granted does not authorise a user to place orders in the name of the Council. No orders will be placed via the Internet without proper authorisation through the normal corporate/departmental procedures. Failure to comply with this would be regarded

as a breach of the Financial Regulations.

- 18.2.4 A current list of authorised persons for placing orders together with the specimen signatures and initials shall be supplied by each Executive Director to the Executive Director (Finance and Corporate Resources). The list of iProcurement approvers should also be provided.
- 18.2.5 Additions or deletions to the list shall be notified to the Executive Director (Finance and Corporate Resources) as they occur without delay and the currency of the list shall be reviewed annually by the appropriate Executive Director. Any changes to the iProcurement hierarchy will be carried out by the eProcurement support team on receipt of an authorised iProcurement user amendment form. Reports from iProcurement on the hierarchy shall be produced annually and reviewed by the appropriate Executive Director.
- 18.3 Central Purchasing and Standardisation
- 18.3.1 The ordering of works, goods and services shall conform to directions of the Council with respect to central purchasing and the standardisation of goods, materials and services.
- 18.4 Segregation of Duties
- 18.4.1 Procedures which are to be followed regarding the ordering, receiving of goods/services and the subsequent approval of invoices for payment should be arranged to ensure all tasks are completed by separate officers. Persons receiving goods/services through iProcurement must not be the same officers who approved the order.

## **19. PAYMENT OF INVOICES**

### **Certified Payments and Non iProcurement Orders**

#### **19.1 Certification by Executive Director**

- 19.1.1 It will be the duty of the Executive Director of each Resource which incurs expenditure to ensure that all goods, materials and services received, following the placing of official orders by the Executive Director or an authorised employee within the Resource, are as ordered, in respect of price, quantity and quality.
- 19.1.2 Any Executive Director issuing an official order shall be responsible for examining, verifying, certifying and coding the related invoices and similarly for any other payment, vouchers or accounts arising from the Service.
- 19.1.3 Such certification shall be in manuscript or in an electronic form approved by the Executive Director (Finance and Corporate Resources) by or on behalf of the Executive Director.
- 19.1.4 The Executive Director will therefore arrange for the certification in manuscript by an employee of the Service that all payment vouchers, supported by invoices, etc., comply with the following:-
- (i) the expenditure is on items or services that it is within the Council's legal powers to incur, and that provision for that expenditure is included within the Revenue Estimates (subject to exemptions as detailed in 5.8.1).
  - (ii) the works, goods, materials or services to which the invoice or statement relates have been received or carried out as the case may be and have been examined and approved and are in accordance with the official order.
  - (iii) the prices, extensions, calculations, trade discount, other allowances, credits and tax are correct.
  - (iv) the relevant expenditure has been properly incurred and is within the relevant estimate provision.
  - (v) appropriate entries have been made in inventories, stores records or stock books as required.
  - (vi) the appropriate expenditure code numbers are entered on the document for payment.
  - (vii) the invoice has not previously been passed for payment and is a proper liability of the Council.

#### **19.2 Cash Discounts**

- 19.2.1 After the receipt of the goods has been properly certified as above, the Executive Director, or other authorised employee intimated to the Executive Director (Finance and Corporate Resources), will pass all relevant and necessary details expeditiously to the Executive Director (Finance and Corporate Resources) for payment to ensure that any offer of cash discount for early payment is received and that creditors are timeously paid.

#### **19.3 Advance Payments**

- 19.3.1 Any circumstance, under which it is necessary to pay part or full value of the goods and services in advance, must be approved by the Executive Director (Finance and Corporate Resources) and adhere to the current procedures of Finance and Corporate Resources.

#### 19.4 Payment of Invoices

- 19.4.1 Details of payments required, duly certified, will be passed without delay to the relevant input point for each service area and each Executive Director must ensure that this is carried out with a view to avoiding exposure to late payment penalties as chargeable under the Late Payment of Commercial Debt (Scotland) Act 1998.
- 19.4.2 The Executive Director (Finance and Corporate Resources) will instruct whatever examinations with regard to the payment of accounts are deemed necessary for which purpose the Executive Director (Finance and Corporate Resources), or a nominated representative, shall be entitled to obtain whatever information and explanations as may be required.
- 19.4.3 The Executive Director (Finance and Corporate Resources) will on receipt of authorisation from Executive Directors have full authority to pay such invoices.
- 19.4.4 Persons authorising invoices for payment should not be the officers who approved the purchase order of who received the goods/services. (see Section 18.4 Segregation of Duties)
- 19.4.5 Apart from petty cash and other payments from the imprest accounts, the normal method of payment of money due from the Council will be by electronic transfer, cheque or other instrument, such as direct debit drawn on the Council's bank accounts by the Executive Director (Finance and Corporate Resources) or any person or persons so authorised. A Direct Debit policy has been created and issued to all relevant employees. The policy states that the only bank account where direct debits are permitted to be drawn from is from the Council's Expenditure account. The policy also details the approval process and the responsibilities in setting up direct debits and that all documentation will be retained by Finance Manager (Strategy) for audit purposes.
- 19.4.6 Each Executive Director will, at a date determined by the Executive Director (Finance and Corporate Resources), provide a certified list of all outstanding expenditure relating to transactions in the preceding financial year, for which no copy accounts have previously been passed to the Executive Director (Finance and Corporate Resources).

#### 19.5 Duplicate Invoices

- 19.5.1 Payment will not be made on duplicate invoices or photocopy invoices unless the Executive Director or other authorised employee certifies in writing that the amounts in question have not previously been paid.

#### 19.6 Amendments

- 19.6.1 Any amendments to payment vouchers will be made in ink and initialled by the officers making them, stating briefly the reasons for the amendment where this is not self evident. Alterations must not be made using correcting fluids.
- 19.6.2 No amendment to an invoice will be made.
- 19.6.3 All invoices or credit notes where alteration or amendments are found necessary must be returned to the supplier and a replacement invoice or credit note must be submitted.

#### 19.7 Authorised Signatories

- 19.7.1 A list of authorised signatories for certifying accounts will be supplied by the Executive Director to the Executive Director (Finance and Corporate Resources) and specimen signatures and initials are required from the persons authorised.
- 19.7.2 Additions or deletions shall be notified to the Executive Director (Finance and Corporate Resources) without delay as they occur and the currency of the list shall be reviewed



annually by the Executive Director.

- 19.7.3 In the case of remote working, any documents requiring authorisation must be supported by an authorising statement from the Council email account of the authorising signatory. If future developments implement an electronic signature solution this will supersede any previous requirement for email backup.

## **Payments – Orders Placed Through iProcurement**

### **19.8 Certification by Executive Director**

- 19.8.1 It will be the duty of the Executive Director of each Resource which incurs expenditure to ensure that all goods, materials and services received, following the placing of official orders by the Executive Director or an authorised employee within the Resource, are as ordered, in respect of price, quantity and quality.
- 19.8.2 Any Executive Director or nominated employee issuing an official order shall be responsible for verifying, certifying and receipting the related goods, materials and services timeously.
- 19.8.3 Such certification shall be in the electronic form approved by the Executive Director (Finance and Corporate Resources) by or on behalf of the Executive Director, using the iProcurement system protocols.
- 19.8.4 Persons receipting and such authorising invoices for payment should not be the officers who approved the purchase order of who received the goods/services. (see Section 18.4 Segregation of Duties). This will be covered under the iProcurement ordering protocols.

### **19.9 Cash Discounts**

- 19.9.1 In order for all cash discounts for prompt payment to be received, timeous receipt of the goods is essential. The Executive Director or authorised employee will receipt goods and services expeditiously to ensure any offer of cash discount is taken.

### **19.10 Payment of Invoices**

- 19.10.1 The Executive Director (Finance and Corporate Resources) will, on receipt of authorisation through the iProcurement system from Executive Directors, have full authority to pay such invoices, which will follow the method set out at 19.4.5.

### **19.11 Duplicate Invoices**

- 19.11.1 Controls within the iProcurement system should not allow duplicate payments to be made on the same order number. Any invoice not bearing an iProcurement order number will be returned to the supplier.

### **19.12 Amendments**

- 19.12.1 No amendment to an invoice will be made. All invoices or credit notes where alteration or amendments are found necessary must be returned to the supplier and a replacement invoice or credit note must be submitted.

## **20. CONTRACTS FOR WORKS AND SERVICES**

### **20.1 Record of Contracts**

- 20.1.1 The appropriate Executive Director or nominated officer will ensure that a condition of the awarding of a contract for works or services will be that the contractor is verified with HMRC and the subcontractors Employment Status is established in line with the Construction Industry Deduction Scheme (2007) and that no contract for works or services can be awarded in the absence of such evidence.
- 20.1.2 The appropriate Executive Director or nominated officer will maintain a record of all relevant contracts and payments made on contracts. The Executive Director (Finance and Corporate Resources) shall have access to such records and use whatever information is considered necessary.
- 20.1.3 Where contracts provide for payments to be made by instalments, a contract register or registers shall be kept to show the state of account on each contract between the Council and the Contractor together with any other payments and professional fees. These arrangements must meet with the approval of the Executive Director (Finance and Corporate Resources).

### **20.2 Variations to Contracts**

- 20.2.1 Subject to the provisions of the Contract in each case every extra or variation will, unless otherwise evidenced to the Executive Director's satisfaction, be authorised in writing by the appropriate Executive Director or by any other Officer nominated by the Executive Director in writing for that purpose. All instructions to contractors on capital works and major revenue projects shall be issued by the responsible employee using the appropriate official variation order procedure.
- 20.2.2 The total of any such variation to the contract, estimated additional cost of which exceeds £100,000 or 5% of the total contract figure, whichever is the greater, will be reported to the Executive Director (Finance and Corporate Resources) for approval as soon as practicable prior to the variation being instructed. Refer to Section 6.8.1. and Standing Order 22, relating to the extension of contracts, also applies.

### **20.3 Interim Payments**

- 20.3.1 The authorised officers will certify interim payments to contractors responsible for the control and supervision of the work. The Executive Director (Finance and Corporate Resources) will both approve and be provided with specimen signatures of the authorised signatories by the Executive Director concerned. Any amendment to the list of authorised signatories should be notified to the Executive Director (Finance and Corporate Resources) as they occur and without delay.

### **20.4 Payment Procedures**

- 20.4.1 Payments to Contractors of the Council will be made only on a certificate issued by the appropriate Executive Director or by another Officer nominated by the Executive Director in writing for that purpose. The officers so authorised shall be determined jointly in agreement with the Executive Director (Finance and Corporate Resources).

### **20.5 Claims from Contractors**

- 20.5.1 Claims from contractors in respect of matters not clearly within the terms of any existing contract will be referred to the Head of Administration and Legal Services for the consideration of the Council's legal liability and where necessary to the Executive Director (Finance and Corporate Resources) for financial consideration before a settlement is reached.

- 20.5.2 An Executive Director offering works of new construction or works of maintenance to the Trading Services organisation of the Council will do so only in compliance with all relevant statutory provisions which are in force.

## 20.6 Delay of Contract

- 20.6.1 Where completion of a contract is delayed beyond the agreed period or any agreed extension of time for the contract it shall be the duty of the employee concerned to consult the appropriate Executive Director and Head of Administration and Legal Services prior to taking appropriate action in respect of any claims for liquidate or other damages.

## 20.7. Contractor's Insurance

- 20.7.1 Executive Directors will ensure that each contractor's or sub-contractor's insurance cover complies with the requirements laid down in the Council's Conditions of Contract or as specified by the Executive Director (Finance and Corporate Resources), in consultation with the Head of Administration and Legal Services. In particular, insurance cover will require to be exhibited to the Executive Director responsible for issuing the contract prior to the contract being awarded.

- 20.7.2 When sub-contractors are appointed, liability for loss or damage resulting from their negligence should be transferred to them in terms of the Conditions of Contract. It is the responsibility of the Executive Director issuing the contract to: ensure that this is done; that procedures exist for checking the validity and adequacy of sub-contractors' insurance documents; and for claims to be processed. The Council should not be liable to tenants or other third parties for the negligent acts of contractors.

- 20.7.3 Copies of all essential insurance policy details must be passed to the Risk Management section for inclusion on the Register of Contractor's Insurance.

## 20.8 Contract Management Guidelines

- 20.8.1 Once a contract is awarded, the management and monitoring is crucial to the success of that contract.

- 20.8.2 Whilst it is important for both parties in the contract to understand their obligations, it is vital that mechanisms are put in place for the monitoring of the contract. This can be done via regular meetings, monthly progress reports and site visits to the contractor's premise. The type of information required will be dependent of the type of contract.

- 20.8.3 It is essential that for all contracts, accurate records are maintained. After the award of a contract, a file should be created which will contain all information relating to the contract.

- 20.8.4 If a problem occurs, the contractor should be notified as soon as possible to ensure that any problems do not escalate. Communication and good working relationships are also crucial to a successful contract.

- 20.8.5 Full guidelines on contract management can be found on the Finance - Procurement intranet site

<http://intranet.southlanarkshire.gov.uk/info/20378/e-procurement>

## **21. ACCOUNTING SYSTEMS AND RECORDS**

### **21.1 Accounting Systems, Procedures and Records**

- 21.1.1 All accounting systems, procedures and records of the Council and its Services will be determined by the Executive Director (Finance and Corporate Resources) and all accounts and accounting records of the Council will be compiled by, or under the direction of, the Executive Director (Finance and Corporate Resources). Where such systems and records are maintained other than by the Executive Director (Finance and Corporate Resources), the Executive Director concerned will, before making any determination, consult the Executive Director (Finance and Corporate Resources).

### **21.2 Principles of Internal Control**

- 21.2.1 It is the duty of the Executive Director (Finance and Corporate Resources) to ensure that adequate financial and accounting systems and records are designed and maintained in accordance with the recognised principles of internal control to ensure as far as possible:-
- (i) that all income due to the Council is properly recorded and collected.
  - (ii) that all expenditure of the Council is properly incurred, authorised and checked.
  - (iii) the safe custody and control of all cash, stocks and other assets of the Council.

### **21.3 Segregation of Duties**

- 21.3.1 Officers charged with examining and checking the accounts of cash transactions will not themselves be engaged in any of these transactions.
- 21.3.2 Procedures to be followed regarding the calculation, checking and recording of sums due by or to the Council, or the provision of information regarding sums due to or from the Council, are arranged in such a way whereby the work of one person is proven independently or is complementary to the work of another and these operations are separated from the duty of collecting or disbursing such sums where such aggregation of duties is practicable given the staff resources available.

### **21.4 Annual Accounts**

- 21.4.1 The Annual Accounts of the Council will be compiled by, or under the direction of the Executive Director (Finance and Corporate Resources).
- 21.4.2 The Executive Director (Finance and Corporate Resources) will advise all Executive Directors of the timescales and deadlines set in order to complete the Annual Accounts by the statutory deadline.
- 21.4.3 Each Executive Director will submit to Finance and Corporate Resources all information necessary to close the Accounts as detailed in the Guidance Notes and Procedures issued annually to each Resource.
- 21.4.4 It is the responsibility of each Executive Director to provide the External Auditor with supporting documentation and any information required in connection with the closure of the Council's accounts.

## **22. INTERNAL AUDIT**

### **22.1 Responsibility for Internal Audit**

- 22.1.1 A continuous Internal Audit, under the direction of the Executive Director (Finance and Corporate Resources), will be arranged for the purpose of carrying out an independent examination of the accounting, financial and other operations and systems of the Council to ensure that the interests of the Council are protected.
- 22.1.2 This should be done in accordance with Internal Audit's published Internal Audit Charter and in compliance with the Public Sector Internal Audit Standards.
- 22.1.3 Officers engaged in Internal Audit will report directly to the Executive Director (Finance and Corporate Resources). All Internal Audit reports will be submitted to the Executive Director (Finance and Corporate Resources) and to the Executive Director and relevant Heads of Service of the Resource concerned and to the External Auditor.

### **22.2 Authority of Audit**

- 22.2.1 The Executive Director (Finance and Corporate Resources) or an authorised representative will have authority, on production of identification, to:-
  - (i) enter at all reasonable times on any Council premises or land.
  - (ii) have access to all records, computer files, documents and correspondence relating to any financial and other transactions of the Council.
  - (iii) require and receive such explanations as are necessary concerning any matter under examination.
  - (iv) require any employee of the Council to produce when required cash, stores or any other Council property under his/her control.
  - (v) require any explanations that he/she considers necessary regarding any contract or transaction.
  - (vi) while investigating a contract, request the assistance of a professional person within the department concerned with such assistance being given promptly.
  - (vii) and will make any recommendations to changes in procedures as appropriate.

### **22.3 Irregularities**

- 22.3.1 Any evidence or reasonable suspicion of an irregularity relating to funds, stores or other property of the Council, or any suspected irregularity in the exercise of the functions of the Council, including breaches of the Code of Corporate Governance, will be reported immediately, by the Executive Director to the Executive Director (Finance and Corporate Resources) or a nominated employee or vice versa, in line with the Fraud Response Plan.
- 22.3.2 Such irregularities will be dealt with by the Executive Director (Finance and Corporate Resources) as is considered necessary by way of investigation, action and report in accordance with the Council's Counter Fraud, Bribery and Corruption Statement and Strategy and Fraud Response Plan.
- 22.3.3 All Executive Directors will make arrangements within their Resource to ensure that any actual or suspected irregularities relating to funds, payments, stores, equipment or other Council property, or any breaches of the Code of Corporate Governance are reported to them immediately in line with the Fraud Response Plan.
- 22.3.4 The Executive Director (Finance and Corporate Resources) will approve any necessary investigations arising from incidents of whistle blowing by third parties.

## **23. PETTY CASH IMPREST ACCOUNTS**

### **23.1 Provision of Petty Cash Imprest Accounts**

- 23.1.1 The Executive Director (Finance and Corporate Resources) will, in consultation with the Executive Director concerned, advance a sum of money intended to be used for the purposes of defraying petty cash and other minor expenses.
- 23.1.2 The Executive Director (Finance and Corporate Resources) only will open an imprest bank account in the name of the establishment to be used in the operation of the petty cash imprest account.
- 23.1.3 The Executive Director concerned will supply a list of authorised signatories for the operation of the imprest bank account. A minimum of two signatories will be required to withdraw money or make payment from an imprest bank account.
- 23.1.4 It shall be the responsibility of the imprest bank account holder to ensure the account is not overdrawn under any circumstances. Any charges for being overdrawn must be borne by the establishment concerned.
- 23.1.5 Any bank interest earned on imprest accounts will be remitted separately and immediately to the Executive Director (Finance and Corporate Resources) and will not be left in the imprest bank balance.
- 23.1.6 Petty cash imprest accounts will be reconciled at least once in each calendar month, the reconciliation should be signed by the imprest holder and retained for inspection.
- 23.1.7 Claims for re-imbursement of a petty cash imprest account should be made where appropriate, taking into consideration the size of the claim and the expected demands on the petty cash account.
- 23.1.8 All claims for re-imbursement should be submitted to the Executive Director (Finance and Corporate Resources). Re-imbursement will be made electronically by bank transfer. No re-imbursements will be made in cash.
- 23.1.9 An employee responsible for a petty cash imprest account will, if so requested, give to the Executive Director (Finance and Corporate Resources) a certificate as to the balance of the petty cash imprest account.
- 23.1.10 Payments from petty cash imprest accounts are limited to minor items of expenditure not exceeding £100 per item and to only such other items as the Executive Director (Finance and Corporate Resources) may approve.
- 23.1.11 Payments from the petty cash imprest accounts will be supported by a receipted voucher to the satisfaction of the Executive Director (Finance and Corporate Resources).
- 23.1.12 Petty cash imprest accounts must not be used to pay major expense claims or any suppliers' invoices.

### **23.2 Exclusion of Payments to the Council**

- 23.2.1 No income received on behalf of the Council will be paid into an imprest bank account or be used to replenish an imprest petty cash account but shall be lodged in a bank or be paid to the Council as provided for in Section 13 hereof (Banking Arrangements).

23.3 Termination as Imprest Holder

- 23.3.1 On leaving the employment of the Council or otherwise ceasing to be entitled to hold a Petty Cash Imprest Account, the employee will account to the Executive Director (Finance and Corporate Resources) for the amount advanced to the employee. A formal record of this accounting shall be prepared and retained in the Resource concerned for inspection.

23.4 Review of Provision of Imprest Accounts

- 23.4.1 The Executive Director (Finance and Corporate Resources) will be entitled to review the use made of Imprest accounts and reduce or close them as considered appropriate.

## **24. PAYMENT OF WAGES AND SALARIES**

### **24.1 Information regarding Appointments, etc.**

24.1.1 The Head of Personnel Services and/or, where appropriate, the Executive Director concerned, will notify the Executive Director (Finance and Corporate Resources) without delay and keep records of all matters affecting the payment of wages, salaries and other emoluments, in particular:-

- (i) appointments, promotions, re-gradings, resignations, dismissals, suspensions, secondments and transfers.
- (ii) changes in remuneration, other than normal increments and pay awards and agreements of general application.
- (iii) absences from duty for sickness, career break or other reasons.
- (iv) information necessary to maintain records of service for Superannuation, income tax, national insurance and social security purposes.

24.1.2 This information may be provided by delegates of Executive Directors via the Council's self service system People Connect.

### **24.2 Implementation of Agreements**

24.2.1 The Head of Personnel Services is responsible for the application of all appropriate wages and salary agreements to employees of the Council.

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

24.3.1 All time records or other pay documents will be in a format prescribed or approved by the Executive Director (Finance and Corporate Resources) and will be certified in manuscript where appropriate, by or on behalf of the appropriate Executive Director. Electronic submission of data must be password protected and will only be accepted from authorised personnel.

24.3.2 The names of employees authorised to certify such documents will be sent to and approved by the Executive Director (Finance and Corporate Resources) from each Executive Director together with specimen signatures and initials. Any amendment to the list of authorised signatories should be notified to the Executive Director (Finance and Corporate Resources) as they occur without delay.

### **24.4 Submission of Timesheets**

24.4.1 Each Executive Director will adhere to the timetable laid down by the Executive Director (Finance and Corporate Resources) for the submission of timesheets and staff reports.

### **24.5 Arrangements for Payments**

24.5.1 The payment of all salaries, wages, pensions, compensation and other emoluments to all employees, former employees, elected Members or beneficiaries will be made by the Executive Director (Finance and Corporate Resources) or under arrangements approved and controlled by the Executive Director (Finance and Corporate Resources).

24.5.2 All transfers of money from one member of staff to another will be evidenced in the records of the Services concerned by the signature of the receiving employee.



## **25. TRAVELLING SUBSISTENCE etc. ALLOWANCES**

### **25.1 Arrangements for Claims**

- 25.1.1 The Executive Director (Finance and Corporate Resources) will be responsible for making arrangements for the administration, regulation and payment of claims for expenses of and allowances to Members and employees of the Council and its Committees and other approved bodies subject always to the statutory provisions from time to time in force.

### **25.2 Regulations**

- 25.2.1 The Head of Personnel Services in consultation with the Executive Director (Finance and Corporate Resources), will make available the current Regulations on expenses and allowances to Members and employees of the Council and to other approved bodies.

### **25.3 Submission of Employees' Claims**

- 25.3.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be submitted through People Connect or duly certified in manuscript on the appropriate official form approved by the Executive Director (Finance and Corporate Resources). Reimbursement of mileage expenses will only be made on presentation of a relevant VAT receipt detailing a fuel purchase. Reimbursement of other expenses will only be made on presentation of a relevant receipt, where appropriate. Claims must be submitted no later than eight weeks after the end of the month during which expenses are incurred.

- 25.3.2 Anything beyond this will require specific authorisation by the appropriate Resource Executive Director or nominated Head of Service as well as the Executive Director (Finance and Corporate Resources).

- 25.3.3 Each Executive Director must ensure that as far as practically possible employees' claims applicable to a financial year are submitted by 15 April of the following financial year.

### **25.4 Payment of Employees' Claims**

- 25.4.1 All such expenses will as far as practicable be paid via the payroll system.
- 25.4.2 Such payments will not be made out of imprest accounts without the express authority of the Executive Director (Finance and Corporate Resources).

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

- 25.5.1 The certification by or on behalf of the Executive Director will be taken to mean that the certifying employee is satisfied that the journeys were authorised, the expenditure was wholly, exclusively and necessarily incurred in the performance of employment, and that any allowances are properly payable by the Council.

- 25.5.2 The names of employees authorised to certify claims not entered on People Connect will be sent to the Executive Director (Finance and Corporate Resources) by Executive Directors together with specimen signatures and initials. Any amendment to the list of authorised signatories should be notified to the Executive Director (Finance and Corporate Resources) as they occur without delay.

- 25.5.3 An annual review of such authorisations will be carried out by each Resource to ensure that the list of names submitted to the Executive Director (Finance and Corporate Resources) is complete and up-to-date.

- 25.5.4 No employee authorised to certify such claims would certify a personal claim. Personal claims must be certified by a separate authorised signatory who should be senior to the

employee making that claim.

25.6 Submission of Members' Claims

- 25.6.1 Payments to Members, including co-opted Members of the Council or its committees who are entitled to claim travel costs incurred, mileage allowance or other expenses approved through the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, the Local Government (Allowances and Expenses) (Scotland) Regulations 2007 and the Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007, or any amending Regulations will be made by the Executive Director (Finance and Corporate Resources) upon receipt of the prescribed form duly completed and certified in manuscript.
- 25.6.2 Reimbursement of mileage expenses will only be made on presentation of a relevant VAT receipt detailing a fuel purchase. Reimbursement of other expenses will only be made on presentation of a relevant receipt, where appropriate. Members' claims should be submitted on a four weekly basis or more frequently if required.
- 25.6.3 As far as is practically possible Members' claims applicable to a financial year should be submitted by the 15 April in the following financial year.
- 25.6.4 The payment of Members' expenses will be in accordance with the Council's approved Scheme, or any amending legislation

## **26. SECURITY**

### **26.1 Responsibility for Security**

- 26.1.1 Each Executive Director is responsible for maintaining proper security, custody and control at all times for all plant, buildings, materials, stores, furniture, equipment, cash, etc., under the Executive Director's control. The Executive Director will apply, as a minimum, standards for property protection as defined by Risk Management guidance.

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

- 26.2.1 As noted in 9.4.1. Sums in excess of £500 must be banked within 24 hours of receipt unless the establishment has an uplift by a security carrier agreed by the Executive Director (Housing and Technical Resources). Where this exists the Executive Director (Finance and Corporate Resources) will agree with the appropriate Executive Director the maximum amount of cash to be held in the premises under the Executive Director's control and the agreed amount shall not be exceeded except with the written agreement of the Executive Director (Finance and Corporate Resources) and confirmation that appropriate insurance arrangements are in place.

### **26.3 Safe Keys**

- 26.3.1 Keys to safes and similar receptacles for cash, stocks or valuable documents or articles, will be the responsibility of the person(s) given charge of such safes or similar receptacles at all times. Resource Management is tasked with the responsibility and should follow the guidance as detailed in any Risk Management guidance notes and General Security.
- 26.3.2 All valuables such as insignia of office or other items of a similar nature which are in active use, will be deposited with the Executive Director (Finance and Corporate Resources) for safe custody with the exception of items legally part of the Museums Collection.

### **26.4 Pre-printed/Pre-signed Cheques, etc.**

- 26.4.1 The Executive Director (Finance and Corporate Resources) will be responsible for ensuring that secure arrangements are made for the preparation and holding of pre-printed/pre-signed cheques, stock certificates, bonds and other financial documents.

### **26.5 Security/Retention of Documents**

- 26.5.1 Each Executive Director will be responsible for maintaining proper security, custody and control of all documents within his/her Resource Area. The retention period for all books, forms and financial records will be determined by the Executive Director (Finance and Corporate Resources) in consultation with the Head of Administration and Legal Services.
- 26.5.2 Executive Directors or other nominated officers will be responsible for ensuring that proper systems exist for password identification control both in the case of all Council's IT systems and in the use of personal computers. Nominated Officers will be responsible for ensuring that passwords are properly secured and regularly reviewed.
- 26.5.3 Flexible and remote working increases risks around cyber and information security. All employees and officers remain bound by and must comply with the policies that South Lanarkshire Council have in place to protect sensitive Council data and information. Employees are routinely reminded of their responsibilities to comply with Corporate policies and its incumbent on management to monitor compliance.

## 26.6 Data Protection Act

- 26.6.1 Each Executive Director will be responsible for the use and security within the Department of all personal data held by or output from Computer Systems within the department. Personal data output from such systems must not be used by any other person, department or organisation in contravention of the authority's registration under the Data Protection Act or the Freedom of Information Act.
- 26.6.2 The Executive Director (Finance and Corporate Resources) will be responsible for the use and security within the Finance and Corporate Resources of all personal data held by or output from Finance and Corporate Resources Computer Systems. Personal data output from Finance and Corporate Resources systems must not be used by any other person, department or organisation without the prior approval of the Executive Director (Finance and Corporate Resources) or in contravention of the authority's registration under law relating to the Data Protection Act.

## **27. RISK MANAGEMENT**

- 27.1 The Executive Director (Finance and Corporate Resources) will inform the Council's approach to strategic risk management.
- 27.2 It is the responsibility of each Executive Director to maintain a register of Key Risks and associated Risk Control Plans.
- 27.3 It is the responsibility of each Executive Director to ensure that the register of Key Risks and associated Risk Control Plans are aligned to the Resource and Service Plans and are consistent with the approved Risk management methodology and systems.
- 27.4 The register of Key Risks and associated Risk Control Plans are to be available for inspection.

## **28. OBSERVANCE OF FINANCIAL REGULATIONS**

### **28.1 Responsibility of Directors**

- 28.1.1 It is the duty of each Executive Director to ensure that these Regulations are made known to the appropriate persons within the Resource / Service and to ensure that the Regulations are adhered to.

### **28.2 Breach of Regulations**

- 28.2.1 Any breach or non-compliance with these Regulations must, on discovery, be reported immediately or as soon as is practically possible, to the Executive Director (Finance and Corporate Resources) who will discuss the matter with the Chief Executive and / or Head of Personnel Services and / or Head of Administration and Legal Services and / or such other Executive Director as may be appropriate in order to determine the proper action to be taken.

## **29. FOLLOWING THE PUBLIC POUND**

- 29.1 The Accounts Commission/COSLA Code of Guidance on Funding External Bodies and Following the Public Pound:-  
[http://www.audit-scotland.gov.uk/uploads/docs/report/2018/code\\_following\\_public\\_pound.pdf](http://www.audit-scotland.gov.uk/uploads/docs/report/2018/code_following_public_pound.pdf)  
sets out good practice guidance regarding public funds provided to external bodies.

In order to adhere to this Guidance, in summary, Council officers must:-

- ensure they have a clear purpose in funding an external body
- set out clearly, a suitable financial regime (dependent on the level of award)
- make clear the expected financial and service performance monitoring arrangements, and clearly note any required access to documentation in relation to any financial award
- consider carefully the question of whether the Council should have representation on the Board of the external body
- establish limits in relation to the Council's involvement in the external body

Detailed guidance on the application of the Accounts Commission/COSLA document is found in the Council's Guidance on Funding External Bodies and Following the Public Pound

[https://www.southlanarkshire.gov.uk/info/200168/getting\\_involved\\_in\\_your\\_community/1319/funding\\_for\\_community\\_groups\\_charities\\_and\\_businesses/2](https://www.southlanarkshire.gov.uk/info/200168/getting_involved_in_your_community/1319/funding_for_community_groups_charities_and_businesses/2)

This document details the requirements of officers in relation to the funding of external bodies using Council monies.



# **Terms of Reference The Council, Committees and Associated Forums**

**Submitted to the First Statutory meeting of South Lanarkshire Council on 18 May 2022**

**Note:** If you need this information in another language or format, please contact us to discuss how we can best meet your needs.  
Phone 0303 123 1015 or email [equalities@southlanarkshire.gov.uk](mailto:equalities@southlanarkshire.gov.uk)



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# Section 1

## South Lanarkshire Council

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### Council

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### South Lanarkshire Council

#### **1 Powers and Responsibilities**

- 1.1 To appoint the Provost, Depute Provost, Leader and Depute Leader.
- 1.2 To agree the membership of the Executive Committee, all Resource Committees, Area Committees, Regulatory Committees and to appoint the Chairs and Depute Chairs of those Committees.
- 1.3 To appoint members to Joint Boards and Joint Committees.
- 1.4 To receive a report on issues considered by the Executive Committee which require the approval of the Council.
- 1.5 To deal with the following major policy issues referred to the Council by the Executive Committee:-
  - ◆ approving the annual package of savings as part of the budget process
  - ◆ setting overall revenue and capital budgets
  - ◆ setting Council Tax
  - ◆ setting rent levels for Council houses
  - ◆ Annual Investment Strategy
  - ◆ the Community Plan
  - ◆ the Council Plan
  - ◆ framework for political management arrangements
  - ◆ any other issues which the Executive Committee considers should be referred to the Council
- 1.6 To determine those planning applications for which a pre-determination hearing is mandatory referred to the Council by the Planning Committee.

#### **2 Membership**

- 2.1 All elected members of the Council.
- 2.2 The Council will be chaired by the Provost.
- 2.3 The Council will also have a Depute Provost.
- 2.4 Quorum – 16

#### **3 Meeting Arrangements and Practice**

- 3.1 4 meetings each financial year on dates to be agreed.
- 3.2 Additional meetings to be held as and when required.
- 3.3 Minutes of meetings will be submitted to the next appropriate meeting for approval as a correct record.
- 3.4 Members' information seminars will be held as appropriate.
- 3.5 Only those members who have attended and participated in the pre-determination hearing will be able to participate in the determination of those applications at the full Council.

## **Section 2**

# **Resource Committees And Associated Forums**

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### **Community and Enterprise Resources**

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#### **Community and Enterprise Resources Committee**

##### **1 Powers and Responsibilities**

- 1.1 To decide on all the operational issues relating to Services within Community and Enterprise Resources, including operational finance, personnel and property matters, taking account of the policy and budgetary framework set by the Executive Committee and the Council. Planning applications and applications under the Building Regulations are excluded and will be dealt with by the Planning or Area Committees or by the Executive Director (Community and Enterprise Resources) under delegated powers. All matters relating to Structure and Local Plans will be dealt with through the Planning Committee.
- 1.2 To make recommendations to the Executive Committee on Resource specific policy issues.
- 1.3 To receive regular monitoring reports and review the performance of Community and Enterprise Resources, including achievements in meeting corporate priorities.
- 1.4 To refer operational issues to the Executive Committee if a majority of those present consider it appropriate.

##### **2 Membership**

- 2.1 The Community and Enterprise Resources Committee will have 26 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will be chaired by a member of the Executive Committee.
- 2.4 The Committee will also have a Depute Chair.
- 2.5 Quorum – 7

##### **3 Meeting Arrangements and Practice**

- 3.1 The Community and Enterprise Resources Committee will meet every 8 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Executive Committee will be included in a single report to that meeting.

## **Roads Safety Forum**

### **1 Powers and Responsibilities**

- 1.1 To consider and monitor all matters relating to roads safety and accident prevention.
- 1.2 To provide comments to the Executive Director (Community and Enterprise Resources) on proposals for:-
  - ◆ school crossing patrols
  - ◆ roads safety matters

### **2 Membership**

- 2.1 10 members (Political balance is based on the political composition of the Council).
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required with meetings held in public.

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## Education Resources

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### Education Resources Committee

#### **1 Powers and Responsibilities**

- 1.1 To decide on all the operational issues relating to the Services within Education Resources, including operational finance, personnel and property matters, taking account of the policy and budgetary framework set by the Executive Committee and the Council.
- 1.2 To make recommendations to the Executive Committee on Resource specific policy issues.
- 1.3 To receive regular monitoring reports and review the performance of Education Resources, including achievements in meeting corporate priorities.
- 1.4 To refer operational issues to the Executive Committee if a majority of those present consider it appropriate.

#### **2 Membership**

- 2.1 The Education Resources Committee will have 26 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights, and 7 external representatives as follows:-
  - Religious – 3                      Teacher – 2                      Parent Council – 2
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will be chaired by a member of the Executive Committee.
- 2.4 The Committee will also have a Depute Chair.
- 2.5 Quorum – 9.

#### **3 Meeting Arrangements and Practice**

- 3.1 The Education Resources Committee will meet every 8 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Executive Committee will be included in a single report to that meeting.

### Education Appeals Committee

#### **1 Powers and Responsibilities**

- 1.1 To determine appeals against the refusal to grant requests for the placing of pupils in particular schools.
- 1.2 To determine appeals against the Council's decisions to refuse other related matters, including exclusion of pupils from school and certain aspects of the additional support needs of some children.

#### **2 Membership**

- 2.1 Membership of individual Panels drawn from Local Attendance Councils and from 15 members serving on Education Resources Committee (excluding Chair and Depute Chair) and 15 members not serving on Education Resources Committee.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.

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## **Finance and Corporate Resources**

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### **Finance and Corporate Resources Committee**

#### **1 Powers and Responsibilities**

- 1.1 To decide on all the operational issues relating to the Services within Finance and Corporate Resources, including operational finance, personnel and property matters, taking account of the policy and budgetary framework set by the Executive Committee and the Council but excluding licensing applications which will be dealt with by the Licensing Committee.
- 1.2 To consider and make recommendations to the Executive Committee on:-
  - ◆ Resource specific policy issues
  - ◆ cross-cutting personnel issues
- 1.3 To receive regular monitoring reports and review the performance of Finance and Corporate Resources, including achievements in meeting corporate priorities.
- 1.4 With the exception of those delegated to the Chief Executive, to decide on all requests for civic recognition.
- 1.5 To refer operational issues to the Executive Committee if a majority of those present consider it appropriate.

#### **2 Membership**

- 2.1 The Finance and Corporate Resources Committee will have 26 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will be chaired by a member of the Executive Committee.
- 2.4 The Committee will have 2 Depute Chairs.
- 2.5 Quorum – 7.

#### **3 Meeting Arrangements and Practice**

- 3.1 The Finance and Corporate Resources Committee will meet every 8 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Executive Committee will be included in a single report to that meeting.

## **Appeals Panel**

### **1 Powers and Responsibilities**

#### **1.1 To determine appeals against:-**

- ◆ punitive disciplinary action for all employees taken at Service level
- ◆ non-punitive action where this has been administered by an Executive Director

### **2 Membership**

#### **2.1 Membership of individual panels to be 3 members, comprising the Chair or one of the Depute Chairs of the Finance and Corporate Resources Committee, a member of the Administration, who is not the Chair or Depute Chair(s) of the relevant Resource Committee, and a member of the Opposition Groups to be drawn in rotation from the Finance and Corporate Resources Committee and from 15 members not serving on the Finance and Corporate Resources Committee.**

#### **2.2 Quorum – 2.**

### **3 Meeting Arrangements and Practice**

#### **3.1 To meet as required.**

## **Grievance and Disputes Panel**

### **1 Powers and Responsibilities**

#### **1.1 To determine grievances, either individual or collective, from all employees.**

#### **1.2 To hear representations from trade unions on matters not agreed at officer level by consultation and negotiation.**

### **2 Membership**

#### **2.1 Membership of individual panels to be 3 members, comprising the Chair or one of the Depute Chairs of the Finance and Corporate Resources Committee, a member of the Administration, who is not the Chair or Depute Chair(s) of the relevant Resource Committee, and a member of the Opposition Groups to be drawn in rotation from the Finance and Corporate Resources Committee and from 15 members not serving on the Finance and Corporate Resources Committee.**

#### **2.2 Quorum – 2.**

### **3 Meeting Arrangements and Practice**

#### **3.1 To meet as required.**

## **Employee Issues Forum**

### **1 Powers and Responsibilities**

- 1.1 To develop and monitor the Council's policies and strategies on employee issues including maximising attendance, health and safety, etc.

### **2 Membership**

- 2.1 10 members (Political balance is based on the political composition of the Council).
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 To meet 4 times each year with meetings held in public.

## **Equal Opportunities Forum**

### **1 Powers and Responsibilities**

- 1.1 To develop and monitor the Council's policies and strategies on Equal Opportunities in employment and service delivery.
- 1.2 To investigate and identify any sources of inequity.
- 1.3 To develop consensus on effective ways to address sources of inequity.

### **2 Membership**

- 2.1 11 members to include representation from all political/independent Groups.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 To meet 4 times each year with meetings held in public.

## **Joint Consultative Forum**

### **1 Powers and Responsibilities**

- 1.1 To allow for an effective consultation strategy with trade unions on matters of policy affecting employees.

### **2 Membership**

- 2.1 10 members (Political balance is based on the political composition of the Council).
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 To meet quarterly.



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## Housing and Technical Resources

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### Housing and Technical Resources Committee

#### **1 Powers and Responsibilities**

- 1.1 To decide on all the operational issues relating to the Services within Housing and Technical Resources, including operational finance, personnel and property matters, taking account of the policy and budgetary framework set by the Executive Committee and the Council.
- 1.2 To decide on all property lease, acquisition and disposal matters not covered under delegated powers (i.e. capital transactions over £200,000 and leases in excess of 20 years or £50,000 per annum).
- 1.3 To make recommendations to the Executive Committee on Resource specific policy issues.
- 1.4 To receive regular monitoring reports and review the performance of Housing and Technical Resources, including achievements in meeting corporate priorities.
- 1.5 To refer operational issues to the Executive Committee if a majority of those present consider it appropriate.

#### **2 Membership**

- 2.1 The Housing and Technical Resources Committee will have 26 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will be chaired by a member of the Executive Committee.
- 2.4 The Committee will also have a Depute Chair.
- 2.5 Quorum – 7.

#### **3 Meeting Arrangements and Practice**

- 3.1 The Housing and Technical Resources Committee will meet every 8 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Executive Committee will be included in a single report to that meeting.

### Asset Transfer Panel

#### **1 Powers and Responsibilities**

- 1.1 To determine appeals made by community bodies against decisions made by officers under delegated authority to refuse an Asset Transfer Request under Part 5 of the Community Empowerment (Scotland) Act 2015.

#### **2 Membership**

- 2.1 3 members of the Housing and Technical Resources Committee, with the Chair and Depute Chair being given the first option of participating.
- 2.2 Not to include any member from the electoral ward containing the subject of the asset transfer request.
- 2.3 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.
- 3.2 Minutes of the Asset Transfer Panel to be submitted to the next appropriate Housing and Technical Resources Committee for approval as a correct record.

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## Social Work Resources

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### Social Work Resources Committee

#### **1 Powers and Responsibilities**

- 1.1 To decide on all the operational issues relating to the Services within Social Work Resources, including operational finance, personnel and property matters, taking account of the policy and budgetary framework set by the Executive Committee and the Council.
- 1.2 To make recommendations to the Executive Committee on Resource specific policy issues.
- 1.3 To receive regular monitoring reports and review the performance of Social Work Resources, including achievements in meeting corporate priorities.
- 1.4 To receive regular monitoring reports on matters relating to Children's and Justice Services, assets and have oversight of performance and priorities relating to Adult Services.
- 1.5 To refer operational issues to the Executive Committee if a majority of those present consider it appropriate.

#### **2 Membership**

- 2.1 The Social Work Resources Committee will have 26 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will be chaired by a member of the Executive Committee.
- 2.4 The Committee will have a Depute Chair.
- 2.5 Quorum – 7.

#### **3 Meeting Arrangements and Practice**

- 3.1 The Social Work Resources Committee will meet every 8 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Executive Committee will be included in a single report to that meeting.

### Access to Personal Files Review Committee

#### **1 Powers and Responsibilities**

- 1.1 To review decisions concerning access to personal information in terms of the Access to Personal Files Act 1987 and the Access to Personal Files (Social Work) (Scotland) Regulations 1989.

#### **2 Membership**

- 2.1 Any 3 members, including not more than 1 from the Social Work Resources Committee.
- 2.2 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.

## **Adoption and Fostering Review Panel**

### **1 Powers and Responsibilities**

- 1.1 To review adoption and fostering decisions.

### **2 Membership**

- 2.1 Representation from various agencies.
- 2.2 Quorum – 3, one of whom must be an elected member.

### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.

## Section 3

# Other Committees and Associated Forums

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### Area Committees

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#### Area Committees

##### **1 Powers and Responsibilities**

- 1.1 To contribute to the development of the South Lanarkshire Community Plan, including working with partners to agree local arrangements and oversee delivery and effectiveness.
- 1.2 To receive an annual report of progress against the local community plan.
- 1.3 To receive reports, at the discretion of the Area Committee Chair, from local members, voluntary groups and community organisations on key local initiatives.
- 1.4 To decide on delegated matters, as determined by the Council, including local planning, community and other local grants.
- 1.5 To carry out a scrutiny function, at a local level, in relation to participatory budgeting.
- 1.6 To consider the potential impact of significant strategic policy/investment proposals specific to an Area and make recommendations to the relevant committee(s).
- 1.7 To receive an annual report on the management of the common good fund (relevant for Hamilton, Clydesdale and Cambuslang and Rutherglen Areas only).
- 1.8 To receive local performance reports from Resources on the key priorities identified in the Council Plan, Connect.
- 1.9 To receive local Educational Scotland (HMIE) school inspection reports.
- 1.10 To receive regular locality updates in relation to health and social care, including inspection reports.

##### **2 Membership**

- 2.1 Each Area Committee will comprise all local Members as follows:-

◆ Cambuslang and Rutherglen – 12	Quorum – 3
◆ Clydesdale – 13	Quorum – 4
◆ East Kilbride – 18	Quorum – 5
◆ Hamilton – 21	Quorum – 6

- 2.2 Each of the Area Committees will have a Chair and Depute Chair.

##### **3 Meeting Arrangements and Practice**

- 3.1 The Area Committees will meet every 8 weeks in their local area.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.

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## **Executive Committee**

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### **Executive Committee**

#### **1 Powers and Responsibilities**

- 1.1 To make recommendations to the Council on the budget framework for the Council and the annual package of savings as part of the budget process, overall revenue and capital budgets, setting of rent levels for Council houses and the Council Tax.
- 1.2 To make recommendations to the Council as appropriate on key policy initiatives or other issues.
- 1.3 To decide which issues should be referred to the Council for decision, other than those which are reserved to the Council.
- 1.4 To establish and appoint members to Council Forums and partnership organisations.
- 1.5 To oversee the Council's relationships with outside organisations and development of joint partnerships including the co-ordination of the Council's response to Community Planning.
- 1.6 To ensure the satisfactory performance and continuous improvement of services within the policy and budgetary framework agreed by the Council.
- 1.7 To decide on all policy and operational issues which are cross-cutting unless reserved to the Council.
- 1.8 To decide on all Resource specific policy and operational issues referred by Resource Committees.
- 1.9 To nominate members to represent the Council on outside bodies with the exception of Joint Boards and Joint Committees.
- 1.10 To deal with any urgent item of Council business where it is not possible to wait for the next meeting of the appropriate Committee or the Council.

The Executive Committee can, in exceptional circumstances, take urgent action outside the policy and budgetary framework set by the Council. This would only apply where there was insufficient time for the Executive Committee to report to Council prior to action being taken. Any decisions or actions taken in those circumstances would be reported to the Council at the earliest opportunity.
- 1.11 To refer issues to the Council if a majority of those present consider it appropriate.
- 1.12 To fulfil the Council's statutory duties in terms of the Police and Fire Reform (Scotland) Act 2012.

#### **2 Membership**

- 2.1 The Executive Committee will be made up of 28 members appointed by the Council, 2 of whom will be the Leader and Depute Leader of the Council.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will be chaired by the Leader of the Council.
- 2.4 The Depute Chair of the Committee will be the Depute Leader of the Council.
- 2.5 Quorum – 7.

#### **3 Meeting Arrangements and Practice**

- 3.1 The Executive Committee meeting will be held every 4 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Council will be included in a single report to that meeting.

- 3.4 The agenda for Executive Committee meetings will be issued to all members of the Council. Any member can submit comments on any item of Executive Committee business on the pro forma provided. Comments must be available to the Head of Administration and Legal Services no later than 10.00am on the Tuesday before the Executive Committee meeting. The comments supplied will be made available at the meeting of the Executive Committee. While this route is available to members, it does not preclude members raising issues directly with the Chair of the Executive Committee. Comments will only be acceptable if they relate directly to the business before the Committee and the Chair will decide on this.

## **Financial Resources Scrutiny Forum**

### **1 Powers and Responsibilities**

- 1.1 To scrutinise all of the Council's budgets and, where appropriate, any redeployment of resources.
- 1.2 To consider issues arising from trends in Service spending.
- 1.3 To raise any issues in respect of the Council's financial management arrangements.
- 1.4 To review financial and operational progress on the Council's capital programme.
- 1.5 To consider proposals for future years' capital programmes.

### **2 Membership**

- 2.1 10 members (Political balance is based on the political composition of the Council). Membership to be drawn from members **not** on the Executive Committee, (or who are substitute members of the Executive Committee), with the exception of the Chair, who will be an Opposition councillor, and may serve, or be a substitute, on the Executive Committee.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 From April to August, to meet every 8 weeks and from September to March, to meet every 4 weeks with meetings held in public.
- 3.2 To report through the Executive Committee.

## **Performance and Review Scrutiny Forum**

### **1 Powers and Responsibilities**

- 1.1 To oversee the Council's approach to best value including the shared risk assessment process.
- 1.2 To consider the implications, at both a corporate and individual Resource level, of best value.
- 1.3 To consider the Council's arrangements for, and progress with, corporate improvement and review activity including self-assessment.
- 1.4 To consider the Council's approach to performance management and to monitor on a targeted basis.
- 1.5 To establish short-life member Task and Finish Groups (with an identified lead member and officer) to undertake an identified area for review and produce a report for the Forum. No members of the Executive Committee are to sit on those Groups and membership to be restricted to no more than 7 elected members.

## **2 Membership**

- 2.1 10 members (Political balance is based on the political composition of the Council).
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 The Forum will be chaired by the Leader of the Council.
- 2.4 Quorum – 3.

## **3 Meeting Arrangements and Practice**

- 3.1 To meet once in each committee cycle and as required in line with annual performance and review timetable with meetings held in public.

## **Standards and Procedures Advisory Forum**

### **1 Powers and Responsibilities**

- 1.1 To promote the observance by Councillors of high standards of conduct in accordance with any advice or guidance issued by the Standards Commission for Scotland.
- 1.2 To consider any issues of conduct referred to it by elected members.
- 1.3 To consider revisions or amendments to any aspects of the Council's political management and decision-making arrangements including any officer and/or member procedures or guidance.
- 1.4 To consider any breaches by elected members of the IT Acceptable Use Policy and associated guidance and advice.

### **2 Membership**

- 2.1 11 members to include representation from all political/independent Groups.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 The Forum will be chaired by the Leader of the Council.
- 2.4 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.

## **Rural Task Force**

### **1 Powers and Responsibilities**

- 1.1 To identify and drive forward new rural development initiatives as part of an agreed 4 year Rural Task Force (RTF) Action Plan in support of the recently approved SLRP rural strategy.
- 1.2 To undertake regular reviews of the distinctive economic, environmental, cultural and other needs of rural South Lanarkshire.
- 1.3 To advise the Executive Committee of any special measures which may be necessary or desirable to meet such needs and to promote the interests of rural communities.
- 1.4 To consider proposals for the formation, revision or amendment of the Council's corporate plans and policies from a rural perspective.
- 1.5 To advise the Executive Committee as to any representations which may require to be made to any Government Minister or department or other public body and to examine policies of the Scottish Government as they affect rural South Lanarkshire.
- 1.6 To consider recommendations for further rural policy development and contribute to the review of the rural strategy.

- 1.7 To monitor and evaluate the Council's role in terms of performance management within rural South Lanarkshire.

## **2 Membership**

- 2.1 10 members (Political balance is based on the political composition of the Council) drawn from the 6 rural wards identified as Wards 1, 2, 3, 4, 5 and 20.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 To be chaired by an experienced elected Member with a specific responsibility for corporate rural issues within the Council.
- 2.4 Quorum – 3.

## **3 Meeting Arrangements and Practice**

- 3.1 To meet 4 times each year.



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## Climate Change and Sustainability Committee

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### Climate Change and Sustainability Committee

#### **Purpose**

The purpose of the Climate Change and Sustainability Committee is to provide leadership, governance and scrutiny that will drive collaborative action across the Council in order to achieve the vision and outcomes set out in the climate change and sustainable development strategy and in becoming a net-zero Council.

#### **1 Powers and Responsibilities**

- 1.1. To approve actions, measures and timescales in the sustainable development and climate change strategy's annual action plan review and ensure these are implemented.
- 1.2. To provide a forum for reporting progress and scrutiny on the climate change and sustainable development strategy's action plan.
- 1.3. To ensure the Council complies with the Public Sector Climate Change duties and the Biodiversity Duty. This includes the Council meeting statutory reporting requirements on climate change and biodiversity.
- 1.4. To ensure the Council contributes to Scotland's commitment of embracing the United Nation's Sustainable Development Goals.
- 1.5. To approve the Council's carbon reduction targets in line with national targets and provide a scrutiny function on meeting these targets.
- 1.6. To support the Council's membership of the Climate Ready Clyde partnership and the development and implementation of the City Region's first Climate Change and Adaptation Strategy and associated action plan.
- 1.7. To ensure that the principles of sustainable development and tackling climate change are embedded in Council plans, policies, strategies, programmes of work, service delivery and reviews.
- 1.8. To encourage innovative carbon reduction and climate change adaptation projects.
- 1.9. To be an advocate for sustainability and climate change across the Council, its committees and in the wider community.
- 1.10. To promote a place-based, collaborative approach to tackling climate change and sustainability issues which includes working with partners, the business community, third sector, trades unions, local citizens and other interested stakeholders.
- 1.11. To ensure the implementation of Strategic Environmental Assessments across the Council.
- 1.12. To approve, within the financial package as previously agreed by either the Executive Committee or Council and through prior consultation with the Executive Director (Finance and Corporate Resources), the Council's climate change and sustainability activity, including investment, such as resources for research and development in the transition to net zero, and action to tackle the effects of climate change.
- 1.13. To make recommendations to the Executive Committee on climate change and sustainability policy issues.

#### **2 Membership**

- 2.1. 28 members, 2 of whom will be the Leader and Depute Leader of the Council.
- 2.2. There will be provision for individual groups to substitute up to a maximum of 4 members.
- 2.3. The Committee will be chaired by the Leader of the Council.

2.4 The Depute Chair will be the Depute Leader of the Council.

2.5 Quorum – 7.

### **3 Meeting Arrangements and Practice**

3.1 The Climate Change and Sustainability Committee will be held 4 times each financial year.

3.2 Minutes of the meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.

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## Licensing

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### Licensing Committee

#### **1 Powers and Responsibilities**

- 1.1 To decide on all licensing applications and consider other appropriate licensing matters excluding public health licensing.
- 1.2 To hold hearings as appropriate.

#### **2 Membership**

- 2.1 The Licensing Committee will have 10 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 The Committee will have a Chair and a Depute Chair.
- 2.4 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet 3 times in the committee cycle.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.

### Public Processions Panel

#### **1 Powers and Responsibilities**

- 1.1 To consider and deal with:-
  - ◆ any objections submitted in respect of a notification of intent to hold a public procession
  - ◆ any representations from an organisation submitting the notification of intent to hold a public procession
- 1.2 To make Orders:-
  - ◆ prohibiting the holding of public processions
  - ◆ imposing conditions on public processions.
- 1.3 To provide the required justification for prohibiting or imposing conditions on a public procession.

#### **2 Membership**

- 2.1 3 members of Licensing Committee, with Chair and Depute Chair being given first option of participating.
- 2.2 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Licensing Committee for approval as a correct record.

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## **Petitions**

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### **Petitions Committee**

#### **1 Powers and Responsibilities**

- 1.1 To consider matters and take action as considered appropriate on matters raised through the Council's public petitions process.
- 1.2 To refer any item of business raised through the public petitions process to the appropriate Resource Committee or Executive Committee that it considers appropriate

#### **2 Membership**

- 2.1 9 members (Political balance is based on the political composition of the Council).
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.3 Quorum – 3.
- 2.4 The Petitions Committee will be chaired by a Councillor who is not a member of the Council's ruling group.
- 2.5 The Petitions Committee will have a Depute who is not a member of the Council's ruling group

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required with meetings held in public.

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## Planning

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### Planning Committee

#### **1 Powers and Responsibilities**

- 1.1 To decide on planning applications, monitor and enforce planning control and to decide on applications under the Building Regulations except those areas delegated to the Executive Director (Community and Enterprise Resources) or Area Committees.
- 1.2 To hold hearings as appropriate.
- 1.3 To deal with all matters relating to Structure and Local Plans with appropriate issues being the subject of recommendations to the Executive Committee.
- 1.4 To make recommendations to the full Council in respect of those planning applications for which a pre-determination hearing is mandatory.

#### **2 Membership**

- 2.1 The Planning Committee will have 26 members appointed by the Council one of whom, ex officio, will be the Leader of the Council with full voting rights.
- 2.2 There will be provision for individual Groups to substitute up to a maximum of 4 members.
- 2.3 The Committee will have a Chair and a Depute Chair.
- 2.4 Quorum – 7.
- 2.5 Membership of the Planning Committee to be extended to include all members of the Council for the purpose of statutory pre-determination hearings. Quorum – 16.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet every 4 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.
- 3.3 Issues referred to the Executive Committee will be included in a single report to that meeting.

### Planning Local Review Body

#### **1 Powers and Responsibilities**

- 1.1 In respect of “local development” planning applications that have been, or could have been, determined under the Scheme of Delegation, to deal with notices of review in relation to the:-

- ◆ refusal of planning permission;
- ◆ imposition of conditions; or
- ◆ failure to deal with an application within the prescribed timescale

in terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

#### **2 Membership**

- 2.1 10 members with provision for 10 named substitutes (Political balance is based on the political composition of the Council).
- 2.2 The Planning Local Review Body (PLRB) will have a Chair and a Depute Chair who will be the Chair and Depute Chair of the Planning Committee.
- 2.3 Quorum – 3.

### **3 Meeting Arrangements and Practice**

- 3.1 Meetings to be scheduled in weeks 2 and 6 of the committee cycle and to be held as required.
- 3.2 Meetings to be held in line with the guidance contained within the Guide to the Planning Local Review Body.
- 3.3 Minutes of meetings will be submitted to the next appropriate meeting of the PLRB for approval as a correct record.

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## **Risk and Audit Scrutiny Committee**

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### **Risk and Audit Scrutiny Committee**

#### **1 Powers and Responsibilities**

- 1.1 To approve the annual Audit Plan and monitor the implementation of it together with the impact and effectiveness of the Audit Planning process.
- 1.2 To review and consider all relevant matters from internal and external audit reports.
- 1.3 To approve the Internal Audit Annual Assurance Report.
- 1.4 To consider and review the external audit planning memorandum .
- 1.5 To monitor the Council's Corporate Governance and risk management responsibilities.
- 1.6 To consider and approve the Council's Annual Governance Statement.
- 1.7 To make recommendations to full Council or Executive committee as appropriate in terms of their remit in relation to any matters within its remit relating to corporate governance, risk and risk management.
- 1.8 To consider and approve the Council's Annual Statement of Accounts.

#### **2 Membership**

- 2.1 10 members ((Political balance is based on the political composition of the Council). Membership to be drawn from members **not** on the Executive Committee, (or who are substitute members of the Executive Committee), with the exception of the Chair, who will be an Opposition councillor, and may serve, or be a substitute, on the Executive Committee.
- 2.2 The Committee will have a Depute Chair who is not a member of the Council's ruling group.
- 2.3 There will be provision for individual Groups to substitute up to a maximum of 2 members.
- 2.4 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required in line with the annual audit cycle with meetings held in public.
- 3.2 Approved Minutes of the Committee to be reported to the Council for noting.

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## Miscellaneous Committees and Panels

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### Conference Allocation Committee

#### **1 Powers and Responsibilities**

- 1.1 To decide on all invitations for members to attend conferences and seminars.

#### **2 Membership**

- 2.1 The Conference Allocation Committee will have 6 members appointed by the Council. (Political balance: Depute Leader and Business Manager of Ruling Administration + Depute Leader and Business Manager of Largest Opposition Group + 2 other Opposition Group members).
- 2.2 The Committee will have a Chair and a Depute Chair.
- 2.2 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet every 4 weeks.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Committee for approval as a correct record.

### Recruitment Committee

#### **1 Powers and Responsibilities**

- 1.1 To make appointments to the posts of:-

- ♦ Chief Executive
- ♦ Executive Director
- ♦ Head of Service

#### **2 Membership**

- 2.1 6 members with provision for named substitutes (Political balance is based on the political composition of the Council).
- 2.2 The Committee will be chaired by the Leader of the Council
- 2.3 The Committee will have a Depute.
- 2.4 Quorum – 3.

#### **3 Meeting Arrangements and Practice**

- 3.1 To meet as required.
- 3.2 Minutes of meetings will be submitted to the next appropriate meeting of the Finance and Corporate Resources Committee for approval as a correct record.