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**Report to: Audit Committee**

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**Date of Meeting 26 September 2019**

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**Subject: Exceptions from the Application of Contract Standing Orders**

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**Report by Strategic Director (Partnership & Performance)**

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## **1.0 Purpose**

- 1.1 It is a requirement of Contract Standing Orders that exceptions should be reported to the next available Audit Committee. The purpose of this paper therefore is to provide detail on Exceptions to Contract Standing Orders submitted in the previous quarter.

## **2.0 Recommendations**

- 2.1 The Committee is asked to note the report, commenting and challenging as appropriate

## **3.0 Considerations**

- 3.1 Contract Standing Orders (CSO's) apply to all contracts entered into by Council officers. In some circumstances however, exceptions may be granted.
- 3.2 The appropriate senior manager must record their reasons in writing in the form of an exception report for a decision, which must be submitted to the Strategic Director, Partnership and Performance, for consideration.

The Strategic Director is required to consult with the Chief Finance Officer (S95) and Procurement Manager before taking any action that binds the Council. It is a requirement that any such exception shall be reported retrospectively in full to the next Audit Committee, including the reasons that fully justify the exception. A summary of CSO exemptions will also be provided as part of the Annual Procurement report to the Audit Committee.

- 3.3 Seven exceptions have been considered in this period:
- 3.3.1 to permit the appointment of Ceannas to Supply Leadership Development over a 12 month period to the value of £ £19,500. Ref 2/6/1705

## **Granted**

The need to provide Leadership development is derived from priority actions defined with the Council's Best Value report and the significant organisational redesign activity which is currently in hand. There has been consequentially a

significant change in the senior leadership capacity and personnel within the Council, requiring investment to ensure the coherence and capacity of the new senior team to drive the necessary transformational change to secure both service and financial sustainability as well as to sustain operational stability.

Initial work was undertaken with a recommended organisation (Ceannas) at a discounted rate. The organisation uses a range of bespoke (Ceannas) tools to assess individual and team based skills and capacity. The Company works with a range of international businesses and on a selective recommendation basis, some public sector organisations. The nature and scope of work and development tools provided by Ceannas are not available in house, or in the same format, from alternate suppliers

### **Conditions of Grant**

A purchase order should be raised and a direct award notice published in Public Contracts Scotland should be undertaken

- 3.3.2 to permit the appointment of Wasp Leisure Limited to continue to supply Clackmannanshire Council with the management, operation and maintenance of the Alloa Leisure Bowl over the 18-month period from 1st October 2019 to 31st March 2021 to the value of £492,137 Ref: 2/6/1706

### **Granted**

At its meeting on 6 March 2019 Clackmannanshire Council agreed that a short term solution is developed to allow the Alloa Leisure Bowl maintenance contract to extend beyond October 2019 and noted that the People Committee approved the Sport and Active Living Framework 2018/28 in January 2019 and that this framework included commitments to undertake a strategic review of leisure facilities in Clackmannanshire.

The Council also agreed a saving of a £60K for 2019/2020 by putting in place a revised contract with Wasp Leisure Limited to continue providing services in relation to Alloa Leisure Bowl. The amended contract is proposed to commence as early as possible.

### **Conditions of Grant**

A purchase order should be raised and a updated EU notice will be required to extend the contract published in Public Contracts Scotland and the EU Journal

- 3.3.3 to permit the appointment of existing Providers to supply care and support services for an ongoing period on the basis that a contracting authority may award a contract for a health or social care service without seeking offers in relation to the proposed contract ref: 2/6/1730 either because-

- the contract value is greater than, or equal to €750,000 (£651,278) all of the 'light-touch' provisions described in regulations 74-76 of The Public Contracts (Scotland) Regulations 2015 apply.
- Or the contract value is less than €750,000 (£651,278) described in section 12 of the Procurement Reform (Scotland) Act 2014

## Granted

The care and support landscape is complex and the needs of those receiving services has to be carefully considered. Account of the procurement rules, local and national policy and legislation as well as the benefits and risks to those people who require services requires special consideration.

- Legal approach if the contract value is between £50,000 and €750,000 (£651,278)

Procurement Reform (Scotland) Act 2014 - for contracts of this value, a public body may choose to award a care or support service contract, or framework agreement, without seeking offers in relation to the proposed contract. This is consistent with the provisions of section 12 of the Act.

- Legal approach if the contract value is greater than €750,000 (£651,278)

Procurement Reform (Scotland) Act 2014 - as from 18 April 2016 a key change to the public procurement rules was that the former distinction between Part A and Part B service contracts was abolished and a new 'light-touch' regime was introduced for certain services, which includes health and social care services.

This change was recognition of the quality or availability of these services having a significant impact on the quality of life and health of people who might use these services, as well as their unpaid carers. Also, services are becoming increasingly personalised to better meet people's needs which, in turn, has implications for how support is planned and purchased.

- The Public Contracts (Scotland) Regulations 2015 – in accordance with regulation 76(9) of The Public Contracts (Scotland) Regulations 2015, allows a contracting authority to take account into account:-
  - the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services;
  - the specific needs of different categories of users, including disadvantaged and vulnerable groups;
  - the involvement and empowerment of users;
  - innovation; and
  - any other relevant consideration.

## Conditions of Grant

A procurement form 2 is required detailing the direct award and signed off by the relevant parties

Approved purchase orders should be issued

A direct award notice published in Public Contracts Scotland

- 3.3.4 to permit the appointment of Order of Malta – Dial a Journey to supply door to door transport over a three year period to the value of £50,000 per annum subject to an annual review ref: 2/6/1734

## Granted

Based on previous experiences and other partner council's experience there does not appear to be any other providers of this unique service

**Conditions of Grant**

A procurement form 2 is required detailing the direct award and signed off by the relevant parties

Approved purchase order should be issued

A direct award notice published in Public Contracts Scotland

- 3.3.5 to permit the appointment of Living Streets to supply the Walk Once a Week (WOW) and Little Feet project over a three year period to the value of £35,000 per annum subject to satisfactory funding Ref: 2/6/1735

**Granted**

The Walk Once a Week (WOW) and Little Feet projects are branded campaigns by Living Streets and therefore there are no other agencies offering this service.

**Conditions of Grant**

A procurement form 2 is required detailing the direct award and signed off by the relevant parties

Approved purchase order should be issued

A direct award notice published in Public Contracts Scotland

- 3.3.6 to permit the appointment of Braveheart to deliver a local weekly health walking project over a three year period to the value of £10,000 per annum subject to satisfactory funding Ref: 2/6/1736

**Granted**

There are no other agencies offering this service.

**Conditions of Grant**

A procurement form 2 is required detailing the direct award and signed off by the relevant parties

Approved purchase order should be issued

A direct award notice published in Public Contracts Scotland

- 3.3.7 to permit the appointment of Clackmannan Development Trust to deliver a programme of escorted walks and cycles to introduce school children and the wider community to active travel opportunities in and around Clackmannan over a three year period to the value of £6,000 per annum subject to satisfactory funding Ref: 2/6/1737

**Granted**

There are no other agencies offering this service.

**Conditions of Grant**

A procurement form 2 is required detailing the direct award and signed off by the relevant parties

Approved purchase order should be issued  
A direct award notice published in Public Contracts Scotland

#### 4.0 Sustainability Implications

4.1 There are no direct sustainability implications arising from the recommendations in this report.

#### 5.0 Resource Implications

5.1 Financial Details - there are no direct implications for the Council's budget arising from this report

5.2 Staffing - there are no direct implications for the Council's establishment arising from this report

#### 6.0 Exempt Reports

6.1 Is this report exempt? Yes  (please detail the reasons for exemption below) No

#### 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all   
Our families; children and young people will have the best possible start in life   
Women and girls will be confident and aspirational, and achieve their full potential   
Our communities will be resilient and empowered so that they can thrive & flourish

(2) **Council Policies (Please detail)**

Contract Standing Orders

Financial Regulations

#### 8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

N/A

#### 9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

## 10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

## 11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

No  (please list the documents below)

### Author(s)

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### Approved by

NAME	DESIGNATION	SIGNATURE
Stuart Crickmar	Strategic Director Partnership & Performance	