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**Report to: Audit and Scrutiny Committee**

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**Date of Meeting: 17<sup>th</sup> April 2025**

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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 & Scrutiny Committee. The purpose of this paper therefore is to provide detail on any 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 & Scrutiny 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 & Scrutiny Committee.

- 3.3 **Seven (7)** exceptions have been considered since the last report in October 2024:

- 3.3.1 To permit the Exception to request the appointment of Netcall UK Ltd to Supply Professional Services over the period 06/01/2025 – 05/01/2026 to the value of £20,000.00.

The basis of the exception request is that, in terms of Contract Standing Orders section 6 (8) The purchase of goods or materials, the execution of works or supply of services for which the procurement officer considers that no genuine competition can be obtained

Reference 2/6/2058

### **Granted**

Based on the information provided the recommendation to approve the request for an exception to Council would provide professional services to support the ongoing development of the Customer Service Hub and Automation projects using Netcall UK Ltd

Netcall UK Ltd are the only provider who can offer these professional services due to their highly specific nature. As the vendor, they have no adopted partner network and no other third-party associates who would be permitted to perform these services due the sensitivities of the council data being used and the highly specific, tailored approach to the development of the Customer Service Hub and Automation workstreams.

### **Conditions**

An authorised Procurement form 2 should be completed  
A Purchase order should be raised to cover value requested for £20,000  
A Direct award notice should be published in Public Contracts Scotland

- 3.3.2 To permit the upgrade of the following existing IT systems:

- Upgrade of the Housing Management System, Northgate OHMS, to the current offering (NEC Housing) by the provider NEC Software Solutions UK Ltd. The cost of this upgrade is £486,000.
- Upgrade of the repairs and asset management system, Servitor, to the current offering (Cx Contractor & Asset Management) by the provider, Civica UK. The cost of this upgrade is £223,138.

The total upgrade cost is £709,138.

The basis of the exception request is that, in terms of Contract Standing Orders section 6 (7) There is a genuinely justifiable case to use an existing contractor/supplier to maintain continuity of supply or site experience

Reference 2/6/2091

### **Granted**

Based on the information provided and due to the age of both systems, there is very limited expertise available in the marketplace to provide technical support. These are proprietary systems owned and operated by the company that supplied them and cannot readily be maintained by any other provider.

We have been formally notified that support for the current OHMS system will cease on 31<sup>st</sup> March 2026

Neither system is currently Public Sector Network (PSN) compliant. Both upgraded systems will be PSN compliant, cloud based, supplier supported and fit for purpose. They will deliver enhanced functionality for staff and tenants by making best use of existing technology

### **Conditions**

A Procurement Form 2 should be completed and authorised for this requirement to cover the three plus two years potential extension period This should include all costs associated with the products including support costs

Purchase orders should be raised to cover the period requested to account for all costs

Contract Award notices without competition should be published in Public Contracts Scotland

The service will provide an options appraisal before any extension period is taken up to determine if the requirement for a fully integrated single system exists

- 3.3.3 To allow the Council to request permission to extend contracts for consultants carrying out site investigations at Forthbank.

Reference 2/6/2207

### **Not Granted**

Based on the information provided the proposed extensions were noted as being retrospective as the investigations have been continuing after the contracts had expired as the approved contract values had been reached.

Assurance of Financial Governance was sought and was at the Services risk in terms of procurement legislation.

- 3.3.4 To permit the appointment of Arcthink to Supply critical ICT support over a three-month period to the value of £37,500

Referenced 2/6/2212

### **Granted**

Based on the information provided the Council was progressing significant IT transformation efforts, including Microsoft 365 implementation, compliance improvements, and infrastructure upgrades. These efforts were disrupted when Emposo, a key supplier engaged through the G-Cloud framework, ceased its UK operations, terminating all staff and creating a critical resource gap.

To mitigate immediate risks, including the successful submission of the Public Services Network (PSN) application on 20th December 2024, a short-term emergency direct award contract was made with Arcthink.co.uk, valued at

£9,960. This emergency contract ensured continuity of critical expertise during this transitional period and allowed the PSN submission to proceed as planned.

However, it has become clear that further support is now required to maintain momentum and address follow-up queries from the Cabinet Office and prepare for the forthcoming IT Health Check in March/April 2025. This request builds upon the initial emergency arrangement to extend the engagement for an additional three months to secure the Council's ongoing IT compliance and security objectives.

### **Conditions**

An award of a contract without prior publication of a call for competition notice is required to be published in Public Contracts Scotland

An authorised Procurement form 2 should be completed

A Purchase order should be raised to cover the value requested

- 3.3.5 To permit the appointment of Clackmannanshire Citizens Advice Bureau Ltd to Supply a Money Advice Service (including debt management and better off in work calculations) to Clacks Works employability clients over a 1 year period with potential to extend for a further 1 year (depending on availability of external funding from Scottish and UK Gov. Value of £42,500 in year 1 (2025/26) and £44,500 in Year 2 (2026/27)

Referenced 2/6/2218

### **Granted**

Based on the information provided the Council have identified the lack of alternative suppliers with required specialist skills, knowledge and experience to provide this requirement.

Having access to a dedicated Money Advice service is a fundamental part of the employability support offered to participants on the Council's employability programmes which are delivered through Clackmannanshire Works. These employability programmes include Positive Moves (funded by the UK Shared Prosperity Fund), the residual Fair Start Scotland Service (closed to new referrals in March 2024 but with on-going responsibility for up to 24 months to a small number of clients) and Parental Employability Support (funded by Scottish Government No One Left Behind and Tackling Child Poverty employability funding

### **Conditions**

Governance arrangements should be in place via an authorised Procurement Form 2

This should be estimated for four years with a potential extension of a further four years subject to satisfactory funding being in place

Purchase orders should be raised annually to cover the period subject to there being satisfactory funding in place

An award notice published in Public Contracts Scotland should be published for the four-year period

A review should take place in four years and if there are still no known alternative suppliers a further four-year term should be awarded. This will also be subject to satisfactory funding being in place

- 3.3.6 To permit the appointment of Ceteris Ceteris (Scotland) Ltd. to set up and administer an Expert Help consultancy framework, providing up to 3 days expert help support in a number of areas for around 50 Clackmannanshire businesses and Third Sector Organisations, delivery of a bespoke Pathways start up programme and 2 employer engagement events. Funded through UKSPF for the extension year of 2025/26, and with a total value of £70,000.

Referenced 2/6/2222

### **Granted**

Based on the information provided the Council Officers have identified the lack of alternative suppliers with required specialist skills, knowledge and experience

The Expert Help programme is very much aligned to the Business Gateway service, providing an additional useful and well received support to businesses and third sector organisations engaging with Business Gateway.

Ceteris have been awarded the Business Gateway contract which will run until 2027 (with option to extend for a further year), it made sense to award the funding to Ceteris for them to set up the expert help framework and contract with consultants directly. This will allow them more flexibility on the areas of support and more control over selection of consultants, engagement with consultants and payment of consultants.

Through the Business Gateway contract, Ceteris are the local organisation with most contact with a large number of local businesses and third sector organisations and have the premises and resources to host and organise larger employer engagement events.

### **Conditions**

A Procurement Form 2 should be completed and authorised for this requirement this should cover up to 31st March 2028

The Exception should cover the potential contractual period of the supply of Business Gateway Services in Clackmannanshire. The initial period should be to 31 March 2026.

There should be an option of extending the contract, by mutual agreement, for a further period of one (1) year plus one (1) year to 31 March 2028, such extension will be based on funding availability and the satisfactory performance of the contractor.

A Purchase order should be raised to cover the initial period up to 31 March 2026 and subject to above further purchase orders issued on an annual basis

The day rates for consultants should be firmed up and confirmed for each financial year before a purchase order is issued

A Contract Award notice should be published in Public Contracts Scotland to include the potential extensions

- 3.3.7 To permit the appointment of Austin Smith Lord to Supply specialist survey and consultancy services over a 12 month period to the value of £19 800.00

Referenced 2/6/2193

### **Granted**

In 2021 Concerns were raised regarding the condition and deterioration of the North facing façade of the Kilncraigs building. With the building being Grade A listed and subject to Historic Scotland preservation order a specialist preservation architect was commissioned to conduct a survey and provide detailed recommendation report.

Austin Smith Lord was appointed and completed the survey on the 19 October 2021. Significant repair and conservation works were highlighted in the report.

Due to the specialist nature of the works, being a Grade A listed building, a preservation architect is required to liaise with Historic Scotland and council planning department to develop and provide:

- Full development of the scope of works and subsequent tender pack for main works contract.
- Development of the planning application pack.
- Project management services for the construction phase.

As Austin Smith Lord conducted the initial survey and are familiar with the project and currently have capacity to provide the required services, the Service sought a direct award based on continuity of services and potential additional costs to the Council.

The council needs to rely on the survey conducted in 2021. The original survey was conducted utilising existing high-level scaffolding which was erected for the roof replacement works. Should another vendor be appointed a new site survey will be required. To provide the high-level access would add additional expenses in the region of £30 000 to the project.

The project is also time sensitive with works only able to progress during summer months. Any delays in the tender process or capacity of subcontractors could delay mobilisation and push the start date out to 2026

### **Conditions**

An award of a contract without prior publication of a call for competition notice is required to be published in Public Contracts Scotland

An authorised Procurement form 2 should be completed

A Purchase order should be raised to cover the value requested

#### **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**

Complies with relevant Council Policies ☒

#### **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
Chris Alliston	Strategic Director Partnership & Performance	