



# Strathclyde Partnership for Transport Governance Manual



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# **Standing Orders of the Strathclyde Partnership for Transport**

March 2023 (revised)

## STANDING ORDERS OF STRATHCLYDE PARTNERSHIP FOR TRANSPORT

These Standing Orders are made in accordance with Paragraph 6(5) of Schedule 2 to the Regional Transport Partnerships (Establishment, Constitution and Membership) Scotland Order 2005.

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## 1. **MEETINGS**

### 1.1 **First Meeting After Elections**

A meeting of the Partnership shall be held within twenty-eight days after the day of the ordinary election of Councillors of the Councils specified in Schedule 1 of The Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005. At that meeting the Partnership shall appoint the Chairperson, Deputy Chairpersons, Committees of the Partnership, representatives to other bodies and shall deal with any other business in the notice calling the meeting. Meetings may be held “in – person” or remotely by way of appropriate digital media or hybrid.

### 1.2 **Dates of Meetings**

The Partnership shall except as hereinafter provided, meet quarterly on a Friday at such time and place intimated by the Partnership Secretary. At these meetings the Partnership shall deal with the minutes (insofar as not reported for information) of the Committees which have met since its previous meeting and with any other competent business. The Chairperson, whom failing a Deputy Chairperson, in consultation with the Partnership Secretary, may in exceptional circumstances alter these arrangements or authorise special meetings to be called.

### 1.3 **Recess**

The Partnership shall recess for periods in the summer and winter during which periods no ordinary meetings of the Partnership or its Committees will be held. The periods of recess will be determined by the Chairperson in conjunction with the Partnership Secretary.

### 1.4 **Calling of Meetings**

1.4.1 Meetings shall be called by the Partnership Secretary by notice issued at least three clear days before the meeting. The notice shall contain the agenda of business including, in the order in which they have been received, all competent and relevant motions of which notice has previously been given.

1.4.2 Where a meeting is the meeting of the Partnership called in terms of Standing Order 1.1 following upon the ordinary election of councillors the Partnership Secretary shall convene a meeting for such day (not being later than twenty-eight days from the date of said ordinary election of councillors) and at such time and place as he/she may determine. Where practicable, not less than fourteen days written notice of that meeting shall be given to each member of the Partnership whose appointment has been notified in accordance with Standing Order 2.6. Where said appointment is notified within fourteen days of said meeting such notice as is reasonably practicable shall be given.

1.4.3 The first business to be transacted at the meeting of the Partnership after an ordinary election of councillors shall be the appointment of the Chairperson and for that purpose the chair at that meeting shall be taken by the Partnership Secretary but no person taking the chair in accordance with this paragraph shall be entitled to cast any vote in connection with the transaction of business at that meeting.

1.4.4 On being appointed in terms of these Standing Orders the Chairperson shall take the chair and the next item of business will be the appointment of Deputy Chairpersons.

## 2. **APPOINTMENTS**

### 2.1 **Appointment of Members**

2.1.1 The Partnership shall consist of 20 Councillor members appointed respectively from the membership of each Council as follows:

Argyll and Bute	1
East Ayrshire	1
East Dunbartonshire	1
East Renfrewshire	1
Glasgow City	5
Inverclyde	1
North Ayrshire	1
North Lanarkshire	3
Renfrewshire	1
South Ayrshire	1
South Lanarkshire	3
West Dunbartonshire	1

2.1.2 The Partnership shall appoint between 7 and 9 other members via a public appointment process. Their period of appointment may vary from Councillor members.

### 2.2 **Period of Appointment**

2.2.1 Councillor members of the Partnership shall be appointed by each Council at the first meeting of that Council after each ordinary election of Councillors.

2.2.2 The maximum period of appointment of Councillor members of the Partnership shall be until the first meeting of the Council after the next ordinary election, but any Councillor member shall be eligible for appointment for such further periods, beginning on or after the expiry of the then current period of appointment.

2.2.3 A Councillor member failing to be re-elected to the appointing Council in an ordinary election shall continue as a Councillor member of the Partnership until the first meeting of that Council held after that ordinary election.

- 2.2.4 Other members will be appointed by the Partnership, subject to the consent of the Scottish Ministers, and shall hold office for a period of four years following the date of their appointment unless otherwise specified at the time of their appointment. There is no limit to the number of terms that other members may serve. The re-appointment of other members is subject to the agreement of Scottish Ministers.
- 2.2.5 The Partnership and the Scottish Ministers may appoint such a number of observers to the Partnership as they consider appropriate and such observers shall hold office for a period of four years following the date of their appointment unless otherwise specified at the time of their appointment. Observers may participate in the proceedings of the Partnership in the same manner as Councillor members and other members but may not hold office in it, or participate in its decisions.
- 2.2.6 An employee of the Partnership is not eligible for appointment as a member or observer of the Partnership.
- 2.2.7 Other members and observers of the Partnership may resign at any time by giving written intimation to the Partnership Secretary.
- 2.2.8 The Partnership may remove other members or observers from office if it is satisfied that:
- (a) the other member's or observer's estate has been sequestrated or the other member or observer has been adjudged bankrupt, has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract; or
  - (b) the other member or observer –
    - (i) is incapacitated by physical or mental illness;
    - (ii) has been absent from meetings of the Partnership or its Committees for a period longer than six consecutive months without the permission of the Partnership; or
    - (iii) is otherwise unable or unfit to discharge their functions as a member or is unsuitable to continue as another member or observer.
- 2.2.9 If a Councillor member fails throughout a period of six consecutive months to attend any Partnership or committee meeting, that member shall, unless the failure was due to some reason approved by the Partnership, cease to be a member of the Partnership.

## **2.3 Vacancies**

- 2.3.1 On a vacancy occurring due to a person appointed by a Council ceasing to be a member of the Partnership in the circumstances described in Paragraph 2(2) to (6) of Schedule 2 to the 2005 Order, that Council shall appoint another person in that person's place unless the Council, having regard to the length of time until



the next ordinary election, considers it unnecessary to do so. Other member vacancies will be filled having consideration to the skill mix required and, on the assumption, that no more than 2 vacancies at any one time exist.

- 2.3.2 A Council may at any time terminate the appointment of any person appointed by it as a member of the Partnership if, immediately prior to so doing, it provides an explanation for the termination by written intimation to the Partnership Secretary, the Chairperson and that Councillor member.
- 2.3.3 A Councillor member of the Partnership may resign his/her membership at any time by given written intimation to the Partnership Secretary and to the Council which appointed the Councillor member.
- 2.3.4 A Councillor member resigning in accordance with Standing Order 2.3.3 above shall cease to be a Councillor member of the Partnership on the date on which his/her resignation is intimated to the Partnership Secretary.
- 2.3.5 If, prior to the next ordinary election following a Councillor member's appointment, that Councillor member ceases to be a Councillor for the area of the constituent council which appointed the member, the member shall immediately cease to be a member of the Partnership.
- 2.3.6 The Chairperson, following a vote to that effect by the Partnership, may write to a Council and request that the Council terminates the membership of a Councillor member. On receipt of such a request it shall not be refused unreasonably by the Council.

## **2.4 Appointment of Substitutes**

- 2.4.1 Each Council listed in Standing Order 2.1.1 above may appoint a person to act as a substitute for a Councillor member appointed by that Council to attend and vote at any meeting of the Partnership or any Committee of the Partnership from which that member is absent
- 2.4.2 A Council may appoint a substitute at the time of appointment of the Councillor member or at any time while that Councillor member holds office.
- 2.4.3 A substitute may act as a substitute for any other Councillor member of the Partnership appointed by the same council during the currency of the original appointment. Substitute members can only represent one member at any time.
- 2.4.4 A substitute shall assume the same rights and obligations as the Councillor member for whom he/she is the substitute, except that the appointment of a substitute may be for such period as may be specified in the appointment.
- 2.4.5 A person shall cease to act as a substitute if the person appointed to be a substitute is appointed to be a member of the Partnership.

## **2.5 Appointment of Chairperson and Deputy Chairpersons**

- 2.5.1 The Partnership shall, mindful of the political, gender and geographic diversity of its membership, approve a Chairperson and such number of Deputy Chairpersons as it considers appropriate from amongst its members and subject to Standing Order 2.5.2, the Chairperson and Deputy Chairpersons shall each hold office for a maximum period of five years, or for the period between elections, whichever is the greater
- 2.5.2 A Chairperson and Deputy Chairpersons appointed in accordance with 2.5.1 above shall be eligible for appointment for one further term of office at the expiry of the then current term of office and, if so appointed, shall continue in office accordingly. A member is eligible to serve two full terms as a Deputy Chairperson and also as a Chairperson. If, prior to the end of their period of appointment, a Chairperson or Deputy Chairperson of the Partnership ceases to be a member of the Partnership, they shall immediately cease to hold office.
- 2.5.3 The Deputy Chairpersons, if they are Councillor members, shall not at any time be members of the same Council nor shall they be at any time a member of the same Council as the Chairperson.
- 2.5.4 Where a vacancy occurs in the office of the Chairperson or Deputy Chairpersons before the expiry of the incumbent's term of office, that vacancy shall be filled by the Partnership from one of its members at a meeting to be held as soon as practicable after the vacancy occurs and convened. In the event that the vacancy occurs in the office of the Chairperson, the meeting shall be convened by the Partnership Secretary.
- 2.5.5 A person appointed in accordance with Standing Order 2.5.4 above shall hold office initially only for so long as the vacating member would have held office.
- 2.5.6 The Partnership shall appoint a Committee Chairperson to lead the Audit and Standards Committee. Such Committee Chairperson, if a councillor member, will not be from the same council as the Chairperson or Deputy Chairpersons.

## **2.6 Notification of Appointments or Termination of Appointment**

As soon as practicable after each appointment or termination of appointment of a Councillor member of the Partnership, the Council responsible for that appointment or termination shall give written notice to the Partnership Secretary of the name, address and designation of the person appointed or whose appointment has been terminated, as the case may be.

## **3. PROCEDURE AT MEETINGS**

### **3.1 Quorum - Count Out and Voting Rights**

- 3.1.1 The Quorum of the Partnership is 25% of the membership (comprising both Councillor members and, other members) always provided that in order to form a quorum at any meeting of the Partnership at least three of the constituent councils must be represented.
- 3.1.2 If fewer than 25% of members are present ten minutes after the time appointed for the start of the meeting, the Chairperson shall intimate to the Partnership this fact.

If after the lapse of a further period of one minute there are still fewer than 25% of members present, the meeting shall be adjourned and this recorded in the minute.

- 3.1.3 After a meeting has started, if the number of members present falls below the Quorum, the Partnership Secretary shall draw this to the attention of the Chairperson. If after the intimation of this by the Chairperson to the Partnership and a lapse of one minute there are fewer than 25% of members present, the meeting shall thereupon adjourn and this be recorded in the minute. Thereafter the Chairperson shall require the Partnership Secretary to reconvene the meeting within one month.
- 3.1.4 The names of the members present at a meeting of the Partnership shall be recorded by the Partnership Secretary.
- 3.1.5 Each Councillor member shall have one vote.
- 3.1.6 The Partnership may grant voting rights to Other members other than in relation to:
- the amount of funding to be requisitioned from each constituent council to the Partnership; and
  - the making of a request to the Scottish Ministers for the conferring of additional functions on the Partnership;
- 3.1.7 Decisions will be by a simple majority of those eligible to vote except where the Partnership has previously decided by a two-thirds majority that the matter under consideration should only be decided by a two-thirds majority of those entitled to vote.

### **3.2 Business at Meeting**

At a meeting of the Partnership no business other than that specified in the notice shall be considered except in the case of business either required by or under any Act to be transacted at a meeting of the Partnership or as hereinafter provided. Business which has not been specified in the notice may be intimated by the Partnership Secretary at the commencement of the meeting and considered at the end of the meeting, provided that in the opinion of the Chairperson the same is relevant, competent and urgent.

### **3.3 Order of Business**

The order of business shall be as follows:

- 3.3.1 The Chairperson, or in his/her absence, one of the Deputy Chairpersons, whom failing another member of the Partnership chosen by the members present, shall take the Chair.
- 3.3.2 Declarations of Interest under the Ethical Standards in Public Life etc (Scotland) Act 2000 and in compliance with the SPT approved Code of Conduct for Members.
- 3.3.2 Minutes of the previous meeting and of any special meeting, having been circulated prior to the meeting, shall be submitted, held as read, corrected if necessary and signed by the Chairperson.

3.3.3 Minutes of Committees shall be submitted and insofar as not submitted for information only held to be approved unless objection is taken to any paragraph submitted for approval by the Partnership or any portion thereof when so submitted. When an objection is intimated it shall be debated forthwith. A member may without prior notice put a question to the Chairperson about any minute or portion thereof submitted and shall not be precluded from putting a question merely because an objection has been intimated to the said minute or portion thereof.

3.3.4 Updates to Partnership Membership

3.3.5 Items of business.

3.3.7 Correspondence, except such as deals with a subject appropriate to a Committee, shall be submitted.

Where an item of correspondence has not been intimated along with the notice calling the meeting it may be considered either at any relevant place on the agenda or at the end of the meeting provided that prior to the commencement of the meeting written intimation has been given to the Partnership Secretary and that in the opinion of the Chairperson it is relevant, competent and urgent.

3.3.8 Notices of motion shall, subject to Standing Order 3.10 below, be read to the Partnership.

3.3.9 Deputations may be received.

3.3.9 Questions concerning any competent and relevant subject shall be dealt with in terms of Standing Order 3.9 below.

3.3.10 Motions of which notice has been given shall be considered in the order in which they stand on the agenda,

3.3.11 Items of business which the Chairperson has accepted for consideration as matters of urgency.

### **3.4 Power to Vary Order of Business**

The Partnership may at any meeting on a motion duly moved and seconded and, if required, voted on by a show of hands, vary the order of business so as to give precedence to any item on the agenda.

### **3.5 Chairperson - Powers and Duties - Casting Vote**

3.5.1 Deference shall at all times be paid to the authority of the Chairperson. When he/she speaks, any member who is addressing the Partnership shall cease to speak. It shall be the duty of the Chairperson to preserve order and to secure

that members obtain a fair hearing. The Chairperson shall decide all matters of order, competence and relevance.

3.5.2 The Chairperson shall also decide between two or more members wishing to speak by calling on the member whom he/she first observes. He/she shall be entitled in the event of disorder arising to adjourn the meeting to a time he/she may then or afterwards decide and his/her quitting the chair shall be the signal that the meeting is adjourned.

3.5.3 Where there is an equality of votes, the Chairperson shall have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a member to a particular office or Committee or an officer to a particular post, in which case the decision shall be by lot.

### **3.6 Question of Order**

A member who is addressing the Partnership when a question of order is raised shall cease to speak until the question of order has been decided by the Chairperson.

### **3.7 Member Disregarding Authority of Chairperson etc.**

In the event of any member of the Partnership disregarding the authority of the Chairperson or being guilty of obstructive or offensive conduct as may be determined at the discretion of the Chairperson and the Chairperson calling this to the attention of the Partnership it shall be the duty of one of the Deputy Chairpersons to move the suspension from the meeting of such member. If both Deputy Chairpersons are either absent or refuse the duty, any other member may move the suspension. The motion to suspend (having been duly seconded) shall be put by the Chairperson without discussion and voted on by a show of hands and if it is supported by a majority of the members voting, the Partnership shall suspend such member for the remainder of the sitting. The Chairperson shall direct the member to retire from the meeting and if he/she does not retire forthwith the Chairperson shall direct that the member be removed and give such other directions as are in his/her opinion necessary for carrying out the resolution of the Partnership and for restoring order to the proceedings.

### **3.8 Deputations, Petitions, Correspondence etc.**

3.8.1 The Partnership may receive deputations on any relevant matter, but not in relation to a matter falling within the order of reference to a committee unless the issue proposed to be raised by the deputation relates to a paragraph in a minute to be considered (and not merely submitted for information) by the Partnership on the day in which the deputation has asked to be heard.

3.8.2 Deputations shall not exceed five persons. Not more than two speakers shall be heard and neither of them shall speak for more than five minutes except with the consent of the Partnership.

3.8.3 Subject to the provisions of Standing Order 3.8.1 above, representations made by deputations and in correspondence shall not be considered by the Partnership at the meeting at which they are first submitted unless they refer to a

matter already included on the agenda, in which case they shall be considered when that matter is under discussion.

- 3.8.4 Representations from deputations and in correspondence which are not considered at the meeting at which they are first submitted shall either be placed on the agenda for consideration at the next ordinary meeting of the Partnership or remitted by the Partnership Secretary to the relevant Committee for consideration and report.

### **3.9 Questions**

- 3.9.1 Members may submit written questions on any competent and relevant matter not contained within the minutes being considered by the Partnership for answer at meetings of the Partnership and of the Committees by the Chairperson, (or in his/her absence one of the Deputy-Chairpersons) or the Partnership Secretary or any other appointed person.
- 3.9.2 All questions asked in terms of Standing Order 3.9.1 shall be in writing, which includes email, and delivered to the Partnership Secretary not later than 1600 hours on the last day but one before the meeting. All questions will be read and answered at the stage specified in Standing Order 3.3 above.
- 3.9.3 After a written question has been answered, the questioner may ask one supplementary question, if necessary, for the elucidation of the answer given. Thereafter one other member may ask one question for further elucidation of the answer. No discussion shall be allowed on any question or answer.

### **3.10 Forms of Notices of Motion**

- 3.10.1 Every notice of motion shall be in writing, which includes email, and seconded and shall be received by the Partnership Secretary at least ten days prior to the date of any meeting of the Partnership. Those not received within this timescale will not be specified in or transmitted with the summons calling such a meeting.
- 3.10.2 Notices of motion not submitted timeously in accordance with Standing Order 3.10.1 may nevertheless be considered by the Partnership at the end of the meeting if (a) they are delivered to the Partnership Secretary prior to the commencement of the meeting, (b) they have been read by him/her to the Partnership as soon as possible after the commencement of the meeting and (c) they are considered by the Chairperson to be competent, relevant and urgent.

### **3.11 Speeches**

- 3.11.1 A member desiring to speak shall indicate that desire and when called upon shall address the Chairperson. He/she shall direct his/her speech to the matter under consideration or to a question of order.
- 3.11.2 A member proposing to submit a motion or an amendment on any subject under discussion shall before addressing the meeting state its terms. Should he/she fail to do so the Chairperson shall ask him/her to state its terms. Every motion or

amendment shall be moved and seconded and shall, when required by the Chairperson, be reduced to writing and handed to the Chairperson.

- 3.11.3 The mover of any motion or amendment may speak in support of the motion or amendment for not more than ten minutes. No other speaker shall speak for more than five minutes or more than once in the same discussion except to call attention to a point of order.
- 3.11.4 When the mover of a motion or amendment has spoken for eight minutes or any subsequent speaker for three minutes, the Partnership Secretary shall advise the mover and again two minutes later when the member shall cease to speak.
- 3.11.5 The mover of the original motion shall have the right to speak for a further five minutes in reply to the debate after which the discussion shall be closed. The mover of a motion shall, in his/her reply, strictly confine himself/herself to answering previous speakers and shall not introduce any new matter. No member shall be permitted to offer an opinion or to ask a question or otherwise to interrupt the proceedings and the question under discussion shall then be put by the Chairperson.
- 3.11.6 The limits of time specified in Standing Orders 3.11.3 and 3.11.5 hereof may be exceeded with the consent of a majority of the members present and it shall be competent for the Chairperson to determine without the necessity of taking a vote whether such consent has been obtained.

### **3.12 Motions etc. Not Seconded**

The mover of a motion or amendment which is not seconded may register his/her dissent to the decision of the Partnership.

### **3.13 Motion to Lapse when Meeting Counted Out or Proposer Absent**

A motion shall lapse either when the meeting is counted out in terms of Standing Order 3.1 while the motion is being debated or when it is reached in the absence of the proposer unless it is moved by a member having the written consent of the proposer. Lapsed motions may be revived only by new notice of motion.

### **3.14 Motion Contradictory of Previous Resolution**

A motion which is contradictory of a resolution of the Partnership shall not be competent within six months from the date of the adoption of such resolution.

The Partnership may however decide to consider such a motion if a matter or evidence is introduced which had not previously been available or if some change of circumstances has taken place since the said adoption.

### **3.15 Motion for Adjournment**

- 3.15.1 A motion for the adjournment of a meeting may be put at the conclusion of any speech and shall have precedence over all other motions. It must be moved and seconded without a speech and shall at once be put by the Chairperson in the form of "adjourn" or "not adjourn".



- 3.15.2 A second or subsequent motion for adjournment of the meeting shall not be made within a period of half an hour unless it is moved by the Chairperson when it shall be dealt with as in Standing Order 3.15.1.

### **3.16 Closure of Debate - Procedure**

At the close of any speech, any member who has not spoken on the question before the Partnership may move "that the question now be put". If this is seconded and the Chairperson is of the opinion that the subject has been sufficiently discussed a vote shall be taken without further debate. No speeches shall be made on that motion. If it is carried, the mover of the original motion shall have the right to reply to other speeches made on that original motion immediately following which, the vote thereon shall be taken.

### **3.17 Method of Voting**

- 3.17.1 Except as otherwise provided in the Standing Order 3.5.3, a vote may be taken either by calling the roll or by a show of hands. When it is proposed to take the vote by a show of hands, any member may object to the vote being so taken and if one-third of the members present and eligible to vote rise in their places to signify objection, the vote shall be taken by calling the roll. All votes on procedure shall however be taken by a show of hands.
- 3.17.2 When a motion and an amendment are before the Partnership, the proposal receiving the support of a majority of the members present and voting shall be declared to be the decision of the Partnership.
- 3.17.3 When a motion and two or more amendments none of which involves postponement or negation are before the Partnership, the vote shall be taken on all proposals, each member having one vote. If a proposal receives the support of a majority of the members present and voting it shall be declared to be the decision of the Partnership. If none of the proposals receives the support of such a majority, that which has received the least support shall be dropped and a fresh vote shall then be taken on the remaining proposals and so on until one proposal has received majority support whereupon it shall be declared to be the decision of the Partnership.
- 3.17.4 In relation to Standing Order 3.17.3, if any proposals equally receive the least support a vote shall be taken among each of these proposals to determine which of them shall be dropped.
- 3.17.5 When a motion and two or more amendments are before the Partnership and adoption of one or more of the proposals would result either in the postponement of a decision on the merits or in negation, a vote shall firstly be taken on the proposal(s) involving such postponement or negation as soon as the discussion is completed and before the vote, if any, on remaining proposals is taken. The proposal(s) involving postponement or negation ("not proceed") shall be put to the Partnership in the form of "proceed" or "not proceed". Any vote then necessary on remaining proposals shall be taken in terms of Standing Orders 3.17.2 and 3.17.3.



3.17.6 No discussion shall take place on the method of voting, except as to clarify the procedure to be adopted.

### **3.18 Access to Meetings and Documents**

The Partnership will comply with the provisions of Part IIIA of the Local Government (Scotland) Act 1973 as if it was included within the definition of a “relevant body” in section 50K(1) of that Act.

## **4. COMMITTEES**

4.1 The Partnership may appoint committees for the better management and regulation of the functions of the Partnership and with the exception of Standing Order 4.2 below, a committee shall consist wholly of members of the Partnership.

4.2 Where a committee is appointed by the Partnership for the exercise of functions which are advisory only, the committee may consist wholly or partly of persons who are not members of the Partnership.

4.3 These Standing Orders will apply as relevant to meetings of Committees as they apply to meetings of the Partnership

## **5. DELEGATION OF FUNCTIONS**

5.1 The Partnership may delegate to any committee, or officer of the Partnership, the exercise of any of its functions, with exception of those specifically reserved.

5.2 Any delegation by the Partnership under Paragraph (5.1) may be subject to such restrictions or conditions as the Partnership thinks fit.

5.3 The Partnership Secretary shall cause a Scheme of such delegations to be made and shall maintain it in accordance with such decisions as the Partnership may make in relation to such delegations.

## **6. DECISIONS OF PARTNERSHIP**

Except where it falls within the remit of the Audit and Standards Committee no decision made by the Partnership shall be subject to review by any committee of the Partnership unless such review is specifically authorised by the Partnership.

## **7. ULTIMATE POWER OF PARTNERSHIP**

Without prejudice to any decision already taken by a committee or officer in exercise of delegated powers, the Partnership may at any time if it so determines, deal with any matter included in a reference to a committee or to an officer although no report from such committee or officer is before it.

## **8. SUSPENSION OF STANDING ORDERS**

The Partnership may, on a motion duly moved and seconded and with the consent of two thirds of the members voting, suspend or dispense with any standing order to be specified in the motion. Any such motion may be submitted without previous notice and shall be put from the Chairperson without discussion and voted on by a show of hands.

## **9. VARIATION AND REVOCATION OF STANDING ORDERS**

Any motion to vary or revoke these standing orders shall, when proposed and seconded, stand adjourned without discussion to the next meeting of the Partnership.

## **10. QUESTIONS OF PROCEDURE TO BE DETERMINED BY CHAIRPERSON**

The Chairperson shall in his/her discretion, determine all questions of procedure for which no express provision has been made under these Standing Orders.

## **11. DECLARATION OF INTEREST**

11.1 If any member of the Partnership has a financial or non-financial interest direct or indirect in any contract, proposed contract or other matter and is present at any meeting at which that contract, proposed contract or other matter is to be considered he/she shall (notwithstanding that he/she has registered that interest under the Partnership's Members Code of Conduct, made in terms of the Ethical Standards in Public Life etc. (Scotland Act 2000) at the meeting and as soon as practicable after its commencement disclose that he/she has such an interest and that he/she is precluded from taking part in the consideration or discussion of the contract, proposed contract or other matter or from voting on any question with respect thereto and he/she shall leave the meeting while that matter is under discussion.

11.2 Where a member declares an interest and leaves the meeting in terms of Standing Order 11.1 the Partnership Secretary shall record the fact in the minute of the meeting.

11.3 If the Partnership is satisfied that a member has financial or non-financial interest, direct or indirect in a contract, proposed contract or other matter which is or has been the subject of consideration by the Partnership or by any committee of the Partnership or under delegated powers by any officer of the Partnership and that he/she has failed to comply with the requirements of Standing Order 11.1 with regard to the disclosure of that interest the Partnership may by resolution remove that member from any Committee or Committees named in the resolution for such period as the Partnership may resolve. At all times members of the Partnership shall abide by the Partnership's Code Of Conduct for Members.

**12. NOMINATION OF MEMBER FOR ANY POST - CONSENT TO BE OBTAINED**

No member of the Partnership shall be nominated for any post in the Partnership, except membership of a committee of the Partnership, or in any outside body, unless the consent of the person nominated has been previously obtained or is given at the time of nomination.

**13. MINUTES**

13.1 Minutes of the proceedings of the Partnership shall be drawn up and shall be signed at the same or next following meeting of Partnership by the person presiding thereat and any minute purporting to be so signed shall be received in evidence without further proof.

13.2 Until the contrary is proved, a meeting of the Partnership, a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all the members present at that meeting shall be deemed to have been duly qualified.

13.3 A copy of the minutes of the proceedings of each meeting of the Partnership shall be sent by the Partnership Secretary to each member not later than 21 days after that meeting.

**14. RECORDING OF PROCEEDINGS**

With the exception of a recording approved by the Partnership Secretary, no sound, film, video-tape or photographic recording of the proceedings of any meeting may be made without the prior approval of the Partnership.

**15. STANDING ORDERS ETC TO BE OBSERVED**

It shall be the duty of the Partnership Secretary to see that the Standing Orders, and Terms of Reference of Committees and the provisions of the Regional Transport Partnership (Establishment, Constitution and Membership) (Scotland) Order 2005 are observed.



# **Committee Terms of Reference**

# **Strathclyde Partnership for Transport**

## **Terms of Reference**

### **Exclusions from delegation to Committees or Officers**

The following matters are explicitly excluded from the delegations to committees or officers and ~~are~~ to be considered and approved by the Partnership itself unless dealt with as a matter of **urgency** by the Chairs' Committee:

1. Any matter requiring the approval of the Partnership in terms of relevant legislation;
2. Formulation and approval of policies and strategies or any amendment thereto;
3. Approval of the Revenue and Capital Budgets of the Partnership;
4. Approval of the Annual Accounts and the Annual Reports of the Partnership;
5. Proposals which have a major impact on the operational performance of the Partnership;
6. Responses to major consultation papers or other proposals which could affect the provision of public transport;
7. Formulation and amendment of procedural Standing Orders, Contract Standing Orders, Financial Regulations and the Scheme of Delegated Functions;
8. The decision-making structures of the Partnership including the powers of the various committees, the appointment of the Chair, Vice-Chairs and Appointed Members and the appointment of members to committees and to outside bodies;
9. Appointment of the Chief Executive, Partnership Secretary and Assistant Chief Executives; and
10. Any matter not otherwise delegated to a Committee or officer.

## **CHAIRS' COMMITTEE**

Members: 3: Chair and Vice Chair(s) of the Partnership  
Meetings: As and when required  
Quorum: 2

Subject to the exclusions and limitations to delegation, the Chairs' Committee of the Partnership is to consider and approve all urgent matters on behalf of the Partnership. All matters approved or considered will be reported to the next available Partnership meeting.

## STRATEGY & PROGRAMMES COMMITTEE

Number of members:	16
Meetings:	1 meeting per cycle
Quorum:	4 always provided that in order to form a quorum at any meeting of the Partnership, or committee, at least 3 of the constituent councils must be represented

Subject to the exclusions and limitations to delegation, the compliance with the policies of the Partnership and the requirement to ensure that the appropriate financial provision is available if any decisions are taken which will have any budgetary implications, this committee is authorised:

1. To consider any proposals including legislative proposals relating to transport to identify potential effects and to recommend action, as appropriate, to the Partnership.
2. To consider and make recommendations to the Partnership with regard to all transport policies, programmes and implementation strategies including any amendments thereto.
3. To consider and make recommendations to the Partnership on the extent and structure of the Partnership's revenue and capital budgets.
4. To investigate, consider and make recommendations as appropriate to the Partnership arising from any major variations or projected variations in any of the Budget Headings contained within the revenue budget or the capital budget.
5. To consider and make recommendations to the Partnership on the capital programme.
6. To consider and approve amendments to the capital programme, otherwise not approved or included.
7. To approve grant funding by the Partnership in terms of appropriate legislation to a maximum value of £200,000, or the Higher Regulated Limit, whichever is the greater.
8. To consider and approve expenditure, including the award of any contract, in relation to any matter within the remit of the committee.
9. To approve the funding of revenue costs associated with projects.
10. To monitor performance against targets set for implementation in the Partnership's approved Regional Transport Strategy, Business Plan and other approved strategies.
11. To monitor implementation of the responsibilities of the Partnership in terms of the relevant general policies of the Partnership including the Equality Act 2010 and the approved Equality Outcome Report designed to meet the transport requirements of those individuals who might be socially excluded.
- 12./....

12. To consider and make recommendations to the Partnership with regard to the scale of fares levied on public transport services and charges levied for the use of public transport facilities in so far as they relate to the public transport services and public transport facilities which are delivered directly by the Partnership or by others on behalf of the Partnership
13. To consider and approve conference and site visit attendance for members of the Partnership where the conference subject is consistent with the Partnership's aims and committee remit.



## OPERATIONS COMMITTEE

Number of members:	16
Meetings:	1 meeting per cycle
Quorum:	4 always provided that in order to form a quorum at any meeting of the Partnership, or committee, at least three of the constituent councils must be represented

Subject to the exclusions and limitations to delegation, the compliance with the policies of the Partnership and the requirement to ensure that the appropriate financial provision is available if any decisions are taken which will have any budgetary implications, this committee is authorised:

1. To consider and approve expenditure arising from proposals for subsidised public transport services, or other services within the remit of the committee, in accordance with the Partnership's Standing Orders Relating to Contracts.
2. To consider and approve expenditure for any proposal, including the award of any contract, in relation to any matter within the remit of the committee
3. To approve revenue expenditure requiring consent in accordance with the Partnership's Standing Orders Relating to Contracts and Financial Regulations.
4. To consider and make recommendations to the Partnership on the provision of public transport services and facilities within the Partnership area.
5. To consider and make recommendations to the Partnership on the operational performance of all public transport services and public transport facilities which are delivered directly by the Partnership or by others on behalf of the Partnership.
6. To consider and make recommendations to the Partnership on the provision of public transport services and facilities within the Partnership area in respect of particular requirements for those with special needs.
7. To consider reports in respect of safety and security of all public transport services and public transport facilities with special emphasis on those operations within the specific operational responsibility of the Partnership and where appropriate to make any necessary recommendations to the Partnership thereon.
8. To consider and approve conference and site visit attendance for members of the Partnership where the conference subject is consistent with the Partnership aims and committee remit.
9. To approve grant funding by the Partnership in terms of appropriate legislation to a maximum value of £200,000, or the Higher Regulated Limit, whichever is the greater.
10. To consider and make recommendations to the Partnership with regard to the scale of fares levied on public transport services and charges levied for the use of public transport facilities in so far as they relate to services and public transport facilities which are delivered directly by the Partnership or by others on behalf of the Partnership.

## PERSONNEL COMMITTEE

Number of members:	16
Meetings:	As and when required
Quorum:	4 always provided that in order to form a quorum at any meeting of the Partnership, or committee, at least 3 of the constituent councils must be represented

Subject to the exclusions and limitations to delegation, the compliance with the policies of the Partnership and the requirement to ensure that the appropriate financial provision is available if any decisions are taken which will have any budgetary implications, this committee is authorised:

1. To appoint the Chair of the Committee.
2. To oversee and approve matters relating to staff remuneration and allowances, where it is proposed to operate outwith the previously approved policy.
3. To consider and approve schemes for the introduction and continued monitoring of incentive, productivity and special recognition.
4. To oversee and approve matters relating to the conditions of service of all employees of the Partnership including any alterations to the conditions of service.
5. To consider and approve procedures in respect of disciplinary appeals and grievance hearings.
6. To consider and monitor changes to organisational structures and overall establishments.
7. To consider and monitor implementation of the responsibilities of the Partnership in terms of the relevant employment legislation, policies, guidance and circulars.
8. To consider and approve matters relating to training, education, career development and the health safety and welfare of employees including the approval of the annual staff training plan.
9. To consider and approve the premature retirement of any employee where this is in the interests of the efficient exercise of the functions of the Partnership, or by reason of redundancy, including the power to grant added years' service reckonable for superannuation purposes, where it is proposed to operate outwith the previously approved policy.
10. To consider and approve policies in relation to human resource matters.
11. To consider and approve conference attendance for members of the Partnership where the conference subject is consistent with the Partnership aims and remit.

## PERSONNEL APPEALS SUB-COMMITTEE

Number of members:	Up to 7 (Councillor members only)
Meetings:	As and when required
Quorum:	3 always provided that in order to form a quorum at any meeting of the Partnership, or committee, at least 3 of the constituent councils must be represented

Subject to the exclusions and limitations to delegation, the compliance with the policies of the Partnership and the requirement to ensure that the appropriate financial provision is available if any decisions are taken which will have any budgetary implications, this committee is authorised:

1. To hear and determine appeals against dismissal including the power to vary the disciplinary action taken.
2. To hear and determine appeals against any disciplinary action, including the power to vary the disciplinary action taken.
3. To consider and reach decisions in grievance appeals by individual employees in terms of their relevant Conditions of Service, but only when the internal HR procedures have been exhausted.

## AUDIT AND STANDARDS COMMITTEE

Number of members:	11
Meetings:	Quarterly and as and when required
Quorum:	3 always provided that in order to form a quorum at any meeting of the Partnership, or committee, at least 3 of the constituent councils must be represented

Subject to the exclusions and limitations to delegation, the compliance with the policies of the Partnership and the requirement to ensure that the appropriate financial provision is available if any decisions are taken which will have any budgetary implications, this committee is authorised:

1. To consider the effectiveness of the Partnership's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
2. To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
3. To be satisfied that the Partnership's assurance statements, including the Statement on the System of Internal Financial Control, properly reflect the risk environment and any actions required to improve it.
4. To approve (but not direct) internal audit's strategy plan and monitor performance.
5. To review summary internal audit reports and the main issues arising and seek assurance that action has been taken where necessary.
6. To receive the annual report of internal audit.
7. To consider and recommend to the Partnership the Partnership's annual financial statements.
8. To consider the reports of external audit and inspection agencies.
9. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
10. To review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.
11. To promote the delivery by members and officers of high standards of conduct, including scrutiny of the relevant Register of Interests.
12. To promote value for money studies.
13. To promote and monitor financial controls, civic management and corporate governance.
14. To assist members to observe the Code of Conduct in accordance with any guidance issued by the Standards Commission for Scotland, including support to the Standards Officer to ensure the effective implementation of the Code of Conduct.



# **Scheme of Delegated Functions**

**May 2022**



**STRATHCLYDE PARTNERSHIP FOR TRANSPORT**  
**SCHEME OF DELEGATED FUNCTIONS**  
**May 2022**

**Issued by Chief Executive**



## STRATHCLYDE PARTNERSHIP FOR TRANSPORT

### SCHEME OF DELEGATED FUNCTIONS

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## 1. Introduction

Strathclyde Partnership for Transport (the Partnership) is a Transport Partnership established by virtue of the Transport (Scotland) Act 2005. The Partnership recognises the requirement for a streamlined decision-making process that allows the Members of the Partnership to focus on developing and setting the policies of the Partnership.

In order to facilitate an expeditious and economic discharge of its functions it is necessary for the Partnership to ensure that decisions be taken at the appropriate level. Therefore, it is important to introduce a scheme of delegation (the scheme), in which the Partnership delegates certain of its functions/powers to Committees and Officers.

The purpose of this scheme is also to codify the functions and powers delegated to ensure that both Members and Officers have a clear understanding of their decision-making powers.

There are two key areas of delegations set out in the scheme:

- (1) Delegation to Committees (specified in their respective Terms of Reference); and
- (2) Delegation to Officers.

All delegations should be considered having due regard to the Financial Regulations and Contract Standing Orders.

## 2. Exclusions from Delegation to Committees or Officers

The following matters are explicitly excluded from the delegations to Committees or Officers and require to be considered and approved by the Partnership itself unless dealt with as a matter of **urgency** by the Chairs' Committee:

1. Any matter requiring the approval of the Partnership in terms of relevant legislation;
2. Formulation and approval of policies and strategies or any amendment thereto;
3. Approval of the Revenue and Capital Budgets of the Partnership;
4. The approval of the Annual Accounts and the Annual Reports of the Partnership;
5. Proposals which have a major impact on the operational performance of the Partnership;
6. Responses to major consultation papers or other proposals which could affect the provision of public transport;
7. Formulation and amendment of procedural Standing Orders, Contract Standing Orders, Financial Regulations and the Scheme of Delegated Functions; and
8. The decision-making structures of the Partnership including the powers of the various committees, the appointment of the Chair, Vice-Chairs and Appointed Members and the appointment of members to committees and to outside bodies;





9. Appointment of the Chief Executive, Partnership Secretary and any Assistant Chief Executive (if appointed); and
10. Any matter not otherwise delegated to a Committee or officer.

### **3. Delegation to Committees**

#### **Limitation on Delegation to Committees**

There is delegated to each Committee the powers and functions specified in its Terms of Reference but subject to the following restrictions and conditions:

- (a) Each Committee, in carrying out the functions, powers and duties referred to or delegated to it, shall observe and comply with the Standing Orders of the Partnership and with all policies and any resolutions, directions or instructions passed by the Partnership with reference to its business generally or to the said delegations, and act within approved budgets and available funding; and
- (b) A Committee may direct that a matter be reported to the Partnership for a decision or that the Committee's resolution on that matter be submitted to the Partnership in the form of a recommendation.

### **4. Delegations to Officers**

#### **4.1 Introduction**

- (a) The Chief Executive, being the Chief Officer of the Partnership, is responsible for managing and directing the delegated affairs of the organisation.
- (b) The Partnership Secretary is responsible for the applicability and the interpretation of the scheme and advising accordingly.

The scheme determines which officers can exercise the delegated functions/powers.

The Secretary shall be entitled to vary this scheme but only in the following circumstances:

- (i) to reflect changes in job titles, reorganisations of departments and vacancies in posts; and
- (ii) to change references to any piece of legislation where the legislation is repealed and to insert references to new pieces of legislation where the new pieces of legislation largely re-enact the provisions of repealed legislation.

#### **4.2 Qualifications on Delegations**

Delegation to officers is subject to:

- (a) The policies of the Partnership as determined by it at any meeting whether contained in any formal document or not;

- (b) Appropriate financial provision having been made prior to the exercise of any delegated function which involves expenditure;
- (c) The right of an officer to consult with the Chief Executive, Director of Finance & Corporate Support or Senior Solicitor on any matter even though it has specifically been delegated to that officer or to refer the matter to the Partnership or any relevant committee or sub-committee;
- (d) The requirement that the principles of good corporate management and governance are observed in exercising any delegated functions;
- (e) Compliance with the Standing Orders relating to Contracts, Financial Regulations, Practice Notes, Codes of Guidance, prevailing legislation, regulations, national codes of practice, government circulars; and
- (f) Any managerial instruction given.

No officer shall exercise any delegated powers in relation to any matter in which they have a direct or indirect pecuniary interest.

### 4.3 General Delegations

The various functions/powers delegated in terms of this scheme are set out in a tabulated format and those officers entitled to exercise the delegated powers/functions are specified.

#### Function/Power Delegated

#### Delegated to

- |   |   |
|---|---|
| <p>1. To take such measures as may be required in emergency situations including, without prejudice to the foregoing, to enter into contracts where such a contract would avert, alleviate or eradicate the effects or potential effects of an emergency or disaster (actual or potential) involving or likely to involve danger to life or health or serious damage to or destruction of property, but subject always to:</p> <ul style="list-style-type: none"> <li>a) the requirement to advise the Chair of the Partnership at the earliest opportunity; and</li> <li>b) the requirement to report the exercise of this power to the Partnership as soon as possible thereafter where the actions taken would ordinarily have been reported to the Partnership prior to the action being taken</li> </ul> | <p>Chief Executive and Director of Finance &amp; Corporate Support / Director of Subway</p> |
| <p>2. To make grants or loans to any person or organisation under and for any purposes set out in section 56 of the Transport Act 1968 and section 106 of the Transport Act 1985 and section 3(5) of the Transport (Scotland) Act 2005 for a sum not exceeding £50,000, provided that the appropriate financial provision has been made</p>   | <p>Chief Executive and Director of Finance &amp; Corporate Support / Director of Subway</p> |



3. To make grants or loans (whether capital or not) to any person or organisation for any purposes which contribute to the implementation of the Partnership's Transport Strategy, as determined by Section 5.3(s) of the Transport (Scotland) Act 2005 not exceeding £50,000, provided that the appropriate financial provision has been made

Chief Executive, Director of Finance & Corporate Support / Director of Subway
4. To deploy resources and to manage functions as the officer thinks fit for the best execution of their remit or the functions under their management

Chief Executive, Directors and officers on Grade G and above
5. Insofar as not reserved, to secure the provision of such public transport services as may be required to implement the policies and strategies of the Partnership in accordance with the Transport Act 1968, the Transport Act 1985, the Transport (Scotland) Act 2001 and the Transport (Scotland) Act 2005

Chief Executive, Directors and officers on Grade G and above
6. To appoint staff at Director level within the approved establishment and within the overall budget, in line with the procedures and policies in place for the Partnership

Chief Executive
7. To appoint staff up to the level below Director grade within the approved establishment and within the overall budget, in line with the procedures and policies in place for the Partnership

Chief Executive and, within their respective departments, Directors and officers on Grade D and above (officers shall only be entitled to appoint to Grades lower than their own Grade)
8. To conduct Disciplinary and Grievance proceedings and to take such action as is necessary including the dismissal of employees in conjunction with the Human Resources Department and in line with the Partnership's policies and procedures relating to such action

Chief Executive and, within their respective departments, Directors and officers on Grade D and above
9. To sign or issue the necessary staff identification cards

Chief Executive and, within their respective departments, Directors and officers on Grade D and above
10. To authorise, subject to the agreement of the Director of Finance & Corporate Support, the attendance of officers on courses of study and payment of appropriate costs

Chief Executive and, within their respective departments, Directors and officers on Grade F and above in consultation with the Director of Finance & Corporate Support



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|---|---|
| 11. To approve appointments of temporary, sessional and casual staff where considered necessary and where budgetary provision exists  | Chief Executive and, within their respective departments, Directors and officers on Grade F and above in consultation with the Head of HR   |
| 12. To approve initial placing within approved salary scales when employing staff   | Chief Executive and, within their respective departments, Directors and officers on Grade F and above in consultation with the Head of HR   |
| 13. To discharge Health and Safety responsibilities   | Chief Executive and, within their respective departments, Directors and officers on Grade F and above   |
| 14. To authorise overtime, leave, flexi-time, payments for acting up and to exercise discretion for the purposes of administration of the flexi-time scheme   | Chief Executive and, within their respective departments, Directors and officers on Grade F and above in consultation with the Head of HR if outwith the agreed corporate framework |
| 15. To consider and determine applications for extension of leave for overseas visits for employees who have not completed the necessary period of continuous service in terms of the Partnership's Conditions of Service | Chief Executive and, within their respective departments, Directors and officers on Grade F and above in consultation with the Head of HR   |
| 16. To provide direction in special circumstances that an officer shall not exercise a delegated function   | Chief Executive and Directors in consultation with Senior Solicitor   |
| 17. To vire monies in terms of the Financial Regulations within individual sections of the Capital and Revenue budgets up to £10,000  | Chief Executive and Director of Finance & Corporate Support   |
| 18. To purchase goods, services or works for the Partnership in compliance with the Standing Orders relating to Contracts and other procedures and practice notes (if any) in place                                       | Chief Executive and, within their respective departments, Directors and duly authorised signatories   |



19. To appoint or engage the services of specialist support where it is considered appropriate to do so in accordance with the Standing Orders relating to Contracts

Chief Executive and, within their respective departments, Directors and officers on Grade G and above

#### 4.4 Contract Delegations

##### Function/Power Delegated

##### Delegated to

- 1(a) To exercise delegations in terms of the Standing Orders relating to Contracts adopted by the Partnership
- (b) To exercise delegations in terms of the Financial Regulations adopted by the Partnership
2. To determine in all contracts estimated to exceed £200,000 whether a clause should be included for liquidated damages.
3. To determine, following consultation with the relevant technical officer, whether or not a claim should be submitted to the Contractor in terms of Liquidated damages, subject to the appropriate terms and conditions
4. To determine, following consultation with the relevant technical officer, requests for assignments or sub-contracting arrangements, in whole or in part, subject to the appropriate terms and conditions
5. To determine and manage the appropriate tendering arrangements in relation to the purchase of works, goods and services for the Partnership
6. To return any tenders received after the closing date and time
7. To create and maintain supply mechanisms or arrangements where there is a demand for similar goods or services
8. To investigate and determine the financial standing of any tenderer or potential contractor to whom a contract may be awarded.

Contract Standing Orders Scheme of Delegations – Appendix 9

The officers specified in the Financial Regulations

Senior Solicitor in consultation with the relevant Director or Head of Service

Senior Solicitor in consultation with the relevant Director

Senior Solicitor in consultation with the Director of Finance & Corporate Support / Director of Subway or Head of Bus Strategy & Delivery

Director of Finance & Corporate Support and the Senior Procurement Officer

Director of Finance & Corporate Support and the Senior Procurement Officer

Director of Finance & Corporate Support and the Senior Procurement Officer

Director of Finance & Corporate Support, Senior Procurement Officer and the Chief Accountant



9. To investigate and determine the technical standing of any tenderer or potential contractor seeking admission to frameworks or to whom a contract may be awarded. Chief Executive, Directors and officers appointed to tender evaluation panels
10. To contact a tenderer in respect of any contract in cases where such contact may be necessary to validate or clarify the terms of any tender or to effect any necessary adjustments. A full written record of any contacts shall be retained with the tender files held within the Finance directorate Director of Finance & Corporate Support and Senior Procurement Officer in consultation with the relevant Director and officers on Grade G and above
11. To authorise any contract addition or variation subject to compliance with the Standing Orders relating to Contracts, Financial Regulations and the conditions of contract and subject to consultation with the Senior Solicitor and the Director of Finance & Corporate Support as appropriate Chief Executive and Directors
12. To issue the Final Certificate of Payment in terms of the Standing Orders relating to Contracts Chief Executive and Directors, and project delivery officers on Grade G and above
13. To agree to settle claims from contractors in respect of matters or items not clearly within the terms of any relative contract Chief Executive, Director(s) and officers on Grade G and above in consultation with the Senior Solicitor
14. To suspend temporarily the Standing Orders relating to Contracts in the case of emergency where immediate action is required to protect the interests of the Partnership subject always to:
  - (a) The requirement to advise the Chair of the Partnership as soon as is practical; and
  - (b) The requirement to report the exercise of this power to the Partnership as soon as possible thereafter where the actions taken would ordinarily have been reported to the Partnership prior to the action being takenChief Executive in conjunction with the Director of Finance & Corporate Support / Director of Subway
15. To discharge all other ancillary duties specified in the Standing Orders relating to Contracts and, without prejudice to the foregoing, to issue orders for the supply of goods and services required for normal working in accordance with the purchasing policy of the Partnership Chief Executive and, for their respective departments, Directors and officers on Grade G and above
16. To suspend or terminate any contract on behalf of the Partnership which the Partnership is entitled to suspend or terminate under the appropriate conditions of contract where, after consultation with the relevant officer, it is in the interests of the Partnership to do so Chief Executive in consultation with the Director of Finance & Corporate Support and Senior Solicitor



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|---|--|
| 17. To vary any contract on behalf of the Partnership which the Partnership is entitled to vary under the appropriate conditions of contract where, after consultation with the relevant officer, it is in the interests of the Partnership to do so, and which will be reported to the Partnership | Chief Executive in consultation with the Director of Finance & Corporate Support and Senior Solicitor  |
| 18. To issue warnings to contractors on behalf of the Partnership where the contractor is failing to comply with the conditions of contract and where, after consultation with the relevant officer, it is appropriate in the interests of the Partnership to do so                                 | Chief Executive, Directors and officers on Grade F and above in consultation with the Senior Solicitor |
| 19. To reinstate any contractor to a contract following a suspension or termination where, after consultation with the relevant officer, it is in the interests of the Partnership to do so   | Chief Executive, Directors and officers on Grade F and above in consultation with the Senior Solicitor |

## 5. Specific Delegations

### 5.1 CHIEF EXECUTIVE

#### Function/Power Delegated

1. To secure the efficient and effective implementation of the Partnership's programmes and policies and the deployment of resources towards that end
2. To put in place the necessary arrangements to ensure the coordination of the Partnership's policies and activities with those of other agencies through effective partnerships with other agencies and participation in community planning
3. To arrange for the issue of publicity related to the promotion of the Partnership's interests, including the issue of press releases and documentation following consultation with the Media & Public Affairs Manager
4. To respond to enquiries and consultations made or undertaken by Scottish Ministers, the Scottish Government or any other Government Department, by the Convention of Scottish Local Authorities, by a Local Authority, a Health Board, another Transport Partnership or by another body where views are sought and where the timescale or the content does not require or allow for consideration at Partnership level or by a Chairs' Committee, subject to the response being subsequently reported to the Partnership

#### Delegated to

- Chief Executive, Directors and Heads of Service on Grade G and above
- Chief Executive, Directors and Heads of Service on Grade G and above
- Chief Executive, Directors and Heads of Service on Grade G and above
- Chief Executive, Directors and Heads of Service on Grade G and above





- |  |   |
|--|---|
| 5. To absent himself/herself or permit any employee to be absent during business hours occasionally and temporarily to attend duties or services of a civic, honorary, charitable or social nature provided that they do not interfere with the efficient discharge of their duties in respect of the Partnership or cause a conflict of interest with the Partnership | Chief Executive,<br>Directors and Heads of<br>Service on Grade G and<br>above                     |
| 6. To approve the provision of reasonable hospitality to representatives of local authorities, other organisations and others within the UK and also outwith the UK and to make visits and to authorise visits by officers of the Partnership or others representing the Partnership   | Chief Executive and<br>Directors  |
| 7. To approve attendance at conferences or travel outwith the United Kingdom of officers below Director level in cases where it is considered to be in the interests of the Partnership<br><b>Note:</b> for Director level and above this will require to be approved by the Partnership or one of its Committees  | Chief Executive and<br>Directors  |
| 8. To approve attendance for officers at conferences or travel within the United Kingdom in cases where it is considered to be in the interests of the Partnership   | Chief Executive,<br>Directors and officers<br>on Grade G and above                                |
| 9. To make temporary loans of archival material for exhibition or research purposes, subject to the appropriate terms and conditions   | Chief Executive and<br>Directors in<br>consultation with the<br>Media & Public Affairs<br>Manager |
| 10. To agree, after consultation with the operational department, to permit individuals, bodies or companies to photograph and film on the Partnership's premises subject to the appropriate terms   | Media & Public Affairs<br>Manager   |
| 11. To approve ex-gratia payments to employees where the circumstances of the payment are not covered by the Partnership's Conditions of Service   | Chief Executive in<br>consultation with the<br>Director of Finance &<br>Corporate Support         |
| 12. To act as Duty Holder for the purposes of the Subway Safety Case   | Chief Executive and<br>Director of Subway   |
| 13. To exercise the functions of the Chief Executive in his/her absence  | Director of Finance &<br>Corporate Support  |

## 5.2 Delegations within the Corporate Support function

### FINANCIAL

In this section, reference to "officers" includes only officers in the Finance directorate.





## Function/Power Delegated

## Delegated to

- |     |   |  |
|-----|---|--|
| 1.  | To determine the detail of the Capital and Revenue Budget estimates consistent with directions from the Partnership and to monitor all Capital and Revenue expenditure                        | Director of Finance & Corporate Support and Chief Accountant                       |
| 2.  | To determine and manage all accounting procedures and financial records of the Partnership and the principles to be followed in line with the policies of and directions from the Partnership | Director of Finance & Corporate Support and Chief Accountant                       |
| 3.  | To exercise all powers and duties set out in the Financial Regulations approved by the Partnership  | Director of Finance & Corporate Support and Chief Accountant                       |
| 4.  | To act as proper officer for the purpose of section 92 of the Local Government (Scotland) Act 1973 (specification or transfer of securities in the name of the Partnership)                   | Director of Finance & Corporate Support  |
| 5.  | To act as proper officer for the purposes of section 95 of the Local Government (Scotland) Act 1973 (responsibility for administration of financial affairs)                                  | Director of Finance & Corporate Support  |
| 6.  | To act as proper officer for the purposes of section 191 of the Local Government (Scotland) Act 1973 (claims, sequestration, liquidations or other proceedings)                               | Director of Finance & Corporate Support  |
| 7.  | To act as proper officer in respect of members' remuneration and SRAs (Special Responsibility Allowances) in compliance with the relevant legislation   | Director of Finance & Corporate Support in consultation with Partnership Secretary |
| 8.  | In respect of loans and banking to discharge the functions specified in the Treasury Management Policy as approved annually by the Partnership  | Director of Finance & Corporate Support and Chief Accountant                       |
| 9.  | To take out the necessary insurances required to protect the interests of the Partnership   | Director of Finance & Corporate Support and Chief Accountant                       |
| 10. | To maintain a current list of specific officers who may place official orders for goods, materials and services and the financial limits involved   | Director of Finance & Corporate Support and Chief Accountant                       |
| 11. | To agree the amount of cash that can be held in any of the Partnership's premises   | Chief Accountant   |
| 12. | To write off debts up to the value of £20,000 where it is deemed impractical to recover the cost  | Director of Finance & Corporate Support and Chief Accountant                       |



- |  |  |
|--|--|
| 13. To maintain the Partnership's Asset Register   | Director of Finance & Corporate Support and Chief Accountant in conjunction with operational Heads |
| 14. To perform all duties required in relation to the pension fund   | Director of Finance & Corporate Support and Chief Accountant                                       |
| 15. To endorse the internal audit plan for the organisation  | Chief Executive  |
| 16. To manage any concessionary travel scheme set up and operated in terms of sections 93-102 of the Transport Act 1985                        | Director of Finance & Corporate Support and Chief Accountant                                       |
| 17. To agree movements of priorities between categories in the capital plan where previously approved by the Partnership, and funding payments | Chief Executive in consultation with Director of Finance & Corporate Support                       |

## LEGAL & PROPERTY SERVICES

### Function/Power Delegated

### Delegated to

- |   |  |
|---|--|
| 1. To determine the exclusion of reports containing exempt information from the press and public  | Partnership Secretary and Senior Solicitor |
| 2. To act as proper officer for the purpose of sections 190, 193, 194 and 197 of the Local Government (Scotland) Act 1973 (Legal Proceedings, Service of Notices and Execution of Deeds)  | Partnership Secretary and Senior Solicitor |
| 3. To execute all contracts (excluding contracts of employment), deeds and similar documents which required to be executed and to act as proper officer for the purposes of section 7(7) and paragraphs 4 of (1) and (2) of schedule 2 to the Requirements of Writing (Scotland) Act 1995   | Partnership Secretary and Senior Solicitor |
| 4. To sign missives and other similar documents binding SPT   | Partnership Secretary and Senior Solicitor |
| 5. To make arrangements for the representation of the Partnership in relation to any Court proceedings or any other proceedings before any judicial, quasi-judicial or administrative authority and for that purpose to initiate, enter, defend and withdraw from any such proceedings, including authority to compromise claims and negotiate settlements and to authorise payments in respect of such settlements up to £30,000 where it is considered appropriate to do so | Partnership Secretary and Senior Solicitor |



- |     |   |   |
|-----|---|---|
| 6.  | To engage the services of external legal firms, Counsel or Advisors or other legal and related expertise where it is considered appropriate to do so  | Partnership Secretary and Senior Solicitor                                    |
| 7.  | To appoint Parliamentary Agents   | Chief Executive and Senior Solicitor  |
| 8.  | To consider requests for a review in terms of the Freedom of Information (Scotland) Act 2002  | Chief Executive and Senior Solicitor  |
| 9.  | To be responsible for the day to day management of the Partnership's responsibilities in terms of the Freedom of Information (Scotland) Act 2002  | Senior Solicitor  |
| 10. | To submit relevant notices and respond to requests under the Data Protection Act 2018,  | Senior Solicitor  |
| 11. | To act as proper officer for the purpose of the Local Government (Contracts) Act 1997   | Senior Solicitor  |
| 12. | To investigate and determine applications by employees charged in the course of their employment under the Health and Safety at Work etc Act 1974, the Factories Act 1961, The Officer, Shops and Railway Premises Act 1963 or associated legislation or the Smoking, Health and Social Care Scotland Act 2005 or the Road Traffic Act 1988 for assistance with legal expenses  | Senior Solicitor in consultation with Director of Finance & Corporate Support |
| 14. | To investigate and determine applications by employees convicted of and fined, or issued with a fixed penalty notice under the Health and Safety at Work etc Act 1974, The Factories Act 1961, The Officer, Shops and Railway Premises Act 1963 or associated legislation or the Smoking, Health and Social Care Scotland Act 2005 or the Road Traffic Act 1988 for offences committed whilst acting in the course of their employment for the payment of the fine or fixed penalty imposed | Senior Solicitor in consultation with Director of Finance & Corporate Support |
| 15. | To investigate and determine applications from employees in respect of damages and expenses which the employee may have to pay or would incur in respect of proceedings brought against him/her (Paragraph 2 of Schedule 1 of the Transport (Scotland) Act 2005)  | Senior Solicitor in consultation with Director of Finance & Corporate Support |
| 16. | To settle claims made against the Partnership in those cases where no insurance cover is held or where considered appropriate to do so, subject to the level of payments (excluding fees and expenses) not exceeding £60,000  | Director of Finance & Corporate Support in consultation with Senior Solicitor |



- |   |   |
|---|---|
| 17. To settle valid claims for damage to, or loss of personal property of Partnership staff occurring during the course of their employment up to a maximum of £5,000   | Director of Finance & Corporate Support in consultation with Senior Solicitor   |
| 18. To make arrangements with the Partnership's Insurance Companies concerning the settlement of insured claims   | Senior Solicitor in conjunction with Chief Accountant   |
| 19. To approve payments to account to sellers of property to the Partnership in cases where conveyancing procedures are protracted for any reason subject to the exhibition of a good title and the grant of an appropriate undertaking | Director of Finance & Corporate Support in conjunction with Senior Solicitor  |
| 20. To develop, implement and maintain the Code of Public Records Management and an archiving policy for the Partnership in accordance with the Public Records (Scotland) Act 2011  | Senior Solicitor and Information Governance Officer   |
| 21. To set up and maintain a Register of Standards in terms of the Ethical Standards in Public Life etc (Scotland) Act 2000   | Partnership Secretary and Senior Solicitor  |
| 22. To grant wayleaves, servitudes, licences and access agreements in respect of land owned by the Partnership on appropriate terms and conditions  | Senior Solicitor in consultation with the Building/Estates Surveyor and relevant operational Directors  |
| 23. To approve and authorise fitting-out proposals submitted by tenants or prospective tenants of the Partnership   | Building/Estates Surveyor in consultation with the relevant Director  |
| 24. To enter into leases and agreements in respect of property where such leases do not exceed a term of five years   | Director of Finance & Corporate Support (for bus facilities) and Director of Subway (for subway facilities) in consultation with the Senior Solicitor and relevant operational officers |
| 25. To grant landlord's consent to tenants in respect of any leases granted subject to consultation with the operational departments where the lease concerns operational premises  | Director of Finance & Corporate Support (for bus facilities) and Director of Subway (for subway facilities) in consultation with the Senior Solicitor and relevant operational officers |



- |  |   |
|--|---|
| 26. To authorise assignments of leases from one tenant to another provided that new tenants are financially secure and in consultation with the Director of Finance & Corporate Support and the operational department where the lease concerns operational premises | Director of Finance & Corporate Support (for bus facilities) and Director of Subway (for subway facilities) in consultation with the Senior Solicitor and relevant operational officers |
| 27. To settle claims arising in terms of the Land Compensation (Scotland) Act 1973 in respect of acquisitions by voluntary agreement provided the statutory requirements are met   | Senior Solicitor in consultation with Director of Finance & Corporate Support   |
| 28. To dispose of land which is surplus to requirements valued at less than £10,000 on such terms and conditions as are appropriate  | Senior Solicitor in consultation with Director of Finance & Corporate Support   |
| 29. To consider, following consultation with the relevant departments, and to decline or exercise any rights of pre-emption available to the Partnership   | Senior Solicitor in consultation with Director of Finance & Corporate Support   |
| 30. To negotiate with third parties in respect of general estate management matters including land disposals and acquisitions, rent reviews, assignments, and renewals of leases.  | Senior Solicitor in consultation with Director of Finance & Corporate Support   |

## HUMAN RESOURCES

In this section, reference to “officers” includes only officers in the Human Resources directorate.

### Function/Power Delegated

### Delegated to

- |  |   |
|--|---|
| 1. In conjunction with the Director of Finance & Corporate Support to implement national agreements on wages/salaries and conditions of service where no discretionary element exists    | Director of Finance & Corporate Support and officers on Grade G and above |
| 2. To process payments due in respect of staff undertaking external training courses or examinations within the parameters of the procedures and policies in respect of training courses | Director of Finance & Corporate Support and officers on Grade G and above |
| 3. Following consultation with the relevant department, to consult with the relevant trade unions and determine criteria for selection for redundancies                                  | Director of Finance & Corporate Support and officers on Grade G and above |



- |  |   |
|--|---|
| 4. Following consultation with the Director responsible for the relevant department, to authorise temporary exchange of duties between and among staff and authorise secondments of staff to other departments   | Director of Finance & Corporate Support and officers on Grade G and above |
| 5. To authorise the employment for temporary periods not exceeding thirteen weeks, of staff in excess of the approved establishment for any department subject to confirmation by the Director of the relevant department and the Director of Finance & Corporate Support that the costs of such employment can be met from within the approved budget for that department | Director of Finance & Corporate Support and officers on Grade G and above |
| 6. To manage/issue staff Subway passes   | Head of HR and officers on Grade G and above                              |
| 7. To consider, in consultation with the relevant department, requests for re-grading of members of staff.   | Director of Finance & Corporate Support and officers on Grade G and above |
| 8. To agree to secondment arrangements to smooth work flows  | Director of Finance & Corporate Support and Head of HR                    |

## **DIGITAL**

### **Function/Power Delegated**

1. To deal with the security of the Information Technology Systems within the organisation
2. To appoint or to engage the services of specialist support where it is considered appropriate to do so in accordance with the Standing Orders relating to Contracts

### **Delegated to**

- Director of Finance & Corporate Support and Cyber Security officer
- Director of Finance & Corporate Support

## **5.3 Delegations within Operations function**

### **SUBWAY OPERATIONS**

In this section, reference to “officers” includes only officers in the Subway directorate.

### **Function/Power Delegated**

1. In terms of the Construction (Design and Management) Regulations 2015 to act as or appoint a Principal Designer, Designer(s) and Principal Contractor in respect of relevant projects

### **Delegated to**

- Director of Subway and officers on Grade G and above



- |     |  |  |
|-----|--|--|
| 2.  | To agree specifications, bills of quantity or descriptions of work, for all works contracts of a capital or revenue nature, including submission of building warrant and planning applications   | Director of Subway, Head of Projects and officers on Grade G and above   |
| 3.  | To act as or to appoint an Engineer's representative to be responsible for the control of contracts under the Institution of Civil Engineers Conditions of Contract  | Director of Subway, Head of Projects and officers on Grade G and above   |
| 4.  | To act as or to appoint an Engineer's representative to be responsible for the control of contracts under the Mechanical Engineers/Institution of Electrical Engineers Model Form  | Director of Subway, Head of Projects and officers on Grade G and above   |
| 5.  | To engage the services of specialist advisors, surveyors, engineers and building specialists or other related expertise where it is considered appropriate to do so in accordance with the Standing Orders relating to Contracts   | Director of Subway and Head of Projects in consultation with the Building/Estates Surveyor for the appointment of surveyors and building specialists |
| 6.  | To be responsible for the safe, effective and efficient operation of the Glasgow Subway and the safety of its staff, passengers and contracted staff on the railway premises and property in compliance with the Subway's Safety Case and compliance with internal policies and procedures | Director of Subway   |
| 7.  | To be responsible in terms of the Subway Safety Case for the safety of passengers in stations and riding on trains and safety responsibility for employed station, driving, control and supervisory staff  | Director of Subway and Head of Service Operations & Security   |
| 8.  | To be responsible, in terms of the Subway Safety Case, for train operation including driving control function and the publication and care of the Subway Rules and Regulations   | Director of Subway and Head of Service Operations & Security   |
| 9.  | To be responsible for station passenger operations   | Director of Subway and Head of Service Operations & Security   |
| 10. | To maintain control of the operating Subway and its operating safety   | Director of Subway and Head of Service Operations & Security   |
| 11. | To control congestion in the Subway system   | Director of Subway and Head of Service Operations & Security   |





- |  |  |
|--|--|
| 12. To maintain rolling stock, signals and all mechanical and electrical plant and equipment used for the operation of the Subway and its premises | Director of Subway, Head of Service Availability & Maintenance and Head of Engineering |
| 13. To maintain the permanent way, tunnels and building structures throughout the Subway   | Director of Subway, Head of Service Availability & Maintenance and Head of Engineering |
| 14. To be responsible for the maintenance planning of the Subway, ordering stock and parts and quality control                                     | Director of Subway and Head of Maintenance   |

## **BUS OPERATIONS**

In this section, reference to “officers” include only officers in the Network Analysis & Design directorate.

### **Function/Power Delegated**

### **Delegated to**

- |  |   |
|--|---|
| 1. To make arrangements for the management of bus stations including granting licences for the use thereof in consultation with the Senior Solicitor | Director of Finance & Corporate Support and Head of Bus Strategy & Delivery |
| 2. To exercise on behalf of the Partnership any right to object to the issue of a PSV licence  | Head of Bus Strategy & Delivery   |
| 3. To operate and maintain bus stations in terms of Section 81 of the Transport (Scotland) Act 1985  | Head of Service Operations & Security – Bus Stations                        |
| 4. To implement and manage agency agreements in respect of providing transport facilities for conveying children to school                           | Schools Agency Services & Compliance Manager                                |
| 5. To implement and manage agency agreements for the provision and management of bus infrastructure  | Bus Development Manager   |
| 6. To implement and manage all other agency arrangements agreed by the Partnership within the Bus Operations remit                                   | Head of Service Operations & Security – Bus Stations                        |
| 7. To manage subsidised bus contracts in accordance with the procedures of the Partnership and in accordance with any Directions of the Partnership  | Network Analysis & Design Manager   |





- |     |   |   |
|-----|---|---|
| 8.  | To engage the services of specialist advisors, consultants, surveyors, engineers and building specialists or other related expertise where it is considered appropriate to do so in accordance with the Standing Orders relating to Contracts   | Director of Finance & Corporate Support and officers at Grade G (in consultation with the Building/Estates Surveyor for the appointment of surveyors) |
| 9.  | To contract and award subsidised bus services up to a value of £200,000 or regulated limited, whichever is greater, where budget is available and to maintain service levels subject to the Standing Orders relating to Contracts being applied and in compliance with the award guideline criteria | Head of Bus Strategy & Delivery   |
| 10. | To manage the administration of multi-modal ticketing schemes promoted by the Partnership   | Director of Finance & Corporate Support and Ticketing Commercial Team Leader  |
| 11. | To manage and maintain all road vehicles owned and operated by the Partnership  | Director of Finance & Corporate Support and Head of Service Operations & Security – Bus Stations  |

## PROJECTS

In this section, reference to “officers” includes only officers in the Projects directorate (namely Ticketing, Transport Planning and Project Delivery).

### Function/Power Delegated

### Delegated to

- |    |   |   |
|----|---|---|
| 1. | In terms of the Construction (Design and Management) Regulations 2015, to act as or appoint a Principal Designer, Designer(s) and Principal Contractor in respect of relevant projects        | Head of Projects and project delivery officers on Grade G and above |
| 2. | To agree specifications, bills of quantity or descriptions of work for all works contracts of a capital or revenue nature, including submission of building warrant and planning applications | Head of Projects and project delivery officers on Grade G and above |
| 3. | To act as or to appoint an Engineer’s representative to be responsible for the control of contracts under the Institution of Civil Engineers Conditions of Contract                           | Head of Projects and project delivery officers on Grade G and above |
| 4. | To act as or to appoint a Project Manager to be responsible for the control of r NEC Engineering Construction Contracts   | Head of Projects and project delivery officers on Grade G and above |



- |     |   |  |
|-----|---|--|
| 5.  | To act as or to appoint an Engineer's representative to be responsible for the control of contracts under the Mechanical Engineer's/Institution of Electrical Engineers Model Form  | Head of Projects and project delivery officers on Grade G and above  |
| 6.  | To engage the services of specialist advisors, surveyors, architects, engineers and building specialists or other related expertise where it is considered appropriate to do so in accordance with the Standing Orders relating to Contracts  | Head of Projects and project delivery officers on Grade G and above  |
| 7.  | To be responsible for the safe, effective and efficient operation of Projects and the safety of any staff and contracted staff on the property and in any railway or other operational premises and compliance with any relevant Safety Case and compliance with internal policies and procedures | Head of Projects and project delivery officers on Grade G and above  |
| 8.  | To implement and manage agency agreements for the provision and management of the National Entitlement Cards within SPT area (Travel Card Unit)   | Director of Finance & Corporate Support and Ticketing Commercial Team Leader   |
| 9.  | In consultation with the Senior Solicitor, to respond to planning applications including, where appropriate, to submit objections.  | Head of Policy & Planning and officers on Grade F and above. Where planning applications have a material impact on land and property within SPT ownership, then consultation with the Senior Solicitor |
| 10. | To respond to consultations from planning authorities where the proposals accord with the relevant development plan and the Partnership's policies and strategies   | Head of Policy & Planning and officers on Grade F and above. Where proposals have a material impact on land and property within SPT ownership, then consultation with the Senior Solicitor             |



# **Strathclyde Partnership for Transport**

## **Financial Regulations**

**April 2022**

Prepared by

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## **FINANCIAL REGULATIONS**

### **INTRODUCTION**

#### **Purpose**

These regulations apply to Partnership employees and members (elected and appointed) of the Board.

The purpose of these Financial Regulations is to:

1. Establish the financial framework to minimise risk and protect the Partnership and its assets, as well as the recognising fiduciary duty (the Partnership's duty to tax payers, other funding partners and stakeholders within the Partnership area);
2. Reflect and provide guidance on best practice;
3. Ensure flexibility on compliance but still maintaining proper control over risk;
4. Balance risk, cost and control and effectiveness of operations; and
5. Clearly set out responsibilities for compliance and for ensuring compliance.

#### **Responsibilities**

The Director of Finance & Corporate Support (DFCS) or other designated officer, under section 95 of the Local Government (Scotland) Act 1973 is the nominated proper officer for the Partnership's financial affairs. The proper officer (also known as the section 95 Officer) is responsible for all financial affairs, advice and record keeping of all the Partnership's activities and as such can request any information which may have a bearing on the financial affairs of the organisation. Such information may also be requested by the Partnership or the Audit and Standards Committee. Where DFCS is referred to within these Financial Regulations it should be assumed that this also refers to any other officer that has been designated as the s95 officer. These Financial Regulations should also be read in conjunction with the associated Scheme of Delegation which can be found at Appendix 1.

All employees and members are expected to comply with the Regulations but it is the responsibility of every level of manager, particularly Directors, Heads and Managers, to monitor compliance and inform the DFCS or the Audit & Assurance Manager (AAM) of any non-compliance and proposed action. Audit & Assurance will log the breaches and report to the Proper Financial Officer, presently the DFCS.

It is the responsibility of all Directors, Heads and Managers to ensure at all times that they endeavour to secure best value from expenditure.

Deliberate disregard for any of these Regulations, or failure to comply with information requests, will be seen as gross misconduct and dealt with accordingly through the disciplinary procedure.

#### **Waiving**

Where a Financial Regulation is preventing a service from fulfilling its agreed business objectives, prior permission must be sought from the DFCS in writing to waive the specific



Regulation. Reasons must be given and the proposed substitute controls that are to be used or the change in risk explained. If permission is not sought or obtained and any Regulation is ignored, then it may be seen as gross misconduct and dealt with accordingly. Any such waiver, together with the reasons for the waiver and the substitute controls put in place, should be reported to the Partnership and Audit and Standards Committee for information as soon as reasonably practical thereafter.

### **Monitoring**

The Chief Executive, Directors, Heads and Managers must ensure that they regularly monitor compliance with the Regulations and have a formal written record as evidence of this.

### **Review**

Financial Regulations will be reviewed by the DFCS, at least biannually or when there is a significant change in policy, legislation, priority or risk, which has a consequent effect on the existing Regulations.

### **Queries**

If you have any queries as to the use of these Regulations, please contact the DFCS or the AAM.

### **Accessibility**

Directors, Heads and Managers should remind staff that Financial Regulations are available on the Intranet and each Director & Manager will be issued with a personal copy.

## **INTEGRATED FINANCIAL SYSTEMS**

The integrated financial systems prescribe the procedures that must be used. Procedure details will be provided as part of user training. Any deviation from the procedures or deliberate circumventing of in-built controls can lead to disciplinary action.

These procedures are based on agreed processes and are subject to periodic review.

## **GUIDANCE**

### **Corporate Governance**

The Local Authority Accounts (Scotland) Regulations 2014 detail the statutory requirement for an annual review of the adequacy and effectiveness of the Partnership's system of internal control. The findings of this review must be considered at a meeting either of the Partnership or a committee whose remit includes audit or governance functions. Following consideration on the findings of this review, the Partnership/committee must approve an Annual Governance Statement which must be signed by the Chief Executive and the Chair of the Partnership.

The CIPFA 'delivering good governance in Local Government Framework and guidance notes for Scottish authorities 2016 edition' are used to support this annual review.



The Code of Corporate Governance outlines each of the seven principles of good governance. One of the key principles is “*Managing risks and performance through robust internal control and strong public financial management*”.

The Partnership will need to put in place effective risk management systems, including systems of internal control and an internal audit function. This is to ensure that public funds and resources are properly safeguarded and are used economically, efficiently and effectively.

Internal Control is a process designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- accomplishment of business objectives as outlined in the Partnership business plan;
- security of assets;
- effectiveness and efficiency of operations;
- reliability of financial reporting; and
- compliance with applicable laws and regulations.

Internal Control consists of the following five interrelated components:

1. **Control Environment** – This includes factors such as integrity, culture of the organisation, ethical values and the competence of personnel and the way they do business. Management’s philosophy and operating style also play a part.
2. **Risk Assessment** – Every organisation or department faces a variety of risks from internal and external sources. Management must be able to identify and manage those risks relevant to achieving the organisation’s objectives.
3. **Control Activities** – These are the policies and procedures that help ensure management directives are carried out properly and in a timely manner. In addition to segregation of duties, control activities include approval processes, authorisations, verifications, reconciliations, review of operating performance, security of assets and controls over information systems. Most importantly, policies must be implemented thoughtfully, conscientiously, and consistently; a procedure will not be useful if performed mechanically without a sharp continuing focus on conditions to which the policy is directed. Further, it is essential that unusual conditions identified as a result of performing standard procedures be investigated and appropriate action taken and documented.
4. **Information and Communication** – Pertinent information must be identified, captured and communicated in a form and timeframe that enables people to carry out their responsibilities effectively. This component of internal control is critical. It not only includes information systems’ reports of operational, financial and compliance related information, but it also includes the day to day communication processes.

It is important that information and communication flow up and down the organisational structure and flow across departments and divisions.

5. **Monitoring** – A process to assess the quality of internal control systems over time is essential. This can be accomplished through on-going monitoring activities, separate evaluations of internal control such as self-assessments and internal audits or a combination of the two. Ongoing monitoring activities include management and





supervisory activities that take place every day. Either management or Audit & Assurance may undertake separate evaluations.

## HOW TO CONTRIBUTE TO A POSITIVE CONTROL ENVIRONMENT

1. Identify Goals and Objectives. Review your departmental goals (operational, financial and compliance) e.g.

Type of Goals	Definition	Example types
Operational Goals	Related to the reason the organisation exists.	<ul style="list-style-type: none"> <li>• Contained in Service Plan</li> </ul>
Financial and Administrative Goals	Related to the management of the organisations' resources	<ul style="list-style-type: none"> <li>• Budgets</li> <li>• Human resources management</li> <li>• Efficient running of operations</li> <li>• Internal controls</li> </ul>
Compliance Goals	Related to the adherence to laws/regulations and policy/procedures	<ul style="list-style-type: none"> <li>• Software licensing terms</li> <li>• Environmental regulations</li> <li>• Accounts and Audit Regulations etc.</li> </ul>

2. Familiarise yourself with departmental policies and procedures.
3. Make sure you understand your job responsibilities, limits to your authority, performance standards and reporting relationships.
4. Make sure that your dealings with your supervisor/manager, other employees, members (elected and appointed), stakeholders etc. are based on honesty and fairness.
5. Read, and adhere to, the principles in the code of conduct relating to staff and members.
6. Ask yourself the following four questions each time you are about to make an ethical decision:
  - **Is it legal?**  
This question incorporates laws, regulations etc. but should also incorporate the Partnership's policies, rules, regulations and culture.
  - **Is it fair?**  
This question considers the fairness of the decision to all parties involved (could I justify it to any stakeholder without any difficulty?).
  - **How will this decision portray the Partnership?**  
This question considers the impact on the reputation and standing of the Partnership.
  - **How will it make me feel about myself?**  
This question taps into your own personal beliefs about right and wrong.
7. You may talk to HR or Audit & Assurance if you have any concerns about ethical issues as they arise. Also, refer to the Partnership's Counter Fraud Strategy which contains the Whistle Blowing Procedures.

## PROCEDURES FOR IDENTIFYING RISKS

Risk is the possibility that an organisation will **NOT**:

- Achieve its goals;
- Operate effectively and efficiently;
- Protect itself from loss;
- Provide reliable financial data;
- Comply with applicable laws/ regulations and defined policies/procedures.

To achieve goals, management needs to effectively balance risks and controls. By performing this balancing act, “reasonable assurance” can be attained. As it relates to financial and compliance goals, being out of balance causes the following problems:

<b>Excessive risks</b>	<b>Excessive controls</b>
Loss of assets, resources	Increased bureaucracy
Poor business decisions	Reduced productivity
Non compliance	Increased complexity
Increased regulation	Increased cycle time
Public scandals (reputation)	Increase of non-value activities

Internal controls should be pro-active, value added and cost effective. In summary, properly balancing risks and controls makes good business sense. With your management team, ask the following questions:

- What must go right for us to succeed?
- What can go wrong?
- How could we fail?
- Where are we most vulnerable?
- What assets do we need to protect?
- Where is our greatest exposure?
- What types of transactions in our area provide the most risk?
- How can someone bypass the internal controls?
- On what information do we most rely?
- On what do we spend the most money?
- How do we bill and collect our revenue?
- What decisions require the most judgement?
- What potential risk areas could cause adverse publicity?
- What activities are regulated?
- What is our greatest legal exposure?

Benchmark with others in similar situations. Are there risks in their areas that could occur in your area?

All employees should familiarise themselves with the Risk Management Policy and Strategy which can be found on the intranet.

## HOW TO IDENTIFY RISKS IN YOUR AREA(S) OF RESPONSIBILITY

1. **Overview**  
Identify all significant activities or processes for which you are responsible.
2. **Risks**  
List all identified risks to the achievement of each goal and objective. Consider both internal and external risk factors in accordance with the Partnership's Risk Management Strategy.  
  
List the operations, financial reporting and compliance objectives associated with the activity.
3. **Goals/ objectives**  
Make sure that the activities/ processes for which you are responsible have clear and measurable objectives – operations, financial reporting and compliance objectives.
4. **Significance**  
For each risk, estimate the potential impact on operations, financial reporting or compliance with laws and regulations assuming the risk occurs. Consider both the quantitative and qualitative costs (e.g. large, moderate, small).
5. **Likelihood**  
For each risk, assess the likelihood of the risk occurring. Use e.g. scale of 1 to 5.
6. **Actions to manage risks/control activities**  
For each risk which was identified as having a large or moderate impact and high or medium likelihood of occurrence, list both the actions to mitigate the risk to an acceptable level and the control activities that help ensure that those actions are carried out properly.
7. **Control Deficiencies/Planned Corrective Action**  
A control deficiency is a perceived, potential or real shortcoming, or an opportunity to strengthen the internal control system. A control deficiency would include a significant risk with high likelihood of occurrence, which is not addressed by actions to manage the risk or control activities. In addition, a control deficiency would include inadequate or ineffective actions or a failure to perform actions to manage risk or control activities. For each control deficiency there should be an action to address it with an associated timetable and responsibility. Support to identify risks and mitigations should be sought from the AAM.

## TYPES OF CONTROL

### 1. Control Conscious environment (Directive control)

- Set the tone at the top
- Communicate the code of conduct and anti-fraud and corruption policy to employees
- Communicate that preventative control policies and procedures are important and will be followed
- Ensure employees have proper training on internal control
- Evaluate employees on their internal control performance
- Monitor internal controls on an on-going basis

### 2. Separation of Duties (Preventive control)

- Make sure that one person does not have control over all parts of a transaction
- Make sure that at least “two pairs of eyes” look at a transaction
- Separate: initiating/authorising/ recording/ reconciling/ physically controlling
- review compensating controls for small offices

### 3. Authorisation/ Approval (Preventive Control)

- Limit signature authority to a “need to have” basis
- Avoid “rubber stamping”; review supporting documents, question transactions
- Obtain original signatures or separate systems approvals
- Maintain written procedures on the delegation guidelines
- Keep passwords confidential

### 4. Physical control (Preventive and Detective/Corrective controls)

- Record all assets
- Make periodical checks of assets
- Store securely with limited access (physical safeguards)
- Investigate discrepancies
- Maintain proper authorisation of purchases

### 5. Monitoring (Detective/ Corrective control)

- Review reports for completeness and trends
- Carry out analytical reviews and ask questions about any discrepancies
- Review reconciliations and confirm reconciling items are investigated
- Have Audit & Assurance review your high risk areas
- Follow up on complaints, rumours and allegations
- Prepare annual performance evaluations

## MONITORING PERFORMANCE

Monitoring is the assessment of internal control performance over time; it is accomplished by on-going monitoring activities and by separate evaluations of internal control such as self-assessments and internal audits. The purpose of monitoring is to determine whether internal control is:

- adequately designed;
- is working as intended; and
- is effective

Just as control activities help to ensure that actions to manage risks are carried out, monitoring helps to ensure that control activities and other planned actions to effect internal control are carried out properly that results in effective internal control.

On-going monitoring activities include various management and supervisory activities, which either validate or invalidate the design, execution and effectiveness of internal control. Separate evaluations, on the other hand, such as self-assessments and internal audits are periodic tests of internal control components resulting in a formal report on internal control.

Self-assessments are performed by departmental employees. Internal audits are performed by internal auditors to provide an independent appraisal of internal control.

### **To make sure that internal control is functioning properly in your area(s) of responsibility:**

- Make sure that operating reports include information about the performance of control activities and other planned actions to effect internal control in your area(s) of responsibility.
- Consider whether problems which arise in your area(s) of responsibility (e.g. customer complaint, employee problem, regulatory violation, inaccurate report etc.) point to internal control deficiencies; consider how other information validates or invalidates internal control.
- Ask yourself the following questions:
  - Do I know whether my area's operations objectives are being achieved?
  - Do I know whether my area's financial statements are being prepared accurately and reliably?
  - Do I know whether my area is complying with all applicable laws and regulations?
- Perform a periodic self-assessment of internal control in your department, on its various activities.
- Make sure that you receive information that:
  - helps you identify and analyse risks;
  - measures the extent to which operations, financial reporting and compliance objectives for which you are responsible are being achieved;
  - is in a format that is user friendly;
  - is relevant, up to date and accurate.



## **FINANCIAL REGULATION A - TREASURY MANAGEMENT**

### **BANKING, BORROWING, INVESTMENTS AND TRUST FUNDS**

#### **Definition**

The current Treasury Management in the Public Services – Code of Practice and Cross-Sectoral Guidance Notes (2021) defines treasury management as:

“The management of the organisation’s borrowing, 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.”

### **TREASURY MANAGEMENT – GENERAL**

#### **Objectives/Purpose**

The purpose of the following Regulations is to ensure that the use of funds is optimised to the benefit of the Partnership stakeholders, risk is minimised and a proper management trail exists so that all transactions can be traced to their origins, accounted for and verified.

A1. The Partnership adopts the key recommendations of CIPFA’s Treasury Management in the Public Services: Code of Practice (The Code), as described in Section 5 of that Code. In particular, the following clauses:

1. The Partnership will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities; and

suitable treasury management practices (TMPs) setting out the manner in which the Partnership will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

- investment management practices (IMPs) for investments that are not for treasury management purposes

The content of the policy statement, TMPs and IMPs will follow recommendations contained in section 6, 7 and 8 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.

2. The Partnership will receive reports on its treasury and investment 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 by the TMPs and IMPs.

3. Delegated responsibility for the implementation and regular monitoring of the treasury management policies and practices is given to the Strategy and Programmes Committee and for the execution and administration of treasury management decisions is given to the DFCS, who will act in accordance with The



Partnership's policy statement, TMPs and IMPs and if he/she is a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*.

4. The Partnership nominates the Strategy and Programmes Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.
- A2. A Treasury Management policy statement setting out the following matters shall be adopted by the Partnership, and thereafter its implementation and monitoring shall be delegated to the DFCS:
- A definition of the approved activities of the treasury management operation;
  - Formulation of treasury management strategy;
  - The policy on interest rate exposure;
  - Policy on external management of investments (other than relating to pension funds);
  - The policy on delegation;
  - Review requirements and reporting arrangements; and
  - Priority in terms of risk.
- A3. In accordance with A1 (2), at or before the start of the financial year, the DFCS) will report to the Partnership on the strategy for treasury management that it is proposed to adopt for the coming financial year.
- A4. In accordance with A1 (2), the DFCS) must report to the Partnership not less than twice in each financial year on the activities of the treasury management operation and on the exercise of delegated treasury management powers. Including an annual report on treasury management for presentation by 30th September of the succeeding financial year.
- A5. All Partnership decisions on borrowing, investment or financing are delegated to the DFCS who must act in accordance with CIPFA's Code.
- A6. All Partnership funds must be aggregated for strategic management purposes, and shall be under the control of the DFCS
- A7. Should the DFCS wish to deviate from the approved treasury management policy, approval must be obtained from the Partnership.

## **BANKING**

### **Objectives/Purpose**

To ensure that fraudulent activity is prevented (i.e. identification and control of all sources of income due to the Partnership and expenditure legitimately incurred by it), all monies due to the Partnership are accounted for in official accounts and there is consistency and economies of scale.

### **Bank Accounts**

- A8. The DFCS or his/her delegated representative shall negotiate all arrangements with the Partnership's bankers.





- A9. Operation of all bank accounts shall be under the direction and authorisation of the DFCS. This includes any giro, credit and debit card accounts etc. as he/she considers necessary. Where the Partnership administers bank accounts, and monies which are not owned by the Partnership, e.g. Euro Accounts, advice and guidance must be sought from the DFCS.
- A10. Banking arrangements must be subject to tender every 5 years at a minimum. Merchant Services will must be reviewed every 5 years at a minimum.

### **Cheques**

- A11. All cheques shall be ordered only under the authorisation of the DFCS who shall ensure that there are proper arrangements for their safe custody.
- A12. Cheques drawn on the Partnership's accounts shall bear the facsimile signature of the DFCS. Where there are historic cheque stocks that contain the signature of a previous s95 officer it is acceptable to utilise these as long as the officer is still in employment of the Partnership and an authorised signatory of the current account.
- A13. Cheques or electronic payments drawn for more than the limit specified (currently £50,000) must be authorised by the DFCS or the or another officer authorised to do so by him/her.
- A14. Blank cheques (i.e. cheques with no amount or detail completed) must be held in a locked, secure location e.g. a safe.

### **Electronic payments (e.g. BACs, CHAPs, purchase cards)**

- A15. Where payments are to be transmitted electronically, the DFCS shall approve the procedures necessary to safeguard the Partnership against potential loss, either during preparation, transmission, or final receipt by the approved body.
- A16. All electronic payments will be authorised in accordance with the procedures approved by the DFCS.

### **Personal monies**

- A17. Individuals must not use their own personal bank accounts or credit cards for any receipt or payment of monies related to the Partnership's affairs, other than routine expenses paid for and re-claimed.

### **Reconciliations**

- A18. In respect of the Partnership's main transactional bank accounts, bank statements are accessed via the bank's secure website, promptly reconciled to the Partnership's records of transactions, and reconciled to ledger postings at least monthly.
- A19. Duties must be separated such that those responsible for drawing or paying monies in do not undertake the reconciliation.

## **BORROWING**

### **Objectives/Purpose**

To ensure that the Partnership:

- Borrows within the overall and short-term borrowing limits approved annually by the Partnership;
- Borrows for capital purposes in line with the Prudential Code;
- Borrows within medium to long term affordable and sustainable limits; and
- Borrows within procedures that minimise the possibility of money laundering.

A20. The DFCS is authorised to arrange such overdraft facilities and other borrowings as he/she considers reasonable so long as it is:

- In accordance with the Local Authorities (Borrowing) Regulations 1990 and the Local Authorities (Capital Finance) (Approved Investments) Regulations 1990; and the Local Government in Scotland Act 2003; and
- Within the borrowing limits and policy approved by the Partnership's detailed approval limits contained within the Treasury Management Practices.

A21. No account shall be overdrawn beyond the limit arranged by the DFCS

A22. The DFCS has the authority to raise loan monies to meet the expenses of the Partnership in the medium term.

A23. All borrowings and investments must be effected in the name of the Partnership.

## **INVESTMENTS**

### **Objectives/Purpose**

To ensure that:

- investments are intra vires; and
- whilst not incurring undue risk or adversely affecting the Partnership's longer-term position, returns are optimised.

A24. The DFCS has the authority to make investments providing they are made in accordance with the approved Treasury management strategy and within the framework of the CIPFA *Code for Treasury Management*.

A25. All securities in the name of the Partnership shall be held in the custody of the DFCS

A26. All vehicle, plant and equipment leasing on behalf of the Partnership shall be undertaken by the DFCS /Procurement.

## **FINANCIAL REGULATION B – BUDGETARY CONTROL, VIREMENT, ACCOUNTING AND FINANCIAL REPORTING**

***To be read in conjunction with delegations to officers and the annual Budget Guidance Notes.***

### **Objectives/Purpose**

To ensure that all budgets set are:

- legal;
- within any specified limits;
- linked to corporate objectives and any medium-term financial plan;
- identified to specified, Directors, Heads and Managers; and
- Properly monitored and controlled and timely remedial action taken on potential under/over spends.

### **Financial Management Code**

B1. The Financial Management Code (CIPFA) identifies risks to financial sustainability, introduces an overarching framework of assurance and sets out standards of financial management.

B2. The principles, in applying standards of financial management, are:

- **Organisational leadership** – demonstrating a clear strategic direction based on a vision in which financial management is embedded into organisational culture;
- **Accountability** – based on medium-term financial planning that drives the annual budget process supported by effective risk management, quality supporting data and whole life costs;
- Financial management is undertaken with **transparency** at its core using consistent, meaningful and understandable data, reported frequently with evidence of periodic officer action and elected member decision making;
- Adherence to professional **standards** is promoted by the leadership team and is evidenced;
- Sources of **assurance** are recognised as an effective tool mainstreamed into financial management, including political scrutiny and the results of external audit, internal audit and inspection;
- The long-term **sustainability** of local services is at the heart of all financial management processes and is evidenced by prudent use of public resources.

B3. SPT has arrangements in place to meet all these principles in application of the prescribed standards of financial management.

## **BUDGETARY CONTROL**

B4. The Partnership is responsible for agreeing the budget and policy framework and it is the responsibility of the Partnership to implement it. This will be done having due regard to likely available funding and the funding to be made available following both comprehensive spending reviews centrally and the local government settlement.

- B5. The process for developing the framework will be in accordance with the “Budget Guidance Notes” issued and reviewed annually by the DFCS.
- B6. Subject to the virement rules (paragraph B17) the Partnership, individual members of the Partnership and any officers discharging Partnership functions may only take decisions which are in line with the budget policy and framework.
- B7. The DFCS will advise if any decision would be contrary to the policy framework.
- B8. If any member of the Partnership wishes to make a decision contrary to or not wholly in accordance with the policy or budget approved by the Partnership, then that decision can only be taken by the Partnership, subject to urgent decisions as described in paragraph B7.
- B9. Decisions which are deemed to be urgent for business or operational reasons require the approval of the CEO plus a director, on the presumption that the implications of these decisions can be managed within the budgeted resources available. In circumstances where such decisions are to materially impact on the resources of the Partnership in the short and longer term, this decision requires to be approved by members and in line with the terms of reference relating to Chairs decisions.
- B10. Where it appears that the total budget for any service may be exceeded, it is the duty of the appropriate Director to report the matter to Finance at the earliest opportunity. The Director should indicate the over spend (or shortfall in income) with an explanation as to how the situation has arisen, how it can be controlled and proposals as to how it can be financed e.g. an overspend in one line could be offset against an underspend on another line. All outstanding commitments must be considered whenever overspends are reported. All overspends / outturn movements will be incorporated into the projected outturn contained within the 4-weekly revenue monitoring reports, which are presented to the Strategy Group. In addition, if any overspend will materially affect the Partnership’s year-end outturn position it will be specifically highlighted in the periodic revenue monitoring report that is presented to the Strategy and Programmes Committee and the report will include details of any remedial action to resolve the situation or recommending a form of action to facilitate a resolution.
- B11. Directors are required to ensure that all expenditure and income for the year relating to their service is properly identified when the annual budget is prepared.
- B12. In order to aid effective monitoring, budgets must be profiled to show when the expenditure or income is likely to occur where this appropriate.
- B13. Directors must put in place monitoring arrangements, to ensure that budgets are in accordance with approved estimates. The minimum that is expected is 4 weekly monitoring of actual to planned with a forecast of year end outturn and an explanation of any significant variances and remedial action necessary.
- B14. Medium term (two years’ where possible) budget plans must be drawn up for each service, based on stakeholder consultation and considering foreseeable resource requirements, and these must be reviewed each year.
- B15. All budgeted items must relate to the Partnership’s objectives as described in the corporate plan, and individual Service Plans.



B16. The original estimated budget must be held with the changes and virements made during the year shown as variances to the original budget.

## **VIREMENT**

B17. Virement is a means of transferring a surplus budget from one area to another. Virements should only be undertaken in exceptional circumstances with the express approval of the DFCS, and will be subject to full reporting.

B18. Any “windfall” savings will not be classed as an efficiency saving and will not form part of the service’s cash limited budget. “Windfall” savings are those savings that are unplanned and the budget holder has not affected any action to cause the saving e.g. a change in legislation or tax such as a reduction in the National Insurance rate etc.

## **ACCOUNTING**

B19. Account code formats must comply with rules laid down by the DFCS and must reflect a breakdown of cost centres / detail to enable sufficient management information and to meet statutory reporting requirements.

## **FINANCIAL REPORTING**

B20. All financial report formats must be agreed by the DFCS and all actual against budget reporting must be consistent with the corporate finance reports.

B21. All financial reports to any committee must comply with any statutory requirements, financial accounting standards and associated guidance. Where a report is seeking approval of an award of contract or change in service the financial consequences must be clear and transparent.

## **FINANCIAL REGULATION C - EXPENDITURE**

### **Objectives/Purpose**

To ensure that all expenditure incurred, both revenue and capital

- has budgetary provision;
- is intra vires;
- is for genuine goods or services procured by the Partnership in pursuit of its aims and objectives as expressed in the Partnerships corporate plan and approved policies;
- is for the purposes intended;
- follows best value principles;
- has a clear management trail showing how expenditure was incurred, what for, who by, when and why;
- is promptly and properly accounted for;
- is/was the most cost effective and compliant method of procurement; and
- is/was authorised by an appropriate officer.

### **CORPORATE PURCHASE CARDS**

- C1. Corporate purchase cards are limited in their distribution. This maximises the level of control while allowing flexibility for officers who have cause to incur expenditure which is not practical or can't be facilitated through the standard PO / Invoice process. A Purchase Card Manual is issued and updated by the DFCS from time to time.
- C2. All issues of corporate purchase cards must be with the departmental director and DFCS written approval.
- C3. Corporate purchase cards are only to be used for Partnership business. Using the card for personal expenditure is not permitted.
- C4. Expenditure must only to be incurred in accordance with the Purchase Card Manual as issued and updated by the DFCS from time to time.

***It is not to be used to circumvent controls or to replace the purchasing system.***

- C5. Where VAT is applicable, a VAT receipt must be obtained and attached and the nominated accounting officer must ensure that it is correctly coded where recovery is allowed. Advice on recoverable VAT is available from DFCS.
- C6. Card holders must manage cards, receipts and reconciliations in accordance with the Purchase Card Manual as issued and updated by the DFCS from time to time.
- C7. Card administrators must manage cards, receipts and reconciliations in accordance with the Procurement Card Manual as issued and updated by the DFCS from time to time.
- C8. The corporate purchase card limit will be determined by the DFCS.



## **PAYROLL**

- C9. The appointment of employees must be made in accordance with statutory requirements and the Partnership's approved establishment and rates of pay. All appointments, including those posts that are in addition to the approved establishment, must be approved by the DFCS
- C10. All managers with budget responsibility must ensure that budget provision exists for all existing and new employees, including on-costs and overheads. The total number of budgeted posts should be included in the department's annual revenue budget.
- C11. Each manager with budget responsibilities must certify that the numbers of employees and rates of remuneration relating to his/her payroll are correct, as a minimum annually as part of the revenue budget process.
- C12. Each manager with budget responsibilities must notify the DFCS as soon as possible, of all appointments, resignations, dismissals, absences from duty and other such information required in connection with the accurate and timely calculation and payment of salaries.
- C13. Each manager with budget responsibilities must ensure that the DFCS and Payroll Section is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system and for the annual issue of form P11Ds for Inland Revenue purposes.
- C14. All remuneration must be in accordance with Corporate HR Guidance or with the DFCS approval as appropriate.
- C15. The DFCS is responsible for the timely payment of all salaries and other emoluments.
- C16. The DFCS is responsible for ensuring the deduction, recording, and the accurate and timely payment of tax, pension and other deductions to the relevant bodies.
- C17. The DFCS must ensure that appropriate advice on national insurance and pension contributions, is available to managers and staff. Such advice will usually be provided by the Finance Section, and the SPFO.
- C18. Deductions from salaries must be in accordance with the Wages Act 1986, which requires specific written employee authorisation before any deduction can be made, other than for statutory deductions such as income tax and national insurance.
- C19. All payroll transactions must be processed only through the payroll system. The Partnership should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition of employee status, and in cases of doubt advice should be sought from DFCS. When engaging with consultants / contractors / agency staff it is imperative that an employment status review is undertaken and appropriate action taken following the review to ensure that all tax and NI is accounted for appropriately where necessary. It is the responsibility of all hiring managers to contact Finance to ensure that the employment status reviews are undertaken.





- C20. Each manager with budget responsibilities is responsible for ensuring that all time sheets, other pay documents and expenses claims, must be in a form prescribed by the DFCS, and are properly completed and certified and must submit such returns as may be necessary to maintain all pay records, and within approved timescales. Delayed information can result in delays to employee's salary payments and additional costs to the organisation.
- C21. Certification of such documents is taken to mean that journeys were authorised and appear reasonable, expenses properly and necessarily incurred and that allowances are properly payable by the Partnership as well as ensuring that cost effective use of travel arrangements is achieved.
- C22. Certification/authorisation must always be made by an authorised signatory other than the claimant. Authorised signatories cannot authorise or certify their own claims.
- C23. Each manager with budget responsibilities must promptly provide the DFCS with an up to date list of the names of officers authorised to sign records/authorise claims together with specimen signatures, as well as amendments in the event of changes in authorising post holders (additions and deletions). Where electronic authorisation is to be carried out prompt notification must be given to DFCS re-responsibilities, hierarchies and financial limits.
- C24. Managers must monitor staff activity to ensure adequate control over costs such as sickness, overtime etc.
- C25. Managers must ensure that overtime is only undertaken with prior approval and for specific reasons, the work has been carried out, properly authorised and monitored and that claims are accurate and submitted promptly for payment.
- C26. Managers must ensure that any overtime undertaken by employees which will take them over the approved overtime threshold is explicitly approved by the appropriate Director or nominated deputy.
- C27. Financial Services, Payroll Section will issue overtime reports, 4-weekly listing those approaching the overtime payment ceiling to all Directors.
- C28. All appropriate payroll documents must be retained and stored for the defined period in accordance with the document retention regulation.
- C29. Members of the Partnership are required to submit claims to the DFCS in a form prescribed by the DFCS, for any travel and subsistence allowances on a monthly basis, and in any event, within one month of the financial year end.
- C30. Members' claims must be verified as far as possible with other documentation e.g., attendance registers and certified as correct by an officer within committee services, before payment is made.





## PETTY CASH

- C31. The DFCS will provide petty cash arrangements in the form as considered appropriate for such officers of the Partnership who demonstrate a need for them for defraying minor items of expenditure best funded from petty cash.
- C32. Income received on behalf of the Partnership must not be paid into a petty cash account.
- C33. Petty cash disbursements are limited to minor items of expenditure where payment by other recognised payment methods is inappropriate e.g. the purchasing system. Under no circumstances should petty cash be used to circumvent an alternative method of payment e.g. payroll, creditors.
- C34. Payments must be supported wherever possible by a receipt. A VAT receipt should be obtained to enable the Partnership to reclaim this element of the expenditure wherever possible. Refer Regulation C5.
- C35. Individual payments are limited to £250 maximum. This amount can only be exceeded with the prior written approval from the DFCS. All travel and subsistence claims must be on the prescribed form and paid through the payroll so that information is captured for eventual disclosure to HMRC. Use of petty cash accounts for this purpose is not allowed except in relation to minor cash advances e.g. for foreign travel. However, where value for money can be evidenced, the direct purchase of travel tickets by procurement card is permitted.
- C36. Petty cash accounts must be balanced and evidenced, as a minimum, on a quarterly basis and discrepancies recorded, monitored, and appropriate action taken to remedy them. Any material discrepancies should be reported to DFCS (discrepancies greater than £10) Petty cash account holders must also complete and sign the certificate of petty cash proforma, annually, as required by the External Auditor.
- C37. Reimbursement requests must be made at periods not exceeding one quarter.
- C38. An officer responsible for a petty cash account must ensure its security, its regular reconciliation (at least monthly or at changes in shifts/ handovers) and give the DFCS an annual certificate as to the state of the account (at the end of the financial year). Security arrangements should include details of where it is kept, who has access to the funds, and the maximum amount to be kept at any one time. This should not exceed £500.
- C39. On leaving the employment of the Partnership or otherwise ceasing to be entitled to hold a petty cash account, an officer must account to the DFCS for the amount advanced to him/her.
- C40. Managers with budget responsibilities who are also responsible for petty cash accounts must keep the amount needed under review and ensure the smallest sum needed is retained.
- C41. The DFCS must keep an up to date record of all imprest accounts, the individual values and who holds them and carry out an annual check that they are still in existence or the money accounted for.



## **CONTRACTS – to be read in conjunction with Standing Orders Relating to Contracts**

- C42. For specific details of all contract related guidance please refer to Standing Orders Relating to Contracts.
- C43. SPT currently does not participate in CITS as all construction operations relate to property used for the purpose of the organisation.
- C44. It must be a condition of the engagement of the services of any contractor / consultant who is to be responsible for the supervision of a contract on the Partnership's behalf, that in relation to those duties he/she will comply with these Regulations, Guidelines and Standing Orders Relating to Contracts, as though he/she were an officer of the Partnership.
- C45. Contract payments that are staged and require a payment certificate must be approved by authorised Partnership personnel, or in the case where outside professional services are contracted, must be issued by the employer.
- C46. Where contracts provide for payment to be made in instalments, the department responsible for the contract must keep a register of contract payments detailing:
- a) the contract title;
  - b) the total tendered sum;
  - c) the committee minute reference;
  - d) contractors name and address and payment address if different;
  - e) retention sum and retention settlement date;
  - f) each payment made including the date paid, the certificate number, sum paid and VAT cumulative total and VAT paid;
  - g) any fees/ liquidated damages applied, loss or expense claims and the like; and
  - h) variations/changes
- C47. Each variation to the original contract must be priced or estimated and authorised in accordance with Standing Orders Relating to Contracts referenced, issued and signed by the officer named in the contract, or in the case where outside professional services are engaged, by the employer.
- C48. Financial claims from contractors in respect of matters not clearly within the terms of an existing contract must be referred to the DFCS for consideration of the Partnership's legal liability and to the DFCS to assess the extent of any financial liability.
- C49. The Chief Executive (CE) has the responsibility for the custody of all title deeds, land certificates, leases, tenancy agreements, of property belonging or mortgaged to the Partnership and all formal contracts other than official orders.
- C50. All purchases of Information Technology hardware and software and peripheral supplies must be in accordance with the Partnership's corporate policy, and procured via the Digital Manager.
- C51. All software used must be properly licensed and installed in conjunction with the digital team.



## **GOODS AND SERVICES CONTRACTS**

- C52. The Standing Orders Relating to Contracts should be referred to ascertain the requirement in relation to Goods and Services Contracts.
- C53. Purchases must not be made unless the cost is covered by the approved annual estimates or within the overall budget.
- C54. Orders must indicate the nature and quantity of the work, goods or services required and the contract or agreed price.

## **PAYMENT OF ACCOUNTS**

- C55. A manager with budget responsibilities, when issuing an order, has the responsibility for ensuring that the procedures for examining, verifying and authorising payment of relevant invoices are adhered to. The procedures must ensure that;
- a) the goods or services have been received or the work carried out satisfactorily;
  - b) the details and prices as stated on the invoice are in accordance with those quoted on the order;
  - c) the invoice is arithmetically correct;
  - d) any applicable discounts have been taken;
  - e) appropriate entries have been made in stores/ inventories and other records;
  - f) payment has not already been made;
  - g) VAT (if applicable) is correct; and
  - h) budgetary provision exists
- C56. Only original invoices will be accepted for payment. Where this is not possible, the certifying officer must be satisfied that the original invoice cannot be traced and has not already been paid. On no account should payment be made on a statement. Payments will be made electronically using the integrated financial system, which will determine the procedures to be used.
- C57. Invoices which match 100% with a goods received note for price and quantity will be processed without a requirement for further authorisation. The DFCS will establish acceptable tolerance levels for these invoices which do not match 100%. Any invoices which do not match the approved purchase order and goods received note, or agreed tolerance level, will require further authorisation from the Director with budget responsibilities or his/her approved delegate.
- C58. Where errors are discovered, or goods returned, or an incomplete delivery is made, the supplier should be informed immediately and a credit note obtained or replacement goods requested. The invoice must not be processed for payment until the credit note/ replacement goods have arrived.
- C59. Invoices must be paid in accordance with the payment terms agreed with the supplier and Government Legislation / Guidance on prompt payment. Invoices must be reviewed, approved and passed for payment as soon as possible to ensure that payment terms can be met.
- C60. To enable payment processing, a list of authorised signatories must be sent to DFCS together with their specimen signatures and any limits imposed by the Director



concerned. In addition, user requests including authorisation levels must be sent to the DFCS to ensure appropriate access is granted to the Financial Management system for the authorisation and receipting of purchases requisitions / orders.

C61. No officer may certify an invoice or claim form for reimbursement of expenditure to himself/herself, friend, relative, partner or business associate. It must be authorised by another appropriate authorising officer preferably one of a similar, or higher, level.

C62. As part of internal control, facsimile signatures will not be used to counter sign cheques.

## **GRANT AWARDS**

C63. All Grant Awards for sums not exceeding £50,000 must be approved by the DFCS.

C64. All Grant Awards for sums exceeding £50,000 but not exceeding £200,000 must be approved by the Strategy and Programmes Committee or Operations Committee as determined in the Committee Terms of Reference.

C65. All Grant Awards for sums exceeding £200,000, whether it be by single award or cumulative in year awards, must be approved by the Partnership as determined in the Committee Terms of Reference.

C66. All Grant Awards will be offered subject to grant conditions determined by the Director concerned and Legal Services.



## **FINANCIAL REGULATION D - INCOME**

### **Objectives/Purpose**

To ensure that all income:

- is accounted for;
  - is collected promptly and cost effectively;
  - is intra vires;
  - has a clear management trail from origin to destination; and
  - has sufficient evidence to support the debt incurred to enable collection.
- D1. Collection of all money due to the Partnership must be in accordance with written procedures agreed by the DFCS.
- D2. All monies received must be banked as soon as practical and intact, in the Partnership's name. No deduction can be made from these monies unless specific written approval to do so has been sought from and given by the DFCS.
- D3. Where money is passed from one person to another the value of the transfer must be recorded, dated and signed by both the person transferring the money and the person receiving the money.
- D4. Under and over bankings must be recorded and monitored by a senior manager responsible for that area and action taken if material, unusual or too frequent. Any serious concerns or unreconciled discrepancy greater than £50 should be reported to Audit & Assurance. The DFCS will determine whether to advise SPT's insurers in line with existing policies.
- D5. The DCFS must ensure that the following particulars of each payment are recorded:
- The amount of the payment; and
  - A reference (such as the receipt number given or the name of the debtor) which will connect the payment with the debt or debts in discharge or partial discharge of which it is received.
- D6. Income received must be regularly reconciled to income due records and banked promptly.
- D7. The DFCS must review aged debtors analysis periodically but at least quarterly, in order to ensure that all debts are being pursued and also to make sufficient budget provision for likely default of payment.
- D8. Staff responsible for raising accounts should not be involved in the receipt of payments. Also staff responsible for the banking of cash should not be involved in raising accounts or receiving payments. If this causes difficulties then permission must be sought from the DFCS to waive this Regulation; however, the manager concerned must demonstrate that there are compensating controls in place.
- D9. Under no circumstances will personal cheques for employees be cashed.



- D10. Invoices for all sums payable to the Partnership shall only be in an electronic format utilising the financial management system as agreed by the Director of Finance & HR. All accounts must detail:
- a) the name and address of the customer and the address for the account if different;
  - b) a description of the debt, what it is for, how and when it was incurred and any special conditions relating to the supply e.g. standards, specifications, delivery dates;
  - c) the price to be paid for the goods or service, where appropriate the rate and value of VAT and the total sum to be paid;
  - d) the terms and conditions of payment including stage payments if appropriate
  - e) a contact name and number in the event of query;
  - f) a unique sequential number that enables it to be identified (invoice number); and
  - g) Chart of Account code(s) that the income is to be paid into.
- D11. Managers must ensure that any charge raised on an account is valid, accurate and, to assist in case of possible dispute, supported by reliable documentation such as a written agreement or as specified by the DFCS.
- D12. Any unidentified cash received must be paid into a suspense account for that purpose. All suspense accounts must be monitored at least monthly and balances cleared as soon as possible. Cash found by members of the public will be held for three months for reclaiming and, if unclaimed, will be donated to a local charity to be determined by the DFCS.
- D13. Each Department must keep under review any fees, charges and other levies made for goods and services, under their control and agreed with the DFCS or Partnership as appropriate. These must be reviewed annually and be consistent with the approved budget. All fare or fee changes require to be approved by the Partnership.
- D14. Any new charges to be introduced must be agreed with the DFCS and approval sought from the Partnership and be subject to an annual review.
- D15. In order to comply with VAT Regulations, accounts must be issued within thirty days of the supply of the goods or service, unless HMRC grant specific dispensation.

## **WRITE OFFS**

- D16. Debts due to the Partnership may only be written off:
- a) Up to and including £10,000 by the DFCS; and
  - b) Over this sum **AND UP TO** £50,000 by the DFCS
- D17. The DFCS must report annually to the Partnership on the total debts written off.
- D18. All individual sums greater than £50,000 require to be approved for write off by the Partnership.
- D19. A debt in respect of agency activities is to be transferred timeously to the principal body.



D20. All debts greater than 60 days from date of invoice will be reviewed regularly, and at least quarterly by the DFCS, and decisions taken and documented as to any further action which may be required to ensure recovery.

#### **Bad Debt Provisions - General**

D21. Generally, provisions will relate to unpaid debts over 60 days. All debts unpaid over 90 days from date of invoice in respect of the Partnership direct activities shall be reviewed by the DFCS and if appropriate provided for in full, excluding the VAT element of the debt, at the year end, with the exception of:

- Debt with Scottish Local Authorities;
- Debt with suppliers with whom there is an active trading relationship; and
- Debt identified as requiring a specific provision

D22. All general bad debt provisions shall be discussed with and agreed, if necessary, by the DFCS.

#### **Bad Debt Provisions - Specific**

D23. Any debts that in the judgement of the DFCS may become irrecoverable at the year end shall be provided in full, excluding VAT element of the debt. Evidence to support the necessity to provide for the debts will include, inter alia:

- Letters from the Partnership legal department seeking to recover the debt, if appropriate;
- Any debts placed with an external agency for collection;
- Any debts where there is an unresolved dispute on an invoice; and
- There is evidence that the debtor has died, gone away, been declared bankrupt, is in administration, liquidation, receivership or administration, or otherwise financially distressed.

D24. Whilst the debt may be financially provided, collection of the debt will continue until such time as a decision is taken by the DFCS that to continue pursue the debt would be uneconomic and the procedures to write off said debt will be implemented as outlined in previous clauses.

## **FINANCIAL REGULATION E - INTERNAL AUDIT**

E1. A professional, independent and objective Internal Audit service is one of the key elements of good governance.

### **Definition**

E2. The Public Sector Internal Audit Standards (PSIAS) define Internal Audit as:

*‘an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes’.*

### **Objectives**

E3. In accordance with the Public Sector Internal Audit Standards (PSIAS), Audit and Assurance provide the following services to the Partnership:

- Assurance services – primary role, to objectively examine and independently assess governance, risk management and control processes;
- Consulting services – to provide advice and add value to service provision, without the auditor assuming management responsibility; and
- Fraud Prevention and Detection – to assist management to prevent, detect, investigate and report fraud in accordance with the Counter Fraud Strategy.

E4. Audit and Assurance services are conducted in conformance with the PSIAS and the Internal Audit Charter.

### **Independence**

E5. Audit and Assurance must be independent in its planning and operation.

E6. The Audit and Assurance Manager has direct access to the DFCS including the reporting of audit outcomes, the Chief Executive (CE), and all levels of management. In the event that the Audit and Assurance Manager believes these specific reporting lines are compromised, he/she has direct access to the Chair of the Audit and Standards Committee.

### **Authority**

E7. Audit and Assurance is granted the authority to:

- have unrestricted access to all Partnership premises;
- have unrestricted access to all assets, correspondence, documents, records and systems (computerised and otherwise);
- have access to all personnel relevant to the performance of engagements;
- receive any information and explanation, considered necessary, concerning any matter under investigation;
- require any Partnership employee to account for cash, stores, and any other asset(s) under their control; and



- access records belonging to third parties i.e. contractors and partner organisations, when required (this must be written into all agreements and contracts entered into with third parties).

Audit and Assurance will, at all times, act with integrity and take a professional, reliable, independent and innovative approach to their work. Audit and Assurance respect the value and ownership of information they receive and do not disclose information without appropriate authority unless there is a legal or professional obligation to do so.

### **Audit and Standards Committee**

- E8. Annually, Audit and Assurance shall submit an Internal Audit plan for the forthcoming year to the Audit and Standards Committee for approval. The annual Internal Audit plan will be developed using a risk-based methodology and will be aligned to the assurance framework, risk registers and strategic objectives. Consultation with key stakeholders (Strategy Group) will also be undertaken in the formulation of the annual Internal Audit plan. Any significant deviation from the formally approved plan shall be communicated to the Strategy Group and the Audit and Standards Committee.

### **DIRECTORS**

- E9. Directors, Heads and Managers must ensure that:
- a) Auditors are given access to assets, correspondence, documents, records and systems (computerised or otherwise) that the auditors consider necessary for the purposes of their work;
  - b) Auditors are provided with any information and explanations that they seek in the course of their work;
  - c) All audit reports and recommendations are responded to promptly;
  - d) Any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion; and
  - e) Any changes to/new systems, for maintaining assets or financial records must be discussed with the Audit and Assurance Manager prior to implementation.

### **EXTERNAL AUDIT**

- E10. The Accounts Commission appoint External Auditors to the Partnership and Strathclyde Concessionary Travel Scheme. Audits are undertaken by Audit Scotland's Audit Services Group or by private firms. External Auditors appointed by the Accounts Commission undertake the audit of accounts including the wider-scope responsibilities in accordance with the Code of Audit Practice 2021.
- E11. Once appointed, auditors act independently in carrying out their responsibilities and in exercising professional judgement. The appointed auditor reports to the audited body and others on the results of audit work. Appointed auditor responsibilities are derived from statute, International Standards on Auditing (UK) and the Ethical Standard for auditors, other professional requirements and best practice, the Code and guidance from Audit Scotland.



- E12. Auditors produce outputs annually for each audit appointment including, an audit plan, an independent auditor's report and an audit report.
- E13. All records and systems must be kept up to date and available for inspection.
- E14. External auditors have the right to access all the Partnership premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.



## **FINANCIAL REGULATION F - COUNTER-FRAUD AND CORRUPTION**

### **Objectives/Purpose**

The Partnership has an expectation that staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices, to ensure propriety and accountability.

The Partnership also expects that individuals and organisations (e.g. suppliers, contractors, and service providers) with whom it comes into contact will act towards the authority with integrity.

These Regulations are to be read in conjunction with the Partnership's Counter-Fraud Strategy which contains the Whistle Blowing Policy and Procedures.

- F1. The CE must ensure that the Partnership has an effective counter-fraud and corruption policy. It should be backed up by a culture that does not tolerate fraud or corruption.
- F2. All staff must act with integrity and lead by example.
- F3. Senior managers must deal swiftly and firmly with those who defraud or attempt to defraud the Partnership or who are corrupt.
- F4. The Partnership should promote high standards of conduct amongst members.
- F5. Any hospitality or gifts as described in the code of conduct must be recorded in a register of interests and monitored by the appropriate line manager. If any item seems excessive or there is a suspicion that an item has affected or influenced a decision, then the matter must be referred to the CE (as Monitoring Officer). Failure to declare or record items must also be referred.
- F6. The CE must ensure that the Partnership has effective whistle blowing procedures.
- F7. The CE must ensure that legislation including the Public Interest Disclosure Act 1998, the Ethical Standards in Public Life (Scotland) Act 2002 and Bribery Act 2011 is adhered to.
- F8. All suspected irregularities must be reported to the AAM in accordance with the fraud response plan, who is responsible for advising the CE, Partnership, DFCS and Head of HR (HHR).

### **FINANCIAL IRREGULARITY**

- F9 A financial irregularity exists where, and for whatever reason there is an intentional or unintentional:
  - distortion of a financial statement or other record;
  - departure from accepted or authorised practice; or
  - unauthorised or dishonest action.
- F10. It is management's duty to develop and implement systems of internal control to help prevent financial irregularities.

- F11. Where there is a suspicion of financial irregularity, it is the duty of the individual to report the matter to his/her manager who must report it to the Audit & Assurance. It will be for the AAM to advise the CEDFCS and HHR as appropriate. If individuals suspect their manager of an irregularity, then they must refer the matter directly to the Audit & Assurance team or the CE.
- F12. All irregularities, other than minor procedural transgressions or errors, must be formally investigated and reported in accordance with the Partnership's Investigation Procedures.
- F13. Managers must take appropriate action during or at the conclusion of an investigation and in conjunction with recommendations made in any Audit report. This may include changes to internal controls to prevent repetition, steps to recover any losses incurred, disciplinary proceedings against individuals etc.
- F14. The DFCS may, at any time, issue directions on the conduct of any investigation of financial irregularity or the recovery of any loss suffered by the Partnership. Such directions will take account of views expressed by the AAM.

The CE will determine whether any matter should be referred to Police Scotland for investigation.

### **Proceeds of Crime Act 2002**

- F15. The Proceeds of Crime Act 2002 governs the law relating to confiscation of money and assets that have been gained through criminal conduct. It allows the authorities in Scotland to seek confiscation or forfeiture of cash and assets that it alleges are the Proceeds of Crime. Proceedings are judged on a civil law standard of proof.

### **Counter Fraud Strategy**

- F16. SPT is an employer, service provider and purchaser of goods, services and works. As with other public sector organisations, the size and nature of services puts SPT at risk of loss due to fraud and corruption.
- F17. SPT is committed to the prevention, detection, investigation and reporting of fraud and corruption. SPT is also committed to recovering losses from fraud and taking action against those who perpetrate fraud or corruption.
- F18. The Counter Fraud Strategy incorporates the Fraud Response Plan and Whistleblowing policy and provides good practice guidance and is supplemented with regular awareness and signposting to all employees.

### **MONEY LAUNDERING**

- F15. Money laundering has the objective of concealing the origin of money generated through criminal activity. HMRC defines money laundering as follows:

*“Money laundering means exchanging money or assets that were obtained criminally for money or other assets that are ‘clean’. The clean money or assets don't have an*



*obvious link with any criminal activity. Money laundering also includes money that's used to fund terrorism, however it's obtained."*

Legislation has given a higher profile to the need to report suspicions of money laundering. The legal and regulatory framework for the UK comprises:

- The Terrorism Act 2000 (TA);
- The Proceeds of Crime Act 2002 (POCA); and
- The Money Laundering Regulations 2007 (2007 Regulations)

F16. Public service organisations and their staff are subject to the full provisions of the Terrorism Act 2000 and may commit most of the principal offences under the POCA, but are not legally obliged to apply the provisions of the Money Laundering Regulations 2007. However, as responsible public bodies, SPT is expected to employ policies and procedures which reflect the essence of the UK's anti-terrorist financing, and anti-money laundering, regimes. Accordingly, SPT will do the following:

- a) evaluate the prospect of laundered monies being handled by them;
- b) determine the appropriate safeguards to be put in place;
- c) require every person engaged in treasury management to make themselves aware of their personal and legal responsibilities for money laundering awareness;
- d) make all its staff aware of their responsibilities under POCA;
- e) appoint a member of staff to whom they can report any suspicions. This person is the CE
- f) in order to ensure compliance is appropriately managed, SPT will require senior management to give appropriate oversight, analysis and assessment of the risks of clients and work/product types, systems for monitoring compliance with procedures and methods of communicating procedures and other information to personnel; and
- g) The officer responsible for the creation and monitoring the implementation of a corporate anti money laundering policy and procedures is the CE and it shall be a requirement that all services and departments implement this corporate policy and procedures.

## **FINANCIAL REGULATION G – ASSETS**

### **Objectives/Purpose**

The Partnership holds assets in the form of property, vehicles, equipment, furniture, intellectual copyright, software development image rights and other items. It is important that assets are safeguarded and used efficiently in-service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper asset management. The asset register should include assets owned by the Partnership as well as those assets where the Partnership is the guardian but not the owner.

The objectives are to ensure that assets are identified, their location recorded, their existence monitored and that they are used efficiently and effectively.

- G1. Resources must only be used for the purposes of the Partnership and must be properly accounted for.
- G2. Resources must be available for use when required.
- G3. Resources identified as no longer required must be disposed of in accordance with law and the procedures laid down by the DFCS as appropriate. Assets that still have a value must be disposed of in a way that maximises and realises their market value.
- G4. The DFCS must ensure that an asset register is maintained for all fixed assets with a value in excess of £1,000. The purpose of the asset register is to provide the Partnership with information about fixed assets so that they can be:
  - identified;
  - accounted for; and
  - valued appropriately.

Operational asset registers must be maintained where appropriate to ensure that the Partnerships assets are safeguarded, used efficiently and effectively and adequately maintained

- G5. Each Director and Manager must ensure that they provide the DFCS with information required for accounting, costing and maintaining financial records for assets.
- G6. Assets must be valued by the appropriate officer, or a valuation obtained from an external expert, in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*. Assets and should be re-valued no less than every five years with a mid-term desk top valuation also taking place in accordance with the Code.
- G7. All Directors and Managers must ensure the proper safe custody, use and security of all buildings and other assets, such as vehicles equipment, furniture, stock stores and other property under their control.
- G8. Where land or buildings are surplus to requirements and valued at more than £10,000, a recommendation for sale should be the subject of a joint report by the relevant Director and the DFCS to the Partnership, with a view to its sale and generation of capital receipts.



- G9. All title deeds should be passed to the Legal Services for secure custody.
- G10. Partnership assets are not to be used for personal use by staff without proper authority from their manager and subject to recording, monitoring, appropriate insurance arrangements (if necessary), and checking the implications of benefits in kind with the DFCS or Payroll section.
- G11. All assets must be appropriately marked, insured and recorded on an asset register.
- G12. The relevant Manager must be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- G13. Cash holdings on premises must be kept to a minimum and in accordance with guidance issued by the DFCS.
- G14. Keys to safes and similar receptacles must be carried on the person of those responsible at all times, wherever practicable or in a key safe; loss of any such keys must be reported to the appropriate supervising manager, DFCS and Audit & Assurance, as soon as possible.
- G15. Directors and Managers must ensure that:
  - a) Assets are valued for accounting purposes to meet requirements as specified by the DFCS; and
  - b) All employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records.

## **INVENTORIES**

- G16. All items that managers consider to be vulnerable because of their usefulness, portability or desirability and generally over £150, (although they may be less; as a guide, examples would include computer equipment and software, cameras, mobile phones, electrical tools and equipment, etc.) must be recorded on an inventory detailing:
  - a) item description, model and serial number;
  - b) supplier name/ Requisition number;
  - c) order number and date of purchase;
  - d) location held/person to whom issued;
  - e) value at date of purchase (purchase price); and
  - f) authority/date of disposal
- G17. All items should bear security markings (visible/invisible) identifying them as belonging to the Partnership and recorded as such on the standard form if applicable.
- G18. Partnership property must only be used on Partnership business. Any temporary removal from the normal workplace must be authorised by the manager, and the details recorded. Private use of equipment is generally not allowed. Private use may be permitted if it is appropriately authorised by the manager, recorded and monitored, and advice sought from DFCS or Payroll section re benefits in kind and taxation implications. It should be possible to know where any item is at any time.

- G19. Inventories must be amended when any modifications, damage, disposal or permanent relocation of items occur.
- G20. The manager responsible for the items in his/her area must verify, and record the accuracy of inventories at least annually and report any discrepancies to their respective Director. That Director should report any losses to the DFCS to arrange insurance claims where appropriate. Where items are attractive or easily removed, more frequent checks should be carried out.
- G21. The DFCS may write off redundant, obsolete or damaged items. All asset write offs with a value greater the £50,000 require to be reported annually to the Partnership.
- G22. The disposal of surplus items should include arranging alternative use elsewhere within the Partnership or as instructed by the DFCS.

## **STOCKS AND STORES**

- G23. Each manager responsible for any stocks or stores must ensure that adequate records are maintained to account for all stock movement and arrange for periodical, independent examination of stocks at least once a year. Managers must complete and sign the certificate of stock proforma annually as required by the external auditor.
- G24. Lists of surpluses/ deficiencies resulting from these checks, together with explanations of any significant differences, must be sent to the DFCS in order to adjust the accounts accordingly.
- G25. Surplus stocks will be disposed of in accordance with guidelines issued by, or as instructed by, the DFCS, the aim being to obtain the maximum benefit to the authority.
- G26. Stock levels must be kept at reasonable limits. Their levels should be based on specific calculations taking into account demand (historic and predicted) balanced with costs of storage, shelf life and savings on bulk orders, so as to optimise cash flow as far as practicable. In addition, lead times for delivery must be taken into account. All Directors must make arrangements for stock levels to be reviewed periodically and no less than annually.

## **ASSET DISPOSAL**

G27. Where it is determined by a head, manager, Director, DFCS, that an asset is:

- costly to maintain and the cost is outweighing its benefit;
- obsolete;
- non-repairable; or
- surplus to requirements,

advice must be sought from Procurement and Legal Services on the best method of disposal, the aim to consider and demonstrate:

- the most appropriate time;
- best interests of the Partnership;
- best price obtained;





- competitive tender/auction for items of significant value;
- protection to staff from accusations of personal gain; and
- environmental issues.

## **FINANCIAL REGULATION H - EXTERNAL ARRANGEMENTS**

### **PARTNERSHIPS**

Partnerships are likely to play a key role in delivering integrated transport. The Partnership works collaboratively with others – public agencies, private companies, community groups and voluntary organisations. Our distinctive leadership role is to bring together the contributions of the various stakeholders to deliver a shared vision of services.

#### **Main objectives**

- to share risk and skills;
- ability to access new resources;
- provide new and better ways of delivering the service;
- forge new relationships; and
- enabling role for others to deliver

#### **Definition of a partner**

“An organisation undertaking part funding or participating as a beneficiary in a project “or “A body whose nature or status give it a right or obligation to support the project”.

What participation could be expected by a partner(s):

- acting as a project deliverer or sponsor, solely or with others;
- acting as a project funder or part funder;
- being the beneficiary group of the activity undertaken in a project.

#### **Common responsibilities**

- to act in good faith at all times and in the best interests of the partnership’s aims and objectives;
- to be open about any conflicts of interest that might arise;
- to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature; and
- to act wherever possible as ambassadors for the project.

H1. All partners should be made aware of their responsibilities under the Partnership’s Financial Regulations, Standing Orders Relating to Contracts, Code of Conduct, Data Protection and IT Security Policies, where appropriate. The responsibility to ensure that Partners are made aware is that of the lead Director or Manager on the particular project.

H2. There must be a risk management process in place to identify and assess all known risks and an action plan devised to minimise, transfer, avoid, and insure risks as appropriate. Risks must be allocated to those best able to control them. Risk awareness and management must form an integral consideration of all projects and plans. Documentation of this is required to be held on file.

- H3. The relevant Director/Manager for each project must liaise with the DFCS to ensure that appropriate insurance arrangements are made.
- H4. A project appraisal must be undertaken to assess the viability of a project in terms of resources, staffing and expertise and expected deliverable outcomes.
- H5. The roles and responsibilities of each of the partners involved in the project must be formally agreed before the project commences.
- H6. There must be regular communication between the partners throughout the project and any problems identified and resolutions agreed must be promptly and formally documented.
- H7. Resources must be used in the most effective, economic and efficient way. The DFCS and the Partnership must satisfy themselves that the Partnership's position within the partnership is properly protected by ensuring that there is satisfactory evidence of:
  - a) a scheme appraisal for financial viability in both the current and future years, including responsibility for any future revenue costs;
  - b) risk appraisal and management;
  - c) resourcing including taxation issues;
  - d) audit, security and control requirements;
  - e) carry forward arrangements;
  - f) accounting arrangements;
  - g) monitoring;
  - h) project plan, means of measuring and determining outcomes; and
  - i) value for money.
- H8. The relevant Director/Manager must keep a register of all contracts entered into with external bodies in a form agreed by the DFCS
- H9. Each relevant Director/Manager must make sure that any agreements and arrangements do not impact adversely on any service provided by the Partnership.
- H10. Each relevant Director/Manager must ensure that all agreements and arrangements are properly documented in a form agreed by the CE
- H11. Each relevant Director/Manager must provide appropriate information to the DFCS to enable a note to be entered into the Partnership's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

Funds from external agencies such as the project sponsors and the other public sector agencies provide additional resources to enable the Partnership to deliver services. Such funding is generally linked to tight specifications and may not be flexible enough to link to the Partnership overall plan. A reasoned decision should be documented and acted upon.

- H12. The relevant Director/Manager must ensure that the key conditions of funding and any statutory requirements are complied with and the responsibilities of the Partnership clearly understood. All funding applications and requests must be agreed and signed by the DFCS prior to submission.

- H13. Funds must only be acquired to meet the priorities approved in the policy framework approved by the full Partnership.
- H14. The relevant Director/Manager that wishes to enter into any match funding arrangements must consult with the DFCS and demonstrate that it has been given due consideration prior to entering long-term agreements and future revenue budgets reflect these requirements.
- H15. All funding notified and received must be properly recorded in the Partnership's accounts.
- H16. The DFCS must ensure that all audit requirements are met.
- H17. The relevant Director/Manager must ensure that all claims for funds are made by the due date on qualifying expenditure (reviewed prior to submission by the DFCS and reimbursed from the sponsoring agency).
- H18. The relevant Director/Manager must ensure that the project is monitored and that it progresses in accordance with the agreed project plan, that specific milestones have been met and that all expenditure is properly incurred and recorded.

## **WORK FOR THIRD PARTIES**

Current legislation enables the Partnership to provide a range of services to other bodies. Arrangements must be in place to ensure that any risks associated with this work are minimised and that such work is intra vires (within the law or the powers available to the Partnership). All external work for third parties must be reported to the Partnership prior to final agreement, thus ensuring that the assets and resources of the Partnership are protected and adequately support the Partnership aims.

- H19. Additional resources must not be required specifically to meet any third party contract work, unless specifically funded, and not at the expense of the Partnership unless approved by the DFCS.
- H20. The DFCS must be consulted before any negotiations are made/ tenders entered into for third party work.
- H21. The relevant Director/Manager must liaise with the DFCS to ensure appropriate insurance arrangements are made.
- H22. The relevant Director/Manager must carry out a full risk analysis showing action to be taken to avoid, minimise (to an acceptable level), transfer and / or insure risks.
- H23. The relevant Director/Manager must ensure that proposals are costed properly and agreed by the DFCS. They must demonstrate that the Partnership will not be put at risk, and that the Partnership will not be subsidising any part of the contract.
- H24. The relevant Director/Manager must also demonstrate that the contract will not impact adversely on any other service provided either by or to the Partnership and will not contribute to a conflict of interest.



- H25. There must be a contract drawn up prior to the arrangement commencing in a format agreed by the CE.
- H26. A register must be maintained of all contracts entered into with third parties as agreed by the CE.
- H27. The relevant Director/Manager must ensure that the department/unit has the appropriate expertise to undertake the contract.
- H28. The relevant Director/Manager must provide appropriate information to the DFCS to enable a note to be entered into the statement of accounts.

## **FINANCIAL REGULATION J - VAT**

### **Objectives/Purpose**

To ensure that legislation is complied with and that there is a clear management trail of transactions:

- J1. Officers responsible for processing invoices, payments and sundry debtor accounts, and miscellaneous income must familiarise themselves with Value Added Tax and establish the appropriate tax treatment on each transaction they deal with.

This should be done with reference to HM Customs and Excise Notice 700, the VAT guide and Notice 749, local authorities and similar bodies, further assistance can be obtained from Finance.

- J2. The appropriate VAT indicator must be shown against each financial analysis code on the invoices/payment vouchers. It is the responsibility of Finance to ensure that VAT coding is correct and that VAT is reclaimed wherever possible. Advice can be obtained from DFCS.
- J3. The Finance Act 1985 introduced penalties to improve enforcement of VAT and a number of local authorities have been heavily penalised for not complying with VAT legislation. Relying on another person and ignorance of the law are not regarded by Customs and Excise as reasonable excuses for making errors in connection with VAT.
- J4. VAT returns must be prepared centrally within Finance in accordance with timescales and format determined by HM Customs and Excise using information captured in J2 above.
- J5. All prime documents showing VAT due or collected must be kept for six years, unless legislation requires a longer period. Refer Financial Regulation K3.
- J6. In order to comply with VAT Regulations, accounts must be issued within thirty days of the supply of goods or service, unless HMRC grant specific dispensation.



## **FINANCIAL REGULATION K – CONTROLLED STATIONERY AND RETENTION OF DOCUMENTS**

### **Objectives/Purpose**

To ensure that all documentation representing “money’s worth” is properly accounted for and secured from loss or abuse and managed in accordance with the Public Records (Scotland) Act and SPT’s Records Management Policy.

- K1. The DFCS is responsible for ordering and safeguarding stocks of documents used to originate financial transactions. Examples include cheque printing stationery etc.
- K2. The issue and use of controlled stationery must be by authorised staff only and blank stocks must be kept securely.
- K3. The periods for retaining documents of a financial nature must be agreed with the DFCS and in accordance with the Document Retention Policy, who will issue guidance notes from time to time. Present requirements are:
  - All prime documents showing VAT due or collected must be kept for six years, unless legislation requires a longer retention period;
  - Prime documents required for other taxation purposes must be kept for six years;
  - Documents relating to grant claims and subsidies to be kept until examined by external auditors and for a further two years or as specified in the grant conditions;
  - All other relevant documents year of External Audit plus one (effectively three years); and
  - Legal agreements/ deeds: indefinitely or as directed by the CE.
- K4. Contract documents (excluding copy official orders) must be recorded and kept safe within Legal Services, who should maintain a register to record receipt/ release of these documents.
- K5. The duty to keep such records may be discharged by the preservation of the information contained in them by such methods specifically approved by HMRC. Any doubts should be raised with HMRC.
- K7. Documents that are to be destroyed and which contain personal and confidential information must be destroyed by shredding or placed in a sealed bag for incineration.



## **FINANCIAL REGULATION L - GRANT CLAIMS**

### **Objectives/Purpose**

To ensure compliance with Audit Scotland's *Statement of Responsibilities* in relation to grant claims and returns.

- L1. Directors must ensure that the DFCS is aware of all grants and returns and demonstrate that they are able to comply with the terms and conditions of a grant before it will be accepted. All offers and grant must be accepted by the DFCS only.
- L2. The DFCS is responsible for ensuring that supporting accounting records are sufficient to show the Partnership's transactions, and are maintained in accordance with proper practices and kept up to date, including a record of income and expenditure in relation to claims.
- L3. The DFCS must ensure that procedures are in place for ensuring that claims and returns are:
  - completed accurately and in accordance with the scheme terms and conditions;
  - authorised by an authorised signatory;
  - supported by systems of internal control, which are both adequate and effective in practice;
  - completed in a timely fashion so that deadlines are met;
  - supported by adequate working papers which satisfy the statutory requirement of the DFCS to maintain adequate records in relation to claims;
  - document the basis of the claim or return and the derivation of the information it contains;
  - are kept in a form which will help External Audit and reduce certification time and therefore cost to the Partnership;
  - are subject to proper supervision and review prior to the completion of the Partnership's certificate; and
  - are certified by the External Auditor or Internal Auditor as appropriate.





# **Strathclyde Partnership for Transport**

## **Standing Orders Relating to Contracts**

### **2022**

Prepared by

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## Issue Control

Each page of this document carries the document issue.

The document is always re-issued as a whole. The table of the previous and current issues is below:

Issue	Date	Remarks
1	8 March 2006	Issued by Audrey Cameron
2	3 April 2007	Neil Wylie
3	21 May 2007	Neil Wylie
4	11 June 2007	Neil Wylie
5	November 2008	Neil Wylie
6	May 2012	Neil Wylie
7	May 2012	V Davidson
8	Feb 2013	V Davidson
9	December 2016	V Davidson
10	December 2017	Neil Wylie
11	June 2022	Kenny Govan



**STRATHCLYDE PARTNERSHIP FOR TRANSPORT**

**STANDING ORDERS RELATING TO CONTRACTS**

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## 1. INTRODUCTION

The Standing Orders Relating to Contracts set out how the Partnership will invite bids and award contracts for the supply of goods, works and services. The purpose of the Standing Orders Relating to Contracts is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the law and the Partnership's policies. The Standing Orders Relating to Contracts should be read in conjunction with the SPT Procurement Strategy, and with the Scheme of Delegation to these (Appendix 9).

## 2. COMPLIANCE WITH STANDING ORDERS RELATING TO CONTRACT

### 2.1 Compliance

Every contract or Purchase Order placed or made by or on behalf of the Partnership will comply with these Standing Orders and:

- (a) the Financial Regulations of the Partnership;
- (b) the Scheme of Delegations and Committees' Terms of Reference;
- (c) the requirements of all applicable legislation relating to public sector procurement
- (d) all other relevant legislation.

### 2.2 Suspension of standing orders / Provisions relating to "Emergency" Contracts

These Standing Orders may be suspended by the Partnership or a relevant committee or set aside temporarily by the Chief Executive in the case of emergency where immediate action is required to protect the interests of the Partnership and the action is within the powers of the Partnership.

The Chief Executive is authorised to take such measures as may be required in emergency situations including without prejudice to the foregoing to enter into an emergency contract where such a contract would avert, alleviate or eradicate the effects or potential effects of an emergency or disaster (actual or potential) involving or likely to involve danger to life or health or serious damage to or destruction of property, but subject always to:

- (a) the requirement to advise the Chair of the Partnership at the earliest opportunity; and
- (b) the requirement to report the exercise of this power to the Partnership as soon as possible thereafter where the actions taken would ordinarily have been reported to the Partnership prior to the action being taken.



### **2.3 Reporting suspensions**

Any suspension of Standing Orders will be reported to the Partnership as soon as reasonably practicable with the reasons that justified the suspension of the Standing Orders.

## **3. SCOTTISH PUBLIC PROCUREMENT REGULATIONS**

### **3.1 Requirements in respect of Scottish Public Procurement Regulations**

The Scottish Public Procurement Regulations apply to the Partnership and they specify several methods by which the requirement to advertise and award contracts may be satisfied. The Procurement Section must be contacted for advice and guidance on which is appropriate and where necessary the Chief Executive will determine the procedure to be used.

### **3.2 Implications of Failure to Comply**

It is emphasised that a failure to adhere to the provisions of the above could result in the Partnership becoming subject to court action or enforcement action or to claims from potential contractors. Access to UK and/or European grant funding may also be adversely affected. Other implications could include adverse publicity, possible civil penalty or early cancellation/termination of any contract awarded.

### **3.3 Calculation of Contract Values (Goods, Works and Services)**

The value of any contract shall be calculated as the aggregated value of all anticipated expenditure for the goods, works or services covered under its terms for the entire contract duration including any proposed extension, with consideration to all previous expenditure and current contracts.

The anticipated value of any contract will determine the procedure and legal framework to be followed in terms of its procurement and its award.

### **3.4 Calculation of Contract Values (Franchises and Concession)**

Where the Partnership gives a contractor the right to deliver a service and/or to sell goods, the value of that contract shall be taken to be the total potential income that the contractor may accrue in delivering the services and/or selling the goods. Any sum paid to the Partnership by the contractor in connection with the contract shall be disregarded from this calculation.

### **3.5 Calculation of Contract Values (Mixed Procurements)**

The determining factor in ascertaining the appropriate procurement process and threshold in the case of a mixed procurement, will be which element in terms of goods, works or services which has the greater value.



## **4. USE OF CORPORATELY PROCURED CONTRACTS**

### **4.1 Arrangements for Cross Department Contracts**

Where specific items or services are used by a number of Departments, the Chief Executive will, if the demand so warrants, make specific arrangements with one or more suppliers for the provision of such goods or services. Any such arrangements will be subject to the tendering procedures laid out in Section 5 to 11. Any officer who purchases goods or services for which the Chief Executive has entered into a specific arrangement must use those arrangements to the extent set out in Financial Regulations.

## **5. PUBLICITY FOR TENDERS AND CONTRACTS**

### **5.1 Advertising of Tenders**

The Partnership is under a duty to ensure that in relation to each contract it intends to award, that each is exposed to the market in a manner which is sufficient to enable open competition and to meet the requirements of the principles of equal treatment, non-discrimination and transparency. Accordingly, the following procedures shall apply:

- (a) The obligation to offer contract opportunities in a manner described within in the Public Contracts (Scotland) Regulations in terms of this standing order applies to contracts with a value of £50,000.
- (b) The Public Contracts Scotland website must be used for all advertising, as per legislative requirements.
- (c) In addition to advertising on Public Contracts Scotland, the Chief Executive may choose to advertise the contract in any other way such as in trade journals or newspapers.
- (d) The Chief Executive shall ensure that the Partnership's own website contains links to all websites for advertising Partnership contracts.

## **6. PRE-TENDER REQUIREMENTS**

### **6.1 Sourcing Methodology**

- (a) A Sourcing Methodology detailing the pre-tender analysis, market research and decision-making processes will be completed for all procurement exercises in excess of £50,000, with the exception of those derived from existing internal Frameworks and Dynamic Purchasing Systems unless the Chief Executive deems that this work is necessary due to the high value and/or high risk of the contract being procured.
- (b) The Chief Executive will approve both the format and content of the Sourcing Methodology and will ensure that this is revised at regular intervals as necessary to take into consideration any legislative or other changes.





## **6.2 Contract Reference Number**

No quotations or tenders for goods, works or services with a value in excess of £5,000 shall be sought without a contract reference number having first been allocated. This reference shall be sought from Procurement in a manner approved by the Chief Executive.

## **6.3 Selection Criteria**

- (a) Procurement in conjunction with the Client department will set the selection criteria for any procurement exercise, taking account of all appropriate legislation. The selection criteria will be restricted to a measurement of the capability, qualification and capacity of the bidder only as defined within the Single Procurement Document (SPD), and be proportionate and relevant to the subject matter of the tender.
- (b) The selection criteria must be clearly stated within the Contract Notice, with the tender documentation also defining both this and the criteria to be applied when it is evaluated.

## **6.4 Award Criteria**

- (a) Procurement in conjunction with the Client department will set the award criteria for any procurement exercise, taking account of all appropriate legislation. The award criteria will be restricted to a measurement of how the bidder intends to deliver the requirement, and should specifically not repeat or re-evaluate in any way, the criteria previously measured at the selection stage, nor seek to evaluate any criteria which was deemed selection criteria but for any reason not previously measured.
- (b) The award criteria must be clearly set out within the tender documentation, as must the criteria for its evaluation, however there is no requirement to publish this in the Contract Notice.

## **6.5 Best Value Criteria**

No contract regardless of value will be awarded unless best value has been considered and served.

The award of any contract in excess of £50,000.00 in value will be on the basis of the most economically advantageous tender in terms of a combination of both Technical (Quality) and Commercial (Price) elements. The ratio of each of these elements shall be determined by Procurement and the Client Department, following due consideration of the market, risk, nature and value of each contract being tendered and in a manner approved by the Chief Executive.

## **6.6 Sustainable Procurement Duty**

- (a) The Partnership will, as appropriate, include sustainable elements in all procurement exercises in excess of £50,000.00. These elements may include whole life costing, mandated use of recycled or recyclable materials or the inclusion of sustainable working practices or similar. Any elements to be included will be detailed in the Sourcing Methodology and be embedded within the Specification.



- (b) The Partnership is committed to the delivery of high quality public services, and recognises that this is critically dependent on a workforce that is well-rewarded, well-motivated, well-led, diverse, has access to opportunities for training and skills development and is involved in decision making.

In order to ensure the highest standards of service quality we expect contractors to take a similarly positive approach to fair work practices as part of a fair and equitable employment and reward package. Bidders will be asked to provide details of the fair work practices embedded within their organisation as part of any procurement exercise in excess of £50,000, unless inclusion of this criteria is deemed inappropriate.

- (c) The Partnership shall seek to obtain community benefits through all procurement exercises in excess of £50,000 in value, in accordance with a methodology approved by the Chief Executive.
- (d) The Partnership shall seek to measure as appropriate the environmental reduction measures and carbon reduction practices/plans which its contractors have in place, and shall seek this information in all tenders in excess of £50,000.00 in value.

## **6.7 Arrangements for Electronic Tendering**

Where tenders are invited for contracts in excess of £5,000, bids should be submitted electronically via an e-procurement system approved by the Chief Executive. Hardcopy, faxed or emailed submissions, no matter when or where received shall not be accepted unless otherwise authorised by the Chief Executive.

## **7. TENDERING PROCEDURES - OPENING OF TENDERS**

### **7.1 Arrangements for Opening**

Bids will only be accessible by Procurement following the deadline set for the return of tenders. The bids will thereafter be opened by Procurement, and this action recorded automatically within the system.

The Qualification, Technical and Commercial elements as appropriate to each tender will be opened in sequence, and only when the evaluation of each individual element is complete will the next element be opened.

### **7.2 Recording of Tenders**

All tenders received will be recorded automatically on the system.

### **7.3 Confidentiality**

During the period between the opening and evaluation of tenders through to the award of contracts and the stage when the content becomes publicly known an absolute obligation of preserving confidentiality will rest with officers.



All officers involved in the production, evaluation or award of contracts of any value must certify that they have no actual or potential conflict of interest, either to Procurement in the case of contracts over £20,000 in value, or to their Line Manager where the value is less than £20,000.00. Any conflict of interests declared or identified that cannot be mitigated, will result in that officer being excluded from the process.

## **8. TENDERING PROCEDURES - LATE TENDERS**

### **8.1 Receipt after the time and date specified for receipt of tenders**

All tenders received after the time and date specified for the return of tenders to SPT, will only be accepted where the bidder can provide verifiable evidence from the provider of the electronic procurement system that there has been a provider system issue which directly prevented the submission of the bid by the date and time of return stated. Any bid made after the date and time of tender submission where this evidence cannot be provided, will be rejected.

## **9. TENDERING PROCEDURES – EVALUATION OF TENDERS INCLUDING CORRECTIONS, CLARIFICATIONS, AMENDMENTS AND CHECKING**

### **9.1 Arithmetical Checks**

Arithmetical checks will be limited to verification that the rates submitted and any extensions and totals pertaining to those rates have been correctly entered by the bidder. Rates and totals may only be corrected where an obvious error has been made and can be clearly seen without ambiguity from the information provided.

Procurement and the appropriate client department technical officer will examine all tenders for arithmetical errors, and any found shall be advised to the bidder through the clarification process. Only after the clarification process has been completed shall a revised tender price be accepted and the bid altered accordingly.

Where tenders are found to be abnormally low in relation to either the pre-tender cost estimate and/or in relation to all other bids, the bidder should be asked to provide a detailed breakdown of their bid to include all costs, overheads and profit together with a written explanation in order that an assessment be made as to its validity and short/long term sustainability. Any bid found following these checks to be invalid or unsustainable may be rejected and the bidder informed.

### **9.2 Clarifications**

Between the last date and time for the receipt of tenders and the date on which a decision is taken as to which, if any, tender is to be accepted, there may be a process of clarification in order to confirm or clarify the terms of the tender and any information within the bid which may be ambiguous. No entirely new information must be sought where the bidder has provided a clear and unambiguous response or where no response has been made to any part of the tender where the submission of new information may fundamentally affect the evaluation.



No information concerning any tender other than their own will be disclosed to the bidder. A full record will be retained of all such clarifications and held on the contract file.

### **9.3 Non-Arithmetical Checks**

All tenders will be examined for the purpose of evaluating technical and professional issues in order to establish the tender representing the best value for money in accordance/ compliance with the stated award criteria.

Furthermore, it is a recommended good practice that evaluation panels consist of no fewer than two officers although the actual number should be dependent on the value and complexity of the contract in question. Each officer should sign and date their evaluation scoring to strengthen the audit trail.

### **9.4 Post Tender Clarification/Negotiation (PTC/N)**

PTC/N as part of the competitive tendering process may be used to refine the bid(s) following evaluation from the preferred supplier(s) only, in order to ensure that prices, delivery or associated terms of the contract are competitive.

Competition must not be distorted by allowing a bidder not clearly ranked first after evaluation a chance to improve its offer. No changes should in addition be made which would result in a contract being awarded on terms more favourable to the bidder.

This process shall be undertaken by Procurement only and a full record must be retained of any negotiations and their outcomes and savings/benefits achieved in a format approved by the Chief Executive.

## **10. TENDER PROCEDURES - ACCEPTANCE**

### **10.1 Approval Thresholds**

On receipt of the appropriate documentary evidence, the following are authorised to approve the acceptance of tenders (i.e. authorise the issuing of contract award letters and/or Purchase Orders) on behalf of the Partnership:

- (a) Where the contract value does not exceed £50,000 and where it is proposed to accept the lowest priced quotation/tender, approval is per the Scheme of financial delegations
- (b) Where the contract value does not exceed £50,000 and it is proposed to accept a tender/quotation other than the lowest priced quotation/tender the Chief Executive must approve the award;
- (c) Where the contract value exceeds £50,000 but does not exceed £200,000 and the evaluation has been conducted on the basis of best value where both Price and Quality have been considered where it is proposed to accept a tender which is either the lowest price or where it is greater than the lowest priced tender by less than 10%), the Chief Executive, must approve the award;



- (d) Where the value of the contract exceeds £200,000 the Partnership or relevant committee must approve the award regardless of the outcome of the evaluation; and
- (e) Partnership or relevant Committee approval is also required for the formal appointment of contractors/suppliers/consultants to an SPT Framework Agreement or Dynamic Purchasing System (DPS). (i.e. the creation, variation, or renewal of an SPT Framework Agreement or DPS). With regards to the formal approval to award contracts from Frameworks or DPS – SPT or external – the financial thresholds are as outlined at Standing Orders 10.1 (a) to (d).

### **10.2 Acceptance Arrangements – Purchase Orders/Contract award letters**

Quotations/Tenders not exceeding £20,000 will be accepted by way of submitting a requisition to the Procurement Section – with copies of all relevant information including terms and conditions, quotations and/or single source form (appendix 5) attached, which in turn will be responsible for the subsequent issuing of an official purchase order to the supplier/contractor concerned). Unless otherwise exempt as defined by the Purchase Order and Payments Policy, a PO must be issued in all cases prior to the delivery of goods and the execution of services or works. Such acceptances are not to be issued until any necessary financial and technical clearances have been obtained.

Tenders for contracts in excess of £20,000 will be accepted by way of an Award Letter and a purchase order issued from the Procurement Section.

### **10.3 Financial and Technical Clearances**

No contract will be awarded unless authorised approvers as per 10.1 are satisfied as to the following:

- (a) as to the technical capability and the financial standing of the bidder;
- (b) that the tender provides best value for the Partnership; and
- (c) that sufficient budgetary provision has been approved by the Partnership for the contract.

### **10.4 Standstill period – Higher Regulated Contracts**

For Higher Regulated contracts no tender will be accepted until the mandatory 10 day contract standstill period has expired and no challenge has been received.

### **10.5 Reporting Arrangements**

The Chief Executive will arrange for all contracts accepted with an estimated value exceeding £5,000 to be publicly displayed on the Partnerships externally facing website. This will be in the form of a Register of Contracts awarded and will contain the following information:

- the name of the contract;
- the value of each contract awarded;
- the identity of the contractor to whom it was awarded;
- the date of award;
- the duration of the contract
- such other information (if any) as may be necessary to provide a proper summary of the contract awarded.

The Chief Executive will arrange for an Annual Procurement Report to be submitted to the Partnership for approval.

This report will be in the format and contain the content as described within the Procurement Reform Act (Scotland) 2014

## **11. TENDER PROCEDURES - CONTRACT DOCUMENTATION**

### **11.1 Contract Inclusions**

Every contract will be in writing and will include where appropriate as a minimum:

- (a) The purchase order number and/or Award Letter;
- (b) The bidder's offer;
- (c) The scope and specification of the required goods, works or services;
- (d) The price to be paid;
- (e) The time or times within which the contract is to be performed as;
- (f) Applicable Service Level Agreement; and
- (g) The conditions of contract applicable.

## **12. SINGLE SOURCE / NON-COMPETITIVE PROCUREMENT PROCEDURE**

### **12.1 Contracts greater than £5,000 and less than £50,000.00 in value**

Where it may be demonstrated that best value will be served by the appointment of a contractor without competition, then an award may be progressed provided that the value of the contract and the value of all aggregated contracts for the same commodity is less than £50,000.

Prior to any award being made, a Single Source Approval form (Appendix 5) must be completed and approved by the Chief Executive and submitted to Procurement for approval and recording.

### **12.2 Contracts equal to or greater than £50,000 in value**

Contracts may be awarded to a contractor without competition and following the Negotiated Procedure as defined within the Public Contracts (Scotland)



Regulations where either the value of the contract or the value of all aggregated contracts from the same commodity is greater than £50,000, and where any of the following circumstances are present:

- (a) where no tenders or no suitable tenders have been received following an Open or Restricted procedure having been observed.
- (b) where competition is absent for technical reasons and no other reasonable alternative exists
- (c) for reasons pertaining to the protection of exclusive or intellectual property rights
- (d) in circumstances of extreme urgency brought about by events that could not have been reasonably foreseen and could not have been influenced by the Partnership, where the timescales required for a standard procurement procedure cannot be complied with.
- (e) for supply contracts only, where a change in supplier would oblige the Partnership to obtain goods of a different characteristic which would result in incompatibility or disproportionate technical difficulties in their operation or maintenance from those presently supplied
- (f) where goods are being purchased from a supplier being wound up or directly from the liquidator, and are offered at particularly advantageous terms from those normally offered.

Where any of these circumstances exist, the applicable reason should be stated on the Negotiated Procedure Approval form (Appendix 5A) and authorisation sought from the Chief Executive then submitted to Procurement for approval and recording prior to the contract being formed.

### **12.3 Obligation to Publish Notices**

Where approval is granted at 12.2, a Contract Award Notice must be published within 30 days of contract award to notify this, either Scotland or UK wide as appropriate to its value.

### **12.4 Non-Procurement Contracts**

The following are examples of non-procurement contracts, where procurement regulations do not apply, however other relevant regulations will apply to the contracting of these services:

- (a) the contract relates to the transfer, acquisition, disposal or rental of land or an interest in heritable property including a licence to occupy or use heritable property;
- (b) it is a contract of employment or secondment;
- (c) purchase of media airtime, however not its content.
- (d) a contract between two Public Bodies, subject to the terms of the Scottish Procurement Regulations being met





- (e) provision of communications networks or services to the general public

### **12.5 Value for Money**

Where formal competitive tenders have not been sought, the Officer requisitioning goods or services must ensure that there is evidence retained in the contract file to show that good value for money has been obtained, and that the transaction has been carried out in the best interests of the Partnership.

### **12.6 Contracts not to be split**

Contracts or Purchase Orders must not be artificially split (i.e. disaggregated) in order to bring them below any relevant threshold, either Regulatory or otherwise defined within these Standing Orders.

## **13. ASSIGNATION AND SUB-CONTRACTING**

### **13.1 Prohibition of Assignations unless Written Approval given**

In every written contract for the execution of work or the supply of goods or services, a clause will be inserted which reflects the following:

“The Contractor is prohibited from transferring or assigning directly or indirectly, to any person or persons, any portion of the contract without the written permission of the Chief Executive. Sub-letting of any part(s) of the work, except to the extent authorised in writing by the Chief Executive is also prohibited.”

### **13.2 Arrangements for the appointment of nominated sub-contractors**

Where the contract provides for the appointment of a nominated sub-contractor, the name and address of the proposed sub-contractor must be submitted for approval by the Partnership prior to any appointment being made. The Partnership will reserve the right to accept or reject any sub-contractor and to require that an alternative be proposed for approval.

## **14. LIQUIDATED DAMAGES**

### **14.1 Contract Levels**

A contract which has been determined as having inherent risks whereas any delay in delivery may adversely affect the operation of the Partnership’s services, must provide for liquidated damages. The amount and the terms applicable in each such contract will be determined by the Chief Executive.

### **14.2 Claims against Liquidated Damages**

Where defined in the contract documents, if the completion of a contract is delayed or defaulted by the periods so defined it will be the duty of the Chief Executive to take appropriate action in respect of any claim for liquidated damage





## **15. PERFORMANCE BONDS**

### **15.1 Contract Levels**

Where a contract is for the execution of works or for the supply of goods, or services by a particular date or series of dates where risk has been identified, the Chief Executive will either certify that no such security is necessary or, in consultation with appropriate Officers, will specify in the conditions of tender the nature and amount of the security to be given. In the latter event, the Partnership will require and take a bond or other sufficient security for the due performance of the contract.

## **16. INDEMNITIES**

### **16.1 Scope**

Any contractor on entering into a contract with the Partnership will be required to indemnify the Partnership to levels defined by the Chief Executive, where applicable, against:

- (a) any claim which may be made in respect of Employers' Liability against the Partnership or the contractor by any workers employed by the contractor or any sub-contractor in the execution of the works; and
- (b) any claim for bodily injury or damage to property or third parties,
- (c) any claim covering the failure of the contractor to use the skill and care normally used by professionals providing the services described in the contract to a pre-defined level in respect of each claim, without limit to the number of claims.

## **17. SPECIFICATION AND STANDARDS**

### **17.1 Contracts to be based on a Defined Specification**

All quotations/tenders for the execution of works or the supply of goods or services will, except to the extent that the Partnership in a particular case or specified categories of contract otherwise decides, be based on a defined specification. The specification must be sufficiently detailed to enable the contractor to perform the contract and for the Partnership to be satisfied with the quality/quantity of that performance. See Appendices 1 to 4 for guidance purposes.

### **17.2 Standards**

All written contracts, where a specification issued by the British Standards Institution or the Agreement Board of the European Union is current at the date of the tender and is applicable, will require, as a minimum, that goods used in their execution will be in accordance with that or an equivalent specification.



## **18. PREVENTION OF COLLUSION AND FRAUD/CANCELLATION OF CONTRACTS**

### **18.1 Assurances that there has been no collusion**

Before entering into a contract, the Partnership will obtain from the contractor an assurance, in writing, that to the best of his knowledge and belief, neither he nor any person employed by him or acting on his behalf has practised collusion in the tender for this contract or any other contract with the Partnership.

### **18.2 Circumstances in which Contracts may be cancelled**

Clauses will be included in every contract to ensure that the Partnership will be entitled to cancel the contract and recover from the contractor the amount lost due to such cancellation.

The reasons for cancellation will be defined, particular to each contract and contract type, within their terms and conditions and be as a minimum in accordance with the "Exclusion Grounds" detailed at Regulation 58 of the Public Contracts (Scotland) Regulations 2015 or any update to these.

### **18.3 Cancellation/Termination of Contracts – General**

Contracts which require to be cancelled (or terminated) will be cancelled/terminated under the hand of the Chief Executive

Cancellation/Termination letters may only be issued in accordance with the applicable conditions of contract.

## **19. REGISTRATION OF INTERESTS**

### **19.1 Members' interests**

A Member (Councillor Member or Other Member) of the Partnership who has either a financial or non-financial interest in a contract which is being considered must declare an interest as soon as the interest becomes apparent and comply with the Members Code of Conduct in terms of the Ethical Standards in Public Life (Scotland) Act 2000.

### **19.2 Officers' interests**

- (a) If it comes to the knowledge of a person who is an employee of the Partnership that they have a direct or indirect pecuniary interest in a contract that is proposed to be offered to the market by the Partnership that person will give written notice of that fact to the Chief Executive who will keep a Register of all such interests.
- b) If a conflict has been declared the person in question must not engage in the creation, evaluation or approval of the tenders, or issue variations to the contract.

## 20. SUPERVISION OF CONTRACTS BY CONSULTANTS

### 20.1 Arrangements for Appointment

It is essential that the Partnership makes the best use of its resources. As such, consultants should be used sparingly, effectively and only where their use is unavoidable to deliver business objectives. The Scottish Government guidance on use of consultancy procedures defines 'consultancy' as including a wide range of professional services such as management consultancy, IT consultancy, financial consultancy, construction or infrastructure related consultancy, research and evaluation and policy development (including feasibility studies). It should be noted that the definition applies to the services which are being procured, not the name of the supplier or the supplier's own description of the service.

<http://www.gov.scot/Topics/Government/Procurement/buyer-information/standardformsanddocs/ConsultProc>

If external consultants are to be engaged, Procurement should:

- (a) verify that there is no alternative in-house resource available;
- (b) where consultants are utilised to assist in a tender process including its evaluation, that this is clearly stated within the tender documentation;
- (c) An associated business case has been completed and approved by the Chief Executive (the business case is still required even if the appointment makes use of a framework agreement); and
- (d) There is in place a process for monitoring and evaluating the output of the consultants.

For audit trail purposes, the appropriate form (Appendix 7 – Appointment of External Consultants) should be passed to the Chief Executive, for authorisation prior to the commencement of any tendering/ sourcing exercise).

It will be a condition of the engagement of the services of any architect, engineer, surveyor or other consultant (not being an Officer of the Partnership) who is to be responsible to the Partnership for the supervision of a contract on its behalf, that in relation to that contract they will:

- (e) act as an Officer of the Partnership;
- (f) at any time during the carrying out of the contract, produce to the Chief Executive on request, all relevant records or copies maintained in relation to the contract; and
- (g) on completion of a contract, transmit appropriate records or copies to the Chief Executive.



## **21. CONTRACT PAYMENTS AND OTHER PROVISIONS**

### **21.1 Contract Register**

The Partnership shall be responsible for publishing a contract register detailing all active contracts. This shall be published on the Partnership's website.

### **21.2 Contractors' Certificates**

Certificates for payment will be issued for payment after the application for payment has been validated by an authorised officer. The validation shall include ensuring all materials and labour applied for is accurate, and that the retention has been accrued. Any withholding advice notes must be issued to the contractor within 14 days upon receipt of the application for payment.

### **21.3 Variations/Modifications**

Subject to the provisions of the contract in each case every modification or variation will be authorised in writing by the Chief Executive. Letters to contractors (which affect the award price and/or contract payments) shall be issued by the Procurement Section on the instruction of the relevant client department (using Appendix 6) on the basis such variations can be contained within the approved budget. Variations which will result in a 'Significant' increase in the value of the contract should be approved in consultation with the Chief Executive.

Variations should not increase the total value of an existing contract by more than 50% unless provision for this has been clearly and unequivocally made within its terms. Proposed increases above this threshold should be considered as a new contract and dealt with in accordance with these Standing Orders.

For the avoidance of doubt all variations which cannot be contained within approved budgets require to be approved by the relevant committee.

### **21.4 Reporting of Variations/Modifications**

For contracts which had an original contract award price of more than £50,000 all such modifications or variations will be reported to the Partnership retrospectively on a 6 monthly basis if the cumulative effect of these is to increase or decrease the value of the contract by 50% of the award price.

### **21.5 Special Claims**

Claims from contractors in respect of matters not clearly within the terms of any existing contract will be referred to the Chief Executive for consideration of the Partnership's legal and financial liabilities before a settlement is reached.

## **22. EQUALITY POLICY**

### **22.1 Compliance with Legislation**

Before entering into a contract, the Partnership will obtain from the contractor an assurance, in writing, that to the best of their knowledge and belief:



- they comply with all statutory obligations in terms of the Equality Act 2010; and
- they comply to the fullest extent possible with the Equality and Human Rights Commission Codes of Practice on Employment and Equal Pay.

## **23. GOVERNING LAWS**

### **23.1 Contracts to be subject to Scots Law**

Except where otherwise agreed by the Chief Executive, all contracts entered into by the Partnership will be in writing and will be subject to Scots Law and to the exclusive jurisdiction of the Scottish Courts.

## **24. OBSERVANCE OF STANDING ORDERS RELATING TO CONTRACTS**

### **24.1 Responsibility of the Executive and Directors**

It will be the duty of the Chief Executive, to ensure that these Standing Orders Relating to Contracts are made known to the appropriate persons within their management control and to ensure that they are adhered to.

### **24.2 Breaches or Non-Compliance**

Any breach or non-compliance with these Standing Orders Relating to Contracts must, on discovery, be reported immediately to the Chief Executive who will determine the proper action to be taken.

## **25. REVIEW OF STANDING ORDERS RELATING TO CONTRACTS**

### **25.1 Variation**

These Standing Orders Relating to Contracts may be varied or revoked subject to a report by the Chief Executive on any variations and revocations being approved by the Partnership and, where it affects the interests of the Partnership. The Standing Orders Relating to Contracts will be reviewed no less frequently than biennially or as required to take into consideration any changes in the law

### **25.2 Practice Notes**

These Standing Orders Relating to Contracts may be supplemented by Practice Notes issued from time to time by the Chief Executive. Such Practice Notes will be reported to the Partnership for noting. The Practice Notes will be complied with as if they formed part of the Standing Orders Relating to Contracts.

## **26 CONTRACT EXTENSIONS**

### **26.1 Extension Procedures**

An existing contract may be extended where the intention to and the period/s of extension have been clearly described with the contract notice and tender documents. Extensions to contracts are however subject to the following provisions:

- (a) the financial stability of the contractor can be established
- (b) the performance of the contractor is satisfactory
- (c) that best value can be secured
- (d) if the extension is to be made in instalments, then those instalments were clearly described in the original tender documentation.
- (e) where the original tender was not advertised in the EU Journal/Find a Tender Services as applicable, and the value of the extension now takes the total value over the applicable threshold, then the extension cannot be awarded and a new procurement exercise will be required.

### **26.2 Extension Approval**

Any application to extend an existing contract must be made using the format and contain the information required by the Chief Executive.



**SUMMARY OVERVIEW OF SPT PROCUREMENT PROCEDURES – FOR GOODS, SUPPLIES, SERVICES AND WORKS CONTRACTS BASED ON STANDING ORDERS RELATING TO CONTRACTS (EXCLUDES SUBSIDISED LOCAL BUS SERVICES AND SCHOOL TRANSPORT CONTRACTS)**

VALUE OF CONTRACT/ORDER	OBTAINING QUOTES/TENDERING PROCEDURES	REQUISITIONS/PURCHASE ORDERS	APPROVAL THRESHOLDS TO ENABLE THE ISSUING OF CONTRACT AWARD LETTERS	AWARD OF CONTRACTS AND BEYOND
<p><b>Up to £5,000</b></p>	<p>Client department demonstrates best value</p> <p>Client departments are responsible for the proper evaluation of quotations as well as ensuring that there is no conflict of interest</p>	<p>Requisition input on FMS by Client Department (Requisitioners determined by DIRECTOR/HEAD OF DEPARTMENT).</p> <p>Requisition approved by nominated officer within client department (as per scheme of financial delegations) and then passed to Procurement Section.</p> <p>Purchase Order issued by Procurement Section.</p>	<p>No contract award letter</p>	<p>No formal contract award letters are issued</p> <p>Expediting of delivery of goods or services undertaken by Client Department. Delivery of goods/services should be receipted on FMS by client department when goods delivered.</p>
<p><b>£5,001 to £20,000</b></p>	<p>Client department obtains Contract Reference Number from Procurement then seeks to obtain a minimum of three quotations via an electronic procurement system, scanned copies of which will accompany the approved Requisition.</p> <p>(Alternative procedure is a single source quotation, and for which if valued at more than £5,000, an authorised Single Source</p>	<p>Requisition input on FMS by Client Department (Requisitioners determined by DIRECTOR/HEAD OF DEPARTMENT).</p> <p>Requisition approved by nominated officer within client department (as per the scheme of financial delegations and then passed to Procurement.</p> <p>Purchase Order issued by Procurement.</p>	<p>If quote is the lowest: as per the scheme of financial delegation</p> <p>If quote is not the lowest</p> <p>CHIEF EXECUTIVE must approve the award</p>	<p>No formal contract award letters are issued</p> <p>Expediting of delivery of goods or services undertaken by Client Department. Delivery of goods/services should be receipted on FMS by client department when goods delivered.</p>



VALUE OF CONTRACT/ORDER	OBTAINING QUOTES/TENDERING PROCEDURES	REQUISITIONS/PURCHASE ORDERS	APPROVAL THRESHOLDS TO ENABLE THE ISSUING OF CONTRACT AWARD LETTERS	AWARD OF CONTRACTS AND BEYOND
	<p>Approval form (Appendix 5) should accompany the approved requisition.</p> <p>Client departments are responsible for the proper evaluation of quotations as well as ensuring that there is no conflict of interest by the evaluation panel.</p>			



VALUE OF CONTRACT/ORDER	OBTAINING QUOTES/TENDERING PROCEDURES	REQUISITIONS/PURCHASE ORDERS	APPROVAL THRESHOLDS TO ENABLE THE ISSUING OF CONTRACT AWARD LETTERS	AWARD OF CONTRACTS AND BEYOND
<p><b>£20,001 to £50,000</b></p>	<p>Client department develops the specification and provides this to Procurement</p> <p>Quotation Exercise is undertaken by Procurement via an electronic procurement system</p> <p>Alternative procedure is a single source quotation, and for which if valued at more than £5,000, an authorised Single Source Approval form (Appendix 5) should accompany the approved requisition.</p> <p>Procurement are responsible for ensuring the client departments evaluate the tenders/quotations in a transparent and fair manner as well as ensuring that there is no conflict of interest by the evaluation panel.</p>	<p>Requisition input on FMS by Client Department (Requisitioners determined by DIRECTOR/HEAD OF DEPARTMENT).</p> <p>Requisition approved by nominated officer within client department (as per the Scheme of financial delegation) and then passed to Procurement</p> <p>Purchase Order issued and will be referred to in contract award letter issued by Procurement</p>	<p>If quote is the lowest: as per the scheme of financial delegation</p> <p>If quote is not the lowest CHIEF EXECUTIVE must approve the award</p>	<p>Contract award letter issued by Procurement. Rejection letters (which may include some background narrative) issued by Procurement to unsuccessful bidders inviting them to contact client departments direct should they require a de-brief</p> <p>Expediting of delivery of goods or services undertaken by Client Department. Delivery of goods/services should be receipted on FMS by client department when delivered.</p>

VALUE OF CONTRACT/ORDER	OBTAINING QUOTES/TENDERING PROCEDURES	REQUISITIONS/PURCHASE ORDERS	APPROVAL THRESHOLDS TO ENABLE THE ISSUING OF CONTRACT AWARD LETTERS	AWARD OF CONTRACTS AND BEYOND
<p><b>£50,000 to £200,000</b></p>	<p>Client Department develops the specification and provides this to Procurement. Tendering exercise is undertaken by Procurement</p> <p>The tender must be advertised on the Public Contracts Scotland Website where either an existing Framework or DPS is not being used.</p> <p>(Alternative procedure is a Negotiated Contract where suitable justification can be evidenced and noted on the Single Source Approval form, a scanned copy of which together with an Appendix 5A Form should accompany the approved requisition).</p> <p>Procurement is responsible for ensuring the client department evaluates the tenders in a transparent and fair manner as well as ensuring that there is no conflict of interest by the evaluation panel.</p>	<p>Requisition input on FMS by Client Department (Requisitioners determined by DIRECTOR/HEAD OF DEPARTMENT).</p> <p>Requisition approved by nominated officer within client department (as per the scheme of financial delegation) and then passed to Procurement.</p> <p>Purchase Order issued and will be referred to in contract award letter issued by Procurement.</p>	<p>If quote is the lowest: CHIEF EXECUTIVE</p> <p>If quote is not the lowest: Partnership or relevant committee</p>	<p>Contract award letter issued by Procurement. Rejection letters issued by Procurement to unsuccessful bidders detailing the strengths and weaknesses of the unsuccessful bid when compared to the winning bid</p> <p>Expediting of delivery of goods or services undertaken by Client Department. Delivery of goods/services should be receipted on FMS by client department when delivered.</p>

VALUE OF CONTRACT/ORDER	OBTAINING QUOTES/TENDERING PROCEDURES	REQUISITIONS/PURCHASE ORDERS	APPROVAL THRESHOLDS TO ENABLE THE ISSUING OF CONTRACT AWARD LETTERS	AWARD OF CONTRACTS AND BEYOND
<p><b>Over £200,000</b></p>	<p>Client Department develops the specification and provides this to Procurement. The most appropriate tendering procedure is undertaken by Procurement in accordance with applicable Regulations.</p> <p>Procurement is responsible for ensuring the client department evaluates the tenders in a transparent and fair manner as well as ensuring that there is no conflict of interest by the evaluation panel.</p>	<p>Requisition input on FMS by Client Department (Requisitioners determined by DIRECTOR/HEAD OF DEPARTMENT).</p> <p>Requisition approved by nominated officer within client department (approval as per the scheme of financial delegation) and then passed to Procurement.</p> <p>Purchase Order No. will be referred to in contract award letter issued by Procurement.</p> <p>Expediting of delivery of goods or services undertaken by Client Department.</p>	<p>PARTNERSHIP or relevant COMMITTEE.</p>	<p>Contract award letter issued by Procurement following confirmation of approval from the Partnership or committee</p> <p>Unsuccessful Standstill letters issued by Procurement to the unsuccessful bidders detailing the strengths and weaknesses of the unsuccessful bid against the winning bid. Unsuccessful bidders may be invited to a further debrief, but all can request a debrief</p> <p>Contract award letter is issued by Procurement following completion of the Standstill Period</p> <p>Expediting of delivery of goods or services undertaken by Client Department. (Delivery of goods/services should be receipted on FMS by client department in accordance with the pre-determined</p>



VALUE OF CONTRACT/ORDER	OBTAINING QUOTES/TENDERING PROCEDURES	REQUISITIONS/PURCHASE ORDERS	APPROVAL THRESHOLDS TO ENABLE THE ISSUING OF CONTRACT AWARD LETTERS	AWARD OF CONTRACTS AND BEYOND
				payment schedule or when goods delivered).

**APPENDICES TO SUMMARY PROCEDURES REFERRED TO:**

- Appendix 1 Tendering procedure for contracts up to and including £20,000.
- Appendix 2 Tendering procedure for contracts over £20,000 and up to and including £50,000.
- Appendix 3 Tendering procedure for contracts over £50,000 and up to and including £200,000.
- Appendix 4 Tendering procedure for contracts over £200,000.
- Appendix 5 Single Source Supply Form.
- Appendix 5A Negotiated Contract Form
- Appendix 6 Variation request form
- Appendix 7 Appointment of external consultants
- Appendix 8 Transport services Best Value Pro Forma
- Appendix 9 Scheme of Delegation



## **Strathclyde Partnership for Transport**

### **Appendices to Standing Orders Relating to Contracts**

## **APPENDIX 1**

### **PROCUREMENT PROCEDURE FOR CONTRACTS UP TO AND INCLUDING £20,000**

These are the procedures in place relating to the procurement of works, goods and services for contracts of an estimated value up to £20,000.

#### **1. Use of Corporate contracts or Frameworks**

- 1.1 Where suitable corporate contracts or framework agreements exist the client department will use these contracts/agreements unless justification can be provided for not doing so. Justification will be provided to Procurement prior to any order being placed.

#### **2. No Corporate Contract or Framework Exists**

Where no existing contract or framework exists and the estimated value of the contract is £20,000 or less taking account of any potential aggregated expenditure, the client department will obtain quotations using an electronic procurement system ensuring that they provide best value to SPT. Client Departments should seek to obtain a minimum of three quotations.

Aggregate expenditure will be taken to be the aggregate value of all goods, works or services of the same nature either previously or intended to be purchased by SPT within the financial year that the quotation is being sought.

At a minimum the client department will issue a specification/brief that will incorporate:

- 2.1 Information on exactly what is to be provided and how it is expected to be provided;
- 2.2 Details of the level of service to be provided including timescales for delivery of the goods and services; and
- 2.3 Suitable terms and conditions (and appropriate certificates) bearing in mind the nature of the services required.

#### **3. Process for accepting quotations**

- 3.1 The quotations received must be checked for arithmetical accuracy, ensuring that the quotation to be accepted offers SPT best value. (Evaluation criteria must be pre-determined).
- 3.2 The client departments will raise an electronic requisition (FMS) and forward same to the Procurement section including a copy of the quotation(s).

The requisition will provide at a minimum the following information:

- Details of the work being carried out;
- Date of when the work will commence (including the time or times within which the contract is to be performed);

- Details of price to be paid, together with any agreed payment structure including discounts or other deductions;
- Details of SPT contact; and
- Budget Code.

3.3 Where it is proposed that a single source quotation is required (and the value of the contract is greater than £5,000) the client department will complete the Single Source supply form (Appendix 5).

## **APPENDIX 2**

### **PROCUREMENT PROCEDURE FOR CONTRACTS OVER £20,000 UP TO AND INCLUDING £50,000 (WHERE NO SUITABLE CORPORATE CONTRACTS/Framework AGREEMENTS EXIST)**

**These are the procedures in place relating to the procurement of works, goods and services for contracts where the estimated aggregated value (over 48 months) is over £20,000 up to and including £50,000.**

**Unless otherwise agreed, all contracts of this value will be undertaken by Procurement.**

#### **1. Specification of the works, goods and services required**

- 1.1 The specification/brief must be in writing and contain sufficient detail to enable the contractor to perform the contract and for SPT to be satisfied with the quality/quantity of that performance.
- 1.2 At a minimum the specification/brief will incorporate:
  - 1.2.1 Information on exactly what is to be provided and how it is expected to be provided;
  - 1.2.2 Detail of future estimated requirements;
  - 1.2.3 details (if appropriate) of the structure of payment for the works/goods/services;
  - 1.2.4 Details of the level of service to be provided including timescales for delivery of the goods and services;
  - 1.2.5 Evaluation criteria to be established in consultation with the client department detailing the methodology to be utilised for the evaluation; and
  - 1.2.6 Suitable terms and conditions (and appropriate certificates) bearing in mind the nature of the services required.

#### **2. Process for Selecting Prospective Tenderers and Inviting Quotations/Tenders.**

- 2.1 All such contracts will be advertised in a form to be agreed by the client department in conjunction with the Procurement Section; or  
  
The client department and the Procurement Section will agree the number of companies who will be requested to respond to the brief provided that the number is no less than three.
- 2.2 Where it is proposed that a single source quotation is required the client department will complete the Single Source supply form (Appendix 5).
- 2.3 Where existing corporate or framework contracts exist Procurement will use these contracts unless justification can be provided for not doing so
- 2.4 Where the contracts are to be awarded on the basis of the most economically advantageous tender, the client department is required to submit the assessment criteria to the Procurement Section before the specification/brief will be issued.



- 2.5 The Procurement Section will forward the specification/brief to the tenderers and request that quotations are returned to the Procurement Section by a particular date and time using an approved electronic tendering tool.

### **3. Process for accepting written quotations**

- 3.1 All of the quotations received must be checked by Procurement and the client departments for arithmetical accuracy ensuring that the quotation to be accepted offers best value.
- 3.2 They will then be assessed against the predetermined criteria.

### **4. Approval and Acceptance**

- 4.1 The Contract will be approved and an award letter issued in line with the approvals thresholds contained within the Standing Orders Relating to Contract.
- 4.2 The client departments will raise an electronic requisition (FMS) and forward same to the Procurement section that will generate a purchase order.
- 4.3 The requisition will provide at a minimum the following information:
  - 4.3.1 Details of the requirement;
  - 4.3.2 Date of commencement;
  - 4.3.3 Details of price to be paid together with any agreed payment structure, including discounts or other deductions;
  - 4.3.4 Details of SPT contact;
  - 4.3.5 Details of the conditions of contract agreed; and
  - 4.3.6 Budget Code.

## **APPENDIX 3**

### **TENDERING PROCEDURE FOR CONTRACTS OVER £50,000 UP TO AND INCLUDING £200,000**

**These are the procedures in place relating to the procurement of works, goods and services for contracts of an estimated value of over £50,000 up to and including £200,000. In all cases these tenders will be undertaken by Procurement using a methodology in accordance with the applicable Regulations.**

#### **1. Specification of the works, goods and services required**

- 1.1 The specification/brief will be provided by the client service and contain sufficient detail to enable the contractor to perform the contract and for SPT to be satisfied with the quality/quantity of that performance.
- 1.2 At a minimum the specification/brief will incorporate:
  - 1.2.1 Information on exactly what is to be provided and how it is expected to be provided;
  - 1.2.2 Details (if appropriate) of the structure of payment for the works/goods/services;
  - 1.2.3 Details of the Service Level Agreement to be provided including timescales for delivery of the goods and services;
  - 1.2.4 Details of the sustainable solution/working practice/materials that will be adhered to by the bidder.

#### **2. Process for Selecting Prospective Tenderers, Inviting Tenders and Evaluating Same**

- 2.1 The client department and the Procurement Section will agree the tendering process.
  - 2.1.1 Where existing corporate or framework contracts exist the requirement will be procured through them unless justification can be provided for not using them. Justification will be provided to Procurement.
- 2.2 The following documentation will require to be in place prior to any tender being released and/or advert being posted.
  - 2.2.1 Agreed specification.
  - 2.2.2 Agreed tender evaluation criteria.
  - 2.2.3 Agreed Instructions to Tender
  - 2.3.4 Terms and Conditions

### **3. Process for accepting tenders**

- 3.1 All tenders received must be checked by the Procurement and Client departments for arithmetical accuracy.
- 3.2 They will then be assessed on financial and quality aspects of the tender (most economically advantageous tender).

### **4. Approval and Acceptance**

- 4.1 The Contract will be approved and issued in line with the approvals thresholds contained within the Standing Orders.
- 4.2 The client departments will either raise an electronic requisition (FMS) and forward same to procurement section who will generate a purchase order.
- 4.3 The requisition will provide at a minimum the following information:
  - 4.3.1 Details of the requirement;
  - 4.3.2 Date of commencement;
  - 4.3.3 Details of price to be paid together with any agreed payment structure, including discounts or other deductions;
  - 4.3.4 Details of SPT contact;
  - 4.3.5 Details of the conditions of contract agreed; and
  - 4.3.6 Budget Code.

## **APPENDIX 4**

### **TENDERING PROCEDURE FOR CONTRACTS OVER £200,000**

**These are the procedures in place relating to the procurement of works, goods and services for contracts of an estimated value of over £200,000. In all cases these tenders will be undertaken by Procurement using a methodology in accordance with the applicable Regulations.**

#### **1. Specification of the works, goods and services required**

- 1.1 The specification/brief will be provided by the client service and contain sufficient detail to enable the contractor to perform the contract and for SPT to be satisfied with the quality/quantity of that performance.
- 1.2 At a minimum the specification/brief will incorporate:
  - 1.2.1 Information on exactly what is to be provided and how it is expected to be provided;
  - 1.2.2 Details (if appropriate) of the structure of payment for the works/goods/services;
  - 1.2.3 Details of the Service Level Agreement to be provided including timescales for delivery of the goods and services;
  - 1.2.4 Details of the sustainable solution/working practice/materials that will be adhered to by the bidder.

#### **2. Process for Selecting Prospective Tenderers, Inviting Tenders and Evaluating Same**

- 2.1 The client department and the Procurement Section will agree the tendering process.
  - 2.1.1 Where existing corporate or framework contracts exist the requirement will be procured through them unless justification can be provided for not using them. Justification will be provided to Procurement.
- 2.2 The following documentation will require to be in place prior to any tender being released and/or advert being posted.
  - 2.2.1 Agreed specification.
  - 2.2.2 Agreed tender evaluation criteria.
  - 2.2.3 Agreed Instructions to Tender
  - 2.3.4 Terms and Conditions

### **3. Process for accepting tenders**

- 3.1 All tenders received must be checked by the Procurement and Client departments for arithmetical accuracy.
- 3.2 They will then be assessed on financial and quality aspects of the tender (most economically advantageous tender).

### **4. Approval and Acceptance**

- 4.1 The Contract will be approved and issued in line with the approvals thresholds contained within the Standing Orders, including the authorisation by Committee to proceed to award.
- 4.2 The client departments will either raise an electronic requisition (FMS) and forward same to procurement section who will generate a purchase order.
- 4.3 The requisition will provide at a minimum the following information:
  - 4.3.1 Details of the requirement;
  - 4.3.2 Date of commencement;
  - 4.3.3 Details of price to be paid together with any agreed payment structure, including discounts or other deductions;
  - 4.3.4 Details of SPT contact;
  - 4.3.5 Details of the conditions of contract agreed; and
  - 4.3.6 Budget Code.



**Appendix 5 to Standing Orders**

**Request for authority to approach a single contractor where costs between £5,000 and £50,000.**

**Standing Orders Relating to Contracts SO12**

**Contract name:** enter name of required purchase

**Estimated value:** value for whole contract period to be entered

**Contract period:** including any proposed contractual extension periods

**Proposed Contractor:** name of the proposed contractor

Goods/Services/Works Required
Background, current position and details of the requirement to be provided.
Explanation of why Quotations cannot be sought – Standing Order 12.1 (a)
Explanation of reasons that exist for not seeking competitive bids/quotes and of need to use a single contractor.
How does the proposed approach deliver Value for Money? – Standing Order 12.2
Detail what engagement has occurred with the proposed contractor and what value has been secured in terms of both price and/or quality.

<b>Requestor</b>	Person requesting to sign	<b>Date:</b>	
<b>Budget Holder Approval</b>		<b>Date:</b>	
<b>Procurement Approval</b>		<b>Date:</b>	
<b>Director of Finance Authorisation</b>		<b>Date:</b>	
<b>Contract Reference Number Allocated</b>			

This form and the exemption from competition it permits should only be used where the requirement can only be reasonably obtained from a single source, and it should not be used as a substitute for standard SPT procurement procedures where these can be adhered to.

Note that the form completed in draft is to be emailed to Procurement at [procurement@spt.co.uk](mailto:procurement@spt.co.uk), where it will be reviewed for compliance with Standing Orders before either being returned by Procurement to the sender for amendment/approval or submitted to the Director of Finance for authorisation.

All text in Red is advisory and should be removed before submission to Procurement.



**Appendix 5A to Standing Orders**

**Request for authority to approach a single contractor where costs over £50,000.  
Standing Orders Relating to Contracts SO12**

**All text in Red is advisory and should be removed before submission to Procurement.**

Note that the form completed in **draft** is to be emailed to Procurement at [procurement@spt.co.uk](mailto:procurement@spt.co.uk), where it will be reviewed for compliance with Standing Orders before either being returned by Procurement to the sender for amendment/approval or submitted to the Director of Finance for authorisation.

**Contract name:** enter name of required purchase/contract/project

**Estimated value:** value for whole contract period to be entered

**Contract period:** including any proposed contractual extension periods

**Proposed Contractor:** name of the proposed contractor

Goods/Services/Works Required
Background, current position and details of the requirement to be provided.
Regulatory Reasons that exist to support this Procurement and how they are applicable.
A full description of the circumstances where a procurement of this nature can be progressed without a tender is provided overleaf and should be copied here together with an explanation of how they specifically apply to this contract.
How does the proposed approach deliver Value for Money? – Standing Order 12.2
Detail what engagement has occurred with the proposed contractor and what value has been secured in terms of both price and/or quality.

<b>Requestor</b>	Person requesting to sign	<b>Date:</b>	
<b>Budget Holder Approval</b>		<b>Date:</b>	
<b>Procurement Approval</b>		<b>Date:</b>	
<b>Director of Finance Authorisation</b>		<b>Date:</b>	
<b>Contract Reference Number Allocated</b>			

**PTO**

This form and the exemption from competition it permits should only be used where the requirement meets one of the criteria stated overleaf and in no other circumstances, and it should not be used as a substitute for standard SPT procurement procedures where these can be adhered to.

A contract in excess of £50k can be progressed without a tender or competitive bids being sought in any of the following circumstances as defined by the Public Contracts Scotland Regulations.

- (a) where no tenders or no suitable tenders have been received following an Open or Restricted tendering procedure having been observed.
- (b)
- (c) where competition is absent for technical reasons and no other reasonable alternative exists
- (d)
- (e) for reasons pertaining to the protection of exclusive or intellectual property rights
- (f)
- (g) in circumstances of extreme urgency brought about by events that could not have been reasonably foreseen and could not have been influenced by the Partnership, where the timescales required for a standard procurement procedure cannot be complied with.
- (h) for supply contracts only, where a change in supplier would oblige the Partnership to obtain goods of a different characteristic which would result in incompatibility or disproportionate technical difficulties in their operation or maintenance from those presently supplied
- (i) where goods are being purchased from a supplier being wound up or directly from the liquidator, and are offered at particularly advantageous terms from those normally offered.

Note that any contract entered into in excess of £50k may require an Award Notice to be published Nationally to notify of this, and that the reasons provided on this form will be used as justification on this Notice.



**APPENDIX 6**

**Strathclyde Partnership for Transport – Procurement**

**FORM REQUESTING PROCUREMENT DEPARTMENT TO ISSUE A CONTRACT VARIATION LETTER (excludes 'Provision of Transport' Contracts)**

**From:** \_\_\_\_\_ **Designation:** \_\_\_\_\_  
(Name in Capitals)

**TO: Procurement Manager,**

Please arrange to issue a contract variation letter for the undernoted contract as detailed.

<b>1 Original Contract Title and File reference number and associated Purchase Requisition No.</b>
<b>2 Supplier/Contractor to whom the contract variation letter is to be issued.</b>
<b>3 Original value £</b>
<b>4 Current Variation Value £</b>
<b>5 Cumulative total variation value (all variations) Value £ and %</b>
<b>6 Details of variation to be inserted on to the formal contract variation letter (alternatively, a Change Control Note should be attached). (For any cost changes triggered by the contractor/ supplier, the associated revised quotation/written confirmation from them should also be attached).</b>
<b>7 In accordance with Standing Orders Relating to Contracts , authority to vary the contract has been obtained from:</b>
<b>Authorised Signature:</b> _____ <b>Date:</b> _____

**APPENDIX 7**

**APPOINTMENT OF EXTERNAL CONSULTANTS**

**FORM REQUESTING AUTHORISATION TO INITIATE TENDERING/SOURCING PROCEDURES FOR THE APPOINTMENT OF AN EXTERNAL CONSULTANT.**

To: \_\_\_\_\_

From (Name and Designation): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

I would be grateful if you would authorise the initiation of tendering/sourcing procedures in respect of the undernoted contract for the appointment of an external consultant.

<b>[1] CONTRACT TITLE (and estimated start date):</b>
<b>[2] ESTIMATED VALUE (for which budgetary approval must have been obtained):</b>
<b>[3] BUSINESS CASE FOR USING EXTERNAL CONSULTANTS (which must confirm that there is no alternative in-house resource available):</b>
<b>[4] PROPOSED TENDERING/SOURCING PROCEDURE</b>
(a) Is there an internal SPT Framework Agreement which <u>could</u> be utilised in this instance (e.g. Design and Technical Services Framework? (YES / NO)
(b) If YES, please identify the Framework (e.g. Design and Technical Services Framework) and <u>either</u> confirm that you propose to use that Framework <u>or</u> give an explanation as to why you don't intend to use that Framework.
(c) If an internal SPT Framework is not to be utilised (for whatever reasons) please indicate the proposed tendering/sourcing procedure (e.g. External Framework, seek three quotes or single source – the latter requiring the completion of an Appendix 5 form in due course).
<b>[5] BRIEF SUMMARY OF PROPOSED PROCESS FOR MONITORING AND EVALUATING THE OUTPUT OF CONSULTANTS:</b>

---

**AUTHORISATION TO PROCEED**

I hereby authorise the initiation of tendering/sourcing procedures in respect of the aforementioned contract [or variation to an existing contract] for the appointment of an external consultant.

**Name and Designation:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**NB This form should be returned to the originator who should forward a copy of same to the Procurement Section of the Finance Department at the appropriate point in the actual tendering/sourcing procedure. (ie If value is under £20,000 it should be attached to Requisition on FMS. If value is over £20,000 it should accompany E.O.I./Tender documentation sent to Procurement Section).**

## APPENDIX 8

### TRANSPORTATION SERVICES - BEST VALUE PRO FORMA FOR APPROVAL FOR DIRECT AWARD

#### **Register and Reporting**

All direct awards made in accordance with SPT's obligations to secure Best Value must be recorded & approved using the following Transportation Services - Best Value Pro Forma:

1	Contract Number	
2	Route detail	
3	Value of contract	
4	Start date	
5	End date	
6	Current service details: Operator, Value, route etc.	
7	Reason for recommended award of 'Best Value' contract	
8	Comparison with benchmark cost, using the tender price indicator model	
9	Consequences if contract is not awarded under the 'Best Value' regime including cost to end user of the service	
10	Recommendation	

**Approval Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **Direct Award Criteria in accordance with Best Value**

As a public body, SPT has an obligation to secure best value and ensure public funds are appropriately used. A contract may be considered for direct award without seeking offers in relation to the contract in accordance with Best Value in the following circumstances:

➤ ALL of the following conditions are fulfilled:

- 1) The contract is for transportation services only;
- 2) The contract value is below the lower of the regulated contract threshold as set out in the Procurement Reform (Scotland) 2014.
- 3) The contract is incapable of being aggregated with other contracts with the effect that the aggregate value would be equal to or greater than the lower of a) the regulated contract threshold as set out in the Procurement Reform (Scotland) 2014;
- 4) The contract cost is comparable to the SPT Tender Price Indicator model;
- 5) The contract cost per mile is comparable to similar existing operations;
- 6) There is a demonstrable benefit to the end user to proceeding by way of direct award in the particular circumstances;
- 7) The supply of the transportation services under the contract has been subject to adequate market testing current to within the last 3 months and direct award of a negotiated contract to the proposed supplier in the particular circumstances will be demonstrably advantageous to SPT; and
- 8) The maximum value of all contracts directly awarded by SPT without seeking offers in relation to the contracts shall be no greater than 20% of SPT's bus service subsidy budget in any one financial year.

### **And**

➤ ANY ONE of the following conditions are fulfilled:

- 1) the supply of the transportation services under the contract is, in SPT's view, required to meet an essential service requirement whose delivery is required immediately in the public interest; or
- 2) the exemption from the requirement to seek offers in relation to the contract is for a temporary period of no longer than one year and is necessary to allow the carrying out of a full competitive tendering exercise for the supply of the transportation services (subject to the need for the exemption not being attributable to any failure by SPT to act with due diligence and foresight).

**If a contract does not fulfil the abovementioned criteria for direct award in accordance with Best Value, then it shall be procured through the existing procurement processes for Schools & Local Subsidised Services.**

## **Conditions which will be attached to a contract directly awarded in accordance with Best Value:**

- a) Contracts will be awarded with a 2 months' notice of termination detailed within the Terms and Conditions, as they will be subject to change should the commercial timetables be reviewed by the companies concerned;
- b) Contracts will be reviewed on a yearly basis and will only be renewed if they can be seen to be still providing 'Best Value';
- c) Care will be taken to ensure fairness should the situation arise that more than one operator provides commercial services on a route; and
- d) All contracts will be entered into in compliance with SPT's Standing Orders for Contract.

### **Reporting**

Information relating to contracts awarded directly under Best Value in accordance with this Appendix 8 must be collated and reported to Committee.



Appendix 9

# **Strathclyde Partnership for Transport Scheme of Delegation Pertaining to Standing Orders Relating to Contracts May 2022**

Prepared by

Procurement  
131 St Vincent Street  
Glasgow G2 5JF



## Document Control

The document is always re-issued as a whole. The table of the previous and current issues is below:

Issue	Date	Remarks
1	May 2022	Issued by Kenny Govan





## 1. INTRODUCTION

The Standing Orders Relating to Contracts set out how the Partnership will invite bids and award contracts for the supply of goods, works and services. The purpose of the Standing Orders Relating to Contracts is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the law and the Partnership's policies.

This document details the Scheme of Delegation to these Standing Orders in respect of all aspects.

For the purpose of this document the following abbreviations are used:

Position	Abbreviation
Chief Executive of SPT	CE
Director of Finance and Corporate Support	DFCS
Director of Subway	DS
Head of Bus Strategy	HBS
Head of Service (any other)	HS
Manager (any)	M
Senior Solicitor	SS
Chief Accountant	CA



Standing Order Ref	Heading	Description	Delegated Authority
2.2	Compliance	Suspension of Standing Orders	DFCS
3.1	Scottish Regulations	Requirements of Regulations	DFCS
4.1	Corporate	Corporately Procured Contracts	DFCS
5.1(c)	Publicity	Advertising of Contracts	DFCS, DS, HBS
5.1 (d)	Publicity	Website Links to Advertising Portals	DFCS
6.1 (a)	Pre-Tender Requirements	Requirement for completion of a Sourcing Methodology where tender less than £50k	DFCS
6.1 (b)	Pre-Tender Requirements	Format and content of the Sourcing Methodology	DFCS
6.2	Pre-Tender Requirements	Format of the request for a Contract Reference	DFCS, CA
6.5	Pre-Tender Requirements	Methodology for calculation of Best Value ratios in tenders.	DFCS
6.6 (c)	Pre-Tender Requirements	Methodology for obtaining Community Benefits	DFCS
6.7	Pre-Tender Requirements	Setting aside the use of Electronic Procurement where contracts valued less than £50k	DFCS
9.4	Tendering Procedures	Format for the obligation to maintain a record of all post tender clarifications or negotiations and their outcomes.	DFCS
10.1 (c)	Tender Approval	Approval of a tender to the lowest price bidder where value is greater than £50k but less than £200k	DFCS, DS
10.1 (c)	Tender Approval	Approval of a tender where the price exceeds the lowest price bidder by less than 10%	DFCS
10.5	Tender Approval	Responsibility for the publication of a contracts register and the submission of the Annual Procurement Report to Partnership.	DFCS, CA
12.1	Single Source	Approval of contracts less than £50k without competition	DFCS, CA
12.2	Single Source	Approval of contracts greater than £50k without competition	DFCS
13.1	Assignment	Authority to approve the assignment of a contract	DFCS, DS, HBS
14.1	Liquidated Damaged	Value or Liquidated Damages to be included in tenders or contracts	DFCS, CA
14.2	Liquidated Damages	Claims for Liquidated Damages may be pursued by	DFCS, SS
15.1	Performance Bonds	Inclusion of Contract Performance bonds in tenders or contracts	DFCS, SS, DS, HBS
16.1	Indemnities	Insurance types and indemnity levels to be included in tenders and contracts	DFCS, CA, SS
18.3	Termination	The decision to terminate a contract shall be taken by.	DFCS, DS, HBS.



19.2	Registration of Interests	Recording of the declaration of an actual or perceived conflict of interest by on Officer involved in a tender or contract.	DFCS, CA
20.1(c)	Supervision of Consultants	Authority to appoint a consultant	DFCS
21.3	Contract Payments	Authority to authorise a variation or modification to an existing contract.	DFCS
21.5	Contract Payments	Authority to approve "special claims" for payments out-with the terms and conditions of any contract	DFCS
23.1	Governing Laws	Authority to enter into a contract not governed by Scots Law	DFCS, SS
24.1	Observance of Standing Orders	Duty to make Standing Orders known to and observed by all staff under their supervision.	DFCS, CA, DS, HBS, HS, M
24.2	Observance of Standing Orders	Breaches of Standing Orders to be reported to	DFCS,
25.2	Review of Standing Orders	Practice Notes will be compiled and issued by	DFCS, SS
26.2	Contract Extensions	Authority to extend a contract may be given by	DFCS



# **Code of Corporate Governance**



## **The Code of Corporate Governance for Strathclyde Partnership for Transport**

### **Introduction**

Corporate governance is the system used to direct, manage and monitor an organisation and enable it to relate to its external environment. The fundamental principles of corporate governance are openness, inclusion, integrity, accountability and effectiveness.

A local framework for application across the Partnership has been prepared based upon the CIPFA/SOLACE template. It is built around the five interlocking dimensions of corporate governance:

1. Community focus
2. Service delivery arrangements
3. Structures and processes
4. Risk management and internal control
5. Standards of conduct.

The Partnership's Corporate Governance Code of Conduct addresses the issues of openness, inclusion, integrity, accountability and effectiveness for each of the five dimensions by setting out a series of undertakings that SPT has committed itself to deliver.

### **The Partnership's Code of Corporate Governance**

#### **1. Community Focus**

- 1.1 The Partnership will publish on a timely basis, and as required by statute, an annual report presenting an objective, understandable account of:
- activities and achievements
  - financial position and performance
  - improvement targets

The report should include statements:

- explaining the Partnership's responsibilities for the financial statements
- confirming that the Partnership does comply with relevant standards and codes of corporate governance
- on the effectiveness of the Partnership's system for risk management and internal control
- on current performance in service delivery
- outlining plans to maintain and improve service quality.

- 1.2 The Partnership will put in place proper arrangements for the independent audit review of the financial and operational reporting processes.

- 1.3 The Partnership will put in place proper arrangements designed to encourage individuals and groups from all relevant sections of the community to engage with, contribute to and participate in the work of the Partnership and put in place appropriate monitoring processes to ensure that they continue to work in practice.

- 1.4 The Partnership will make an explicit commitment to openness in its dealings, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so, and by its actions and communications the Partnership will deliver an account against that commitment.
- 1.5 The Partnership will establish clear channels of communication with all relevant sections of their community and other stakeholders, and put in place proper monitoring arrangements to ensure that they operate effectively.
- 1.6 The Partnership will ensure that a vision for its local communities and its strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated.

## **2. Service Delivery Arrangements**

- 2.1 The Partnership will set standards and targets for performance in the delivery of services on a sustainable basis and with reference to economy, efficiency, effectiveness and equality policies to secure best value.
- 2.2 The Partnership will put in place sound systems for providing management information for performance measurement purposes.
- 2.3 The Partnership will monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans.
- 2.4 The Partnership will put in place arrangements to allocate resources according to priorities.
- 2.5 The Partnership will foster effective relationships with other public sector agencies and the private and voluntary sectors, and consider outsourcing, where it is efficient and effective to do so, in delivering services to meet the needs of the local community and put in place processes to ensure that they operate effectively in practice.
- 2.6 The Partnership will respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the effective implementation of agreed actions.

## **3. Structures and Processes**

- 3.1 The Partnership will continue to comply with documented protocols governing relationships between members and officers as required by statute. These protocols will include the Partnership's code of conduct for members.
- 3.2 Within the legislative provisions, The Partnership will ensure that the relative roles and responsibilities of the Partnership, Chair and Vice-Chairs, other members, secretary, directors and nominated officers are clearly defined.
- 3.3 The Partnership will ensure that members meet on a formal basis regularly to set a strategic direction and monitor service delivery.

- 3.4 The Partnership will develop and maintain a scheme of delegated powers which will include the terms of reference of committees. This will also include a formal schedule of those matters specifically reserved for the collective decision of members.
- 3.5 The Partnership will put in place clearly documented and understood processes for:
  - strategy development, implementation and review
  - policy determination and review
  - decision-making, monitoring and control and reporting
  - formal procedural and financial regulations to govern the conduct of the Partnership's business.
- 3.6 The Partnership will put in place arrangements to ensure that members are properly trained for their roles and have access to all relevant information, advice and resources as necessary to enable them to carry out their roles effectively.
- 3.7 The Partnership will ensure that the roles of the committee Chair and Vice-Chairs are formally defined in writing, to include responsibility for providing effective strategic leadership and for ensuring the successful discharge of their overall responsibilities for the activities of the organisation as a whole.
- 3.8 The Partnership will ensure that the roles and responsibilities of all members of the Partnership, together with the terms of their remuneration and its review, are defined clearly in writing.
- 3.9 The Partnership will continue to ensure that the Chief Executive is responsible for all aspects of operational and corporate management.
- 3.10 The Partnership will ensure that the proper officer (ACE (Business Support)) is made responsible to members and the Chief Executive for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts and for maintaining an effective system of internal financial control.
- 3.11 The Partnership will ensure that nominated officers are made responsible to the members to ensure that agreed procedures are followed and that all applicable statutes and regulations and other relevant statements of good practice are complied with.
- 3.12 The Partnership will ensure that senior officers are made responsible to the Chief Executive to ensure that agreed procedures are followed and that all applicable statutes and regulations and other relevant statements of good practice are complied with.
- 3.13 The Partnership will ensure that the roles and responsibilities of all employees, together with the terms of their remuneration and its review, are clearly defined in writing.

#### **4. Risk Management and Internal Control**

- 4.1 The Partnership will put in place effective risk management systems, including systems of internal control and an internal audit function. These arrangements will ensure compliance with all applicable statutes, regulations and relevant statements of best practice and that public funds are properly safeguarded and are used economically, efficiently and effectively, and in accordance with the statutory and other authorities that govern their use.
- 4.2 In line with its approved risk management policy, the Partnership will develop and maintain an objective overview of risk management systems including systems of internal control and its internal audit function.
- 4.3 The Partnership will develop and maintain robust systems for identifying and evaluating all significant risks which involve the proactive participation of all those associated with planning and delivering services.
- 4.4 The Partnership will ensure that services are delivered by trained and experienced people.
- 4.5 The Partnership will maintain an objective and professional relationship with external auditors and statutory inspectors.
- 4.6 The Partnership will publish on a timely basis, within the annual report, an objective, balanced and understandable statement and assessment of the risk management and internal control mechanisms and their effectiveness in practice.

#### **5. Standards of Conduct**

- 5.1 The Partnership will ensure its members' standard of personal behaviour is consistent with the members' code of conduct and will put in place appropriate systems and processes to ensure that it is complied with in practice.
- 5.2 The Partnership will develop and adopt a formal code of conduct defining the standards of personal behaviour to which individual officers and agents of the Partnership will be required to subscribe and will put in place appropriate systems and processes to ensure that they are complied with in practice.
- 5.3 The Partnership will put in place arrangements to ensure that its members and employees are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and will put in place appropriate processes to ensure that they continue to operate in practice.
- 5.4 The Partnership will put in place arrangements to ensure that its procedures and operations are designed in conformity with appropriate ethical standards in public life, and to monitor continuing compliance with them in practice.
- 5.5 The Partnership will put in place arrangements for whistle blowing to which staff, contractors and members of the public have access.



# Model Code of Conduct for Members of Devolved Public Bodies

7 December 2021

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**ANNEXES**

Annex A Breaches of the Code

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## SECTION 1: INTRODUCTION TO THE MODEL CODE OF CONDUCT

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1.1 This Code has been issued by the Scottish Ministers, with the approval of the Scottish Parliament, as required by the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(the “Act”\)](#).

1.2 The purpose of the Code is to set out the conduct expected of those who serve on the boards of public bodies in Scotland.

1.3 The Code has been developed in line with the nine key principles of public life in Scotland. The principles are listed in [Section 2](#) and set out how the provisions of the Code should be interpreted and applied in practice.

### **My Responsibilities**

1.4 I understand that the public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties. I will always seek to meet those expectations by ensuring that I conduct myself in accordance with the Code.

1.5 I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in all situations and at all times where I am acting as a board member of my public body, have referred to myself as a board member or could objectively be considered to be acting as a board member.

1.6 I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in all my dealings with the public, employees and fellow board members, whether formal or informal.

1.7 I understand that it is my personal responsibility to be familiar with the provisions of this Code and that I must also comply with the law and my public body’s rules, standing orders and regulations. I will also ensure that I am familiar with any guidance or advice notes issued by the Standards Commission for Scotland (“Standards Commission”) and my public body, and endeavour to take part in any training offered on the Code.

1.8 I will not, at any time, advocate or encourage any action contrary to this Code.

1.9 I understand that no written information, whether in the Code itself or the associated Guidance or Advice Notes issued by the Standards Commission, can provide for all circumstances. If I am uncertain about how the Code applies, I will seek advice from the Standards Officer of my public body, failing whom the Chair or Chief Executive of my public body. I note that I may also choose to seek external legal advice on how to interpret the provisions of the Code.

### **Enforcement**

1.10 [Part 2 of the Act](#) sets out the provisions for dealing with alleged breaches of the Code, including the sanctions that can be applied if the Standards Commission finds that there has been a breach of the Code. More information on how complaints are dealt with and the sanctions available can be found at [Annex A](#).

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## **SECTION 2: KEY PRINCIPLES OF THE MODEL CODE OF CONDUCT**

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2.1 The Code has been based on the following key principles of public life. I will behave in accordance with these principles and understand that they should be used for guidance and interpreting the provisions in the Code.

2.2 I note that a breach of one or more of the key principles does not in itself amount to a breach of the Code. I note that, for a breach of the Code to be found, there must also be a contravention of one or more of the provisions in sections 3 to 6 inclusive of the Code.

The key principles are:

### **Duty**

I have a duty to uphold the law and act in accordance with the law and the public trust placed in me. I have a duty to act in the interests of the public body of which I am a member and in accordance with the core functions and duties of that body.

### **Selflessness**

I have a duty to take decisions solely in terms of public interest. I must not act in order to gain financial or other material benefit for myself, family or friends.

### **Integrity**

I must not place myself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence me in the performance of my duties.

### **Objectivity**

I must make decisions solely on merit and in a way that is consistent with the functions of my public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

### **Accountability and Stewardship**

I am accountable to the public for my decisions and actions. I have a duty to consider issues on their merits, taking account of the views of others and I must ensure that my public body uses its resources prudently and in accordance with the law.

### **Openness**

I have a duty to be as open as possible about my decisions and actions, giving reasons for my decisions and restricting information only when the wider public interest clearly demands.

### **Honesty**

I have a duty to act honestly. I must declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

I have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of my public body and its members in conducting public business.

**Respect**

I must respect all other board members and all employees of my public body and the role they play, treating them with courtesy at all times. Similarly, I must respect members of the public when performing my duties as a board member.

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## **SECTION 3: GENERAL CONDUCT**

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### **Respect and Courtesy**

3.1 I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

3.2 I will not discriminate unlawfully on the basis of race, age, sex, sexual orientation, gender reassignment, disability, religion or belief, marital status or pregnancy/maternity; I will advance equality of opportunity and seek to foster good relations between different people.

3.3 I will not engage in any conduct that could amount to bullying or harassment (which includes sexual harassment). I accept that such conduct is completely unacceptable and will be considered to be a breach of this Code.

3.4 I accept that disrespect, bullying and harassment can be:

- a) a one-off incident,
- b) part of a cumulative course of conduct; or
- c) a pattern of behaviour.

3.5 I understand that how, and in what context, I exhibit certain behaviours can be as important as what I communicate, given that disrespect, bullying and harassment can be physical, verbal and non-verbal conduct.

3.6 I accept that it is my responsibility to understand what constitutes bullying and harassment and I will utilise resources, including the Standards Commission's guidance and advice notes, my public body's policies and training material (where appropriate) to ensure that my knowledge and understanding is up to date.

3.7 Except where it is written into my role as Board member, and / or at the invitation of the Chief Executive, I will not become involved in operational management of my public body. I acknowledge and understand that operational management is the responsibility of the Chief Executive and Executive Team.

3.8 I will not undermine any individual employee or group of employees, or raise concerns about their performance, conduct or capability in public. I will raise any concerns I have on such matters in private with senior management as appropriate.

3.9 I will not take, or seek to take, unfair advantage of my position in my dealings with employees of my public body or bring any undue influence to bear on employees to take a certain action. I will not ask or direct employees to do something which I know, or should reasonably know, could compromise them or prevent them from undertaking their duties properly and appropriately.

3.10 I will respect and comply with rulings from the Chair during meetings of:

- a) my public body, its committees; and
- b) any outside organisations that I have been appointed or nominated to by

my public body or on which I represent my public body.

3.11 I will respect the principle of collective decision-making and corporate responsibility. This means that once the Board has made a decision, I will support that decision, even if I did not agree with it or vote for it.

### **Remuneration, Allowances and Expenses**

3.12 I will comply with the rules, and the policies of my public body, on the payment of remuneration, allowances and expenses.

### **Gifts and Hospitality**

3.13 I understand that I may be offered gifts (including money raised via crowdfunding or sponsorship), hospitality, material benefits or services (“gift or hospitality”) that may be reasonably regarded by a member of the public with knowledge of the relevant facts as placing me under an improper obligation or being capable of influencing my judgement.

3.14 I will never **ask for** or **seek** any gift or hospitality.

3.15 I will refuse any gift or hospitality, unless it is:

- a) a minor item or token of modest intrinsic value offered on an infrequent basis;
- b) a gift being offered to my public body;
- c) hospitality which would reasonably be associated with my duties as a board member; or
- d) hospitality which has been approved in advance by my public body.

3.16 I will consider whether there could be a reasonable perception that any gift or hospitality received by a person or body connected to me could or would influence my judgement.

3.17 I will not allow the promise of money or other financial advantage to induce me to act improperly in my role as a board member. I accept that the money or advantage (including any gift or hospitality) does not have to be given to me directly. The offer of monies or advantages to others, including community groups, may amount to bribery, if the intention is to induce me to improperly perform a function.

3.18 I will never accept any gift or hospitality from any individual or applicant who is awaiting a decision from, or seeking to do business with, my public body.

3.19 If I consider that declining an offer of a gift would cause offence, I will accept it and hand it over to my public body at the earliest possible opportunity and ask for it to be registered.

3.20 I will promptly advise my public body’s Standards Officer if I am offered (but refuse) any gift or hospitality of any significant value and / or if I am offered any gift or hospitality from the same source on a repeated basis, so that my public body can

monitor this.

3.21 I will familiarise myself with the terms of the [Bribery Act 2010](#), which provides for offences of bribing another person and offences relating to being bribed.



## **Confidentiality**

3.22 I will not disclose confidential information or information which should reasonably be regarded as being of a confidential or private nature, without the express consent of a person or body authorised to give such consent, or unless required to do so by law. I note that if I cannot obtain such express consent, I should assume it is not given.

3.23 I accept that confidential information can include discussions, documents, and information which is not yet public or never intended to be public, and information deemed confidential by statute.

3.24 I will only use confidential information to undertake my duties as a board member. I will not use it in any way for personal advantage or to discredit my public body (even if my personal view is that the information should be publicly available).

3.25 I note that these confidentiality requirements do not apply to protected whistleblowing disclosures made to the prescribed persons and bodies as identified in statute.

## **Use of Public Body Resources**

3.26 I will only use my public body's resources, including employee assistance, facilities, stationery and IT equipment, for carrying out duties on behalf of the public body, in accordance with its relevant policies.

3.27 I will not use, or in any way enable others to use, my public body's resources:

- a) imprudently (without thinking about the implications or consequences);
- b) unlawfully;
- c) for any political activities or matters relating to these; or
- d) improperly.

## **Dealing with my Public Body and Preferential Treatment**

3.28 I will not use, or attempt to use, my position or influence as a board member to:

- a) improperly confer on or secure for myself, or others, an advantage;
- b) avoid a disadvantage for myself, or create a disadvantage for others or
- c) improperly seek preferential treatment or access for myself or others.

3.29 I will avoid any action which could lead members of the public to believe that preferential treatment or access is being sought.

3.30 I will advise employees of any connection, as defined at [Section 5](#), I may have to a matter, when seeking information or advice or responding to a request for information or advice from them.

## **Appointments to Outside Organisations**

3.31 If I am appointed, or nominated by my public body, as a member of another body or organisation, I will abide by the rules of conduct and will act in the best interests of that body or organisation while acting as a member of it. I will also continue to observe the rules of this Code when carrying out the duties of that body or organisation.

3.32 I accept that if I am a director or trustee (or equivalent) of a company or a charity, I will be responsible for identifying, and taking advice on, any conflicts of interest that may arise between the company or charity and my public body.

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## SECTION 4: REGISTRATION OF INTERESTS

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4.1 The following paragraphs set out what I have to register when I am appointed and whenever my circumstances change. The register covers my current term of appointment.

4.2 I understand that regulations made by the Scottish Ministers describe the detail and timescale for registering interests; including a requirement that a board member must register their registrable interests within one month of becoming a board member, and register any changes to those interests within one month of those changes having occurred.

4.3 The interests which I am required to register are those set out in the following paragraphs. Other than as required by paragraph 4.23, I understand it is not necessary to register the interests of my spouse or cohabitee.

### **Category One: Remuneration**

4.4 I will register any work for which I receive, or expect to receive, payment. I have a registrable interest where I receive remuneration by virtue of being:

- a) employed;
- b) self-employed;
- c) the holder of an office;
- d) a director of an undertaking;
- e) a partner in a firm;
- f) appointed or nominated by my public body to another body; or
- g) engaged in a trade, profession or vocation or any other work.

4.5 I understand that in relation to 4.4 above, the amount of remuneration does not require to be registered. I understand that any remuneration received as a board member of this specific public body does not have to be registered.

4.6 I understand that if a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under Category Two, "Other Roles".

4.7 I must register any allowances I receive in relation to membership of any organisation under Category One.

4.8 When registering employment as an employee, I must give the full name of the employer, the nature of its business, and the nature of the post I hold in the organisation.

4.9 When registering remuneration from the categories listed in paragraph 4.4 (b) to (g) above, I must provide the full name and give details of the nature of the business, organisation, undertaking, partnership or other body, as appropriate. I recognise that some other employments may be incompatible with my role as board member of my public body in terms of paragraph [6.7](#) of this Code.



4.10 Where I otherwise undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and how often it is undertaken.

4.11 When registering a directorship, it is necessary to provide the registered name and registered number of the undertaking in which the directorship is held and provide information about the nature of its business.

4.12 I understand that registration of a pension is not required as this falls outside the scope of the category.

### **Category Two: Other Roles**

4.13 I will register any unremunerated directorships where the body in question is a subsidiary or parent company of an undertaking in which I hold a remunerated directorship.

4.14 I will register the registered name and registered number of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which I am a director and from which I receive remuneration.

### **Category Three: Contracts**

4.15 I have a registerable interest where I (or a firm in which I am a partner, or an undertaking in which I am a director or in which I have shares of a value as described in paragraph 4.20 below) have made a contract with my public body:

- a) under which goods or services are to be provided, or works are to be executed; and
- b) which has not been fully discharged.

4.16 I will register a description of the contract, including its duration, but excluding the value.

### **Category Four: Election Expenses**

4.17 If I have been elected to my public body, then I will register a description of, and statement of, any assistance towards election expenses relating to election to my public body.

### **Category Five: Houses, Land and Buildings**

4.18 I have a registrable interest where I own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of my public body.

4.19 I accept that, when deciding whether or not I need to register any interest I have in houses, land or buildings, the test to be applied is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as being so significant that it could potentially affect my responsibilities to my public body and to the public, or could influence my actions, speeches or decision-making.

#### **Category Six: Interest in Shares and Securities**

4.20 I have a registerable interest where:

- a) I own or have an interest in more than 1% of the issued share capital of the company or other body; or
- b) Where, at the relevant date, the market value of any shares and securities (in any one specific company or body) that I own or have an interest in is greater than £25,000.

#### **Category Seven: Gifts and Hospitality**

4.21 I understand the requirements of paragraphs 3.13 to 3.21 regarding gifts and hospitality. As I will not accept any gifts or hospitality, other than under the limited circumstances allowed, I understand there is no longer the need to register any.

#### **Category Eight: Non-Financial Interests**

4.22 I may also have other interests and I understand it is equally important that relevant interests such as membership or holding office in other public bodies, companies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described. In this context, I understand non-financial interests are those which members of the public with knowledge of the relevant facts might reasonably think could influence my actions, speeches, votes or decision-making in my public body (this includes its Committees and memberships of other organisations to which I have been appointed or nominated by my public body).

#### **Category Nine: Close Family Members**

4.23 I will register the interests of any close family member who has transactions with my public body or is likely to have transactions or do business with it.

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## **SECTION 5: DECLARATION OF INTERESTS**

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### **Stage 1: Connection**

5.1 For each particular matter I am involved in as a board member, I will first consider whether I have a connection to that matter.

5.2 I understand that a connection is any link between the matter being considered and me, or a person or body I am associated with. This could be a family relationship or a social or professional contact.

5.3 A connection includes anything that I have registered as an interest.

5.4 A connection does not include being a member of a body to which I have been appointed or nominated by my public body as a representative of my public body, unless:

- a) The matter being considered by my public body is quasi-judicial or regulatory; or
- b) I have a personal conflict by reason of my actions, my connections or my legal obligations.

### **Stage 2: Interest**

5.5 I understand my connection is an interest that requires to be declared where the objective test is met – that is where a member of the public with knowledge of the relevant facts would reasonably regard my connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision-making.

### **Stage 3: Participation**

5.6 I will declare my interest as early as possible in meetings. I will not remain in the meeting nor participate in any way in those parts of meetings where I have declared an interest.

5.7 I will consider whether it is appropriate for transparency reasons to state publicly where I have a connection, which I do not consider amounts to an interest.

5.8 I note that I can apply to the Standards Commission and ask it to grant a dispensation to allow me to take part in the discussion and decision-making on a matter where I would otherwise have to declare an interest and withdraw (as a result of having a connection to the matter that would fall within the objective test). I note that such an application must be made in advance of any meetings where the dispensation is sought and that I cannot take part in any discussion or decision-making on the matter in question unless, and until, the application is granted.

5.9 I note that public confidence in a public body is damaged by the perception that decisions taken by that body are substantially influenced by factors other than the public interest. I will not accept a role or appointment if doing so means I will have to declare interests frequently at meetings in respect of my role as a board member. Similarly, if any appointment or nomination to another body would give rise

to objective concern because of my existing personal involvement or affiliations, I will not accept the appointment or nomination.



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## SECTION 6: LOBBYING AND ACCESS

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6.1 I understand that a wide range of people will seek access to me as a board member and will try to lobby me, including individuals, organisations and companies. I must distinguish between:

- a) any role I have in dealing with enquiries from the public;
- b) any community engagement where I am working with individuals and organisations to encourage their participation and involvement, and;
- c) lobbying, which is where I am approached by any individual or organisation who is seeking to influence me for financial gain or advantage, particularly those who are seeking to do business with my public body (for example contracts/procurement).

6.2 In deciding whether, and if so how, to respond to such lobbying, I will always have regard to the objective test, which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard my conduct as being likely to influence my, or my public body's, decision-making role.

6.3 I will not, in relation to contact with any person or organisation that lobbies, do anything which contravenes this Code or any other relevant rule of my public body or any statutory provision.

6.4 I will not, in relation to contact with any person or organisation that lobbies, act in any way which could bring discredit upon my public body.

6.5 If I have concerns about the approach or methods used by any person or organisation in their contacts with me, I will seek the guidance of the Chair, Chief Executive or Standards Officer of my public body.

6.6 The public must be assured that no person or organisation will gain better access to, or treatment by, me as a result of employing a company or individual to lobby on a fee basis on their behalf. I will not, therefore, offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that which I accord any other person or organisation who lobbies or approaches me. I will ensure that those lobbying on a fee basis on behalf of clients are not given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming.

6.7 Before taking any action as a result of being lobbied, I will seek to satisfy myself about the identity of the person or organisation that is lobbying and the motive for lobbying. I understand I may choose to act in response to a person or organisation lobbying on a fee basis on behalf of clients but it is important that I understand the basis on which I am being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code and the [Lobbying \(Scotland\) Act 2016](#).

6.8 I will not accept any paid work:

- a) which would involve me lobbying on behalf of any person or organisation or any clients of a person or organisation.
- b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence my public body and its members. This does not prohibit me from being remunerated for activity which may arise because of, or relate to, membership of my public body, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

## ANNEX A: BREACHES OF THE CODE

### Introduction

1. [The Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (“the Act”) provided for a framework to encourage and, where necessary, enforce high ethical standards in public life.
2. The Act provided for the introduction of new codes of conduct for local authority councillors and members of relevant public bodies, imposing on councils and relevant public bodies a duty to help their members comply with the relevant code.
3. The Act and the subsequent Scottish Parliamentary Commissions and Commissioners etc. Act 2010 established the [Standards Commission for Scotland](#) (“Standards Commission”) and the post of [Commissioner for Ethical Standards in Public Life in Scotland](#) (“ESC”).
4. The Standards Commission and ESC are separate and independent, each with distinct functions. Complaints of breaches of a public body’s Code of Conduct are investigated by the ESC and adjudicated upon by the Standards Commission.
5. The first Model Code of Conduct came into force in 2002. The Code has since been reviewed and re-issued in 2014. The 2021 Code has been issued by the Scottish Ministers following consultation, and with the approval of the Scottish Parliament, as required by the Act.

### Investigation of Complaints

6. The ESC is responsible for investigating complaints about members of devolved public bodies. It is not, however, mandatory to report a complaint about a potential breach of the Code to the ESC. It may be more appropriate in some circumstances for attempts to be made to resolve the matter informally at a local level.
7. On conclusion of the investigation, the ESC will send a report to the Standards Commission.

### Hearings

8. On receipt of a report from the ESC, the Standards Commission can choose to:
  - Do nothing;
  - Direct the ESC to carry out further investigations; or
  - Hold a Hearing.
9. Hearings are held (usually in public) to determine whether the member concerned has breached their public body’s Code of Conduct. The Hearing Panel comprises of three members of the Standards Commission. The ESC will present evidence and/or make submissions at the Hearing about the investigation and any conclusions as to whether the member has contravened

the Code. The member is entitled to attend or be represented at the Hearing and can also present evidence and make submissions. Both parties can call witnesses. Once it has heard all the evidence and submissions, the Hearing Panel will make a determination about whether or not it is satisfied, on the balance of probabilities, that there has been a contravention of the Code by the member. If the Hearing Panel decides that a member has breached their public body's Code, it is obliged to impose a sanction.

## Sanctions

10. The sanctions that can be imposed following a finding of a breach of the Code are as follows:

- **Censure:** A censure is a formal record of the Standards Commission's severe and public disapproval of the member concerned.
- **Suspension:** This can be a full or partial suspension (for up to one year). A full suspension means that the member is suspended from attending all meetings of the public body. Partial suspension means that the member is suspended from attending some of the meetings of the public body. The Commission can direct that any remuneration or allowance the member receives as a result of their membership of the public body be reduced or not paid during a period of suspension.
- **Disqualification:** Disqualification means that the member is removed from membership of the body and disqualified (for a period not exceeding five years), from membership of the body. Where a member is also a member of another devolved public body (as defined in the Act), the Commission may also remove or disqualify that person in respect of that membership. Full details of the sanctions are set out in section 19 of the Act.

## Interim Suspensions

11. Section 21 of the Act provides the Standards Commission with the power to impose an interim suspension on a member on receipt of an interim report from the ESC about an ongoing investigation. In making a decision about whether or not to impose an interim suspension, a Panel comprising of three Members of the Standards Commission will review the interim report and any representations received from the member and will consider whether it is satisfied:

- That the further conduct of the ESC's investigation is likely to be prejudiced if such an action is not taken (for example if there are concerns that the member may try to interfere with evidence or witnesses); or
- That it is otherwise in the public interest to take such a measure. A policy outlining how the Standards Commission makes any decision under Section 21 and the procedures it will follow in doing so, should any such a report be received from the ESC can be found [here](#).

12. The decision to impose an interim suspension is not, and should not be seen as, a finding on the merits of any complaint or the validity of any allegations against a member of a devolved public body, nor should it be viewed as a disciplinary measure.

## ANNEX B: DEFINITIONS

**“Bullying”** is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted.

**"Chair"** includes Board Convener or any other individual discharging a similar function to that of a Chair or Convener under alternative decision-making structures.

**“Code”** is the code of conduct for members of your devolved public body, which is based on the Model Code of Conduct for members of devolved public bodies in Scotland.

**"Cohabitee"** includes any person who is living with you in a relationship similar to that of a partner, civil partner, or spouse.

**“Confidential Information”** includes:

- any information passed on to the public body by a Government department (even if it is not clearly marked as confidential) which does not allow the disclosure of that information to the public;
- information of which the law prohibits disclosure (under statute or by the order of a Court);
- any legal advice provided to the public body; or
- any other information which would reasonably be considered a breach of confidence should it be made public.

**"Election expenses"** means expenses incurred, whether before, during or after the election, on account of, or in respect of, the conduct or management of the election.

**“Employee”** includes individuals employed:

- directly by the public body;
- as contractors by the public body, or
- by a contractor to work on the public body’s premises.

**“Gifts”** a gift can include any item or service received free of charge, or which may be offered or promised at a discounted rate or on terms not available to the general public. Gifts include benefits such as relief from indebtedness, loan concessions, or provision of property, services or facilities at a cost below that generally charged to members of the public. It can also include gifts received directly or gifts received by any company in which the recipient holds a controlling interest in, or by a partnership of which the recipient is a partner.

**“Harassment”** is any unwelcome behaviour or conduct which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable. Harassment can be experienced directly or indirectly and can occur as an isolated incident or as a course of persistent behaviour.

**“Hospitality”** includes the offer or promise of food, drink, accommodation, entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.

**“Relevant Date”** Where a board member had an interest in shares at the date on which the member was appointed as a member, the relevant date is – (a) that date; and (b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

**“Public body”** means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

**“Remuneration”** includes any salary, wage, share of profits, fee, other monetary benefit or benefit in kind.

**“Securities”** a security is a certificate or other financial instrument that has monetary value and can be traded. Securities includes equity and debt securities, such as stocks bonds and debentures.

**“Undertaking”** means:

- a) a body corporate or partnership; or
- b) an unincorporated association carrying on a trade or business, with or without a view to a profit.



INTEGRITY IN PUBLIC LIFE

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# MODEL CODE OF CONDUCT GUIDANCE

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7 DECEMBER 2021

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# GUIDANCE ON THE MODEL CODE OF CONDUCT

## SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

The Model Code of Conduct (Code) required by the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) was most recently reviewed and re-issued in 2021. It sets out the principles and rules governing the conduct of members of devolved public bodies. Your public body's code of conduct is based on this Code. Therefore, all subsequent references to the Code in this Guidance should be understood as references to the Code as adopted by your public body. A copy of the Model Code can be found at: <https://www.standardscommissionscotland.org.uk/codes-of-conduct/members-model-code-of-conduct>.

This Guidance has been produced by The Standards Commission for Scotland (Standards Commission) and contains case illustrations (some of which are based on cases from Scotland, Northern Ireland and Wales, and some of which are hypothetical) and examples of factors that members of devolved public bodies (members) may wish to consider when applying the requirements of the Code. In cases where a provision of the Code mirrors that contained in the Councillors' Code of Conduct, examples of complaints concerning councillors have been included.

Members should be mindful, when seeking to apply the Code to their own situation or circumstances, that the lists of factors in the Guidance and examples provided are not exhaustive. All members have a personal responsibility to ensure that they comply with the provisions of the Code.

While members should observe any guidance from the Standards Commission, it is not a substitute for the Code. The purpose of the Guidance is to provide supplementary information to aid members in interpreting the Code. **Members are, therefore, obliged to ensure they have read and understood the provisions of the Code itself. Reading the Guidance should, in no way, be considered a substitute for doing so.**

This document is a standalone version of the Guidance, without the Code embedded. It is intended to provide easy access to the Guidance itself.

The Standards Commission will continue to review the Guidance on a regular basis to ensure it is relevant and fit for purpose. As such, any feedback, comments, suggestions for improvements and further hypothetical cases are welcome.

### Guidance

- 1 The Code, on which your public body's code is based, was approved by the Scottish Parliament and issued on 7 December 2021.
- 2 This Guidance is effective from 7 December 2021 and replaces the previous version, which was issued on 1 February 2014.
- 3 This Guidance is for members of devolved public bodies, and is also directed at advisory and co-opted members who sit on, or attend, any meetings (including committee meetings) of the public body. However, it should be noted that the Standards Commission has no legal powers to enforce the provisions of the Code against anyone other than those appointed or elected to be members of the devolved public bodies listed in [Schedule 3 of the Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#).

- 4 By accepting your appointment as a board member, you have accepted that you are obliged to comply with the Code. The aim of this Guidance is to provide supplementary information to help you do so.
- 5 The Code is not designed to restrict you; its purpose is to help you meet the required standards of conduct.
- 6 Public bodies should make arrangements to deliver training and induction sessions on the ethical standards framework and should encourage all their members and senior employees to attend. Subject to resource limitations, the Standards Commission can support any such training and induction programme. Any request for assistance or support should be directed to the Executive Director.

### **When the Code Applies**

- 7 The Scottish public has an expectation that members of public bodies will conduct themselves in accordance with the Code and the nine key principles of public life, as outlined in Section 2. You must, therefore, comply with the provisions of the Code in all situations and at all times where you are acting as a member, have identified yourself as a member, or could objectively be considered to be acting as a member.
- 8 The Code does not apply to your private and family life. In determining whether the Code applies, the Standards Commission will consider whether a member of the public, with knowledge of the relevant facts, would reasonably consider that you were acting as a member of your public body at the time of the events in question.
- 9 It should be noted the Code will apply when you are engaging in online activity, including using social media, if you could reasonably be considered or perceived to be acting as a member of your public body. The Code does not prevent you from expressing views (including making political comment) provided you do so in a way that is compatible with the substantive provisions of the Code, being Sections 3- 6 inclusive. This includes the requirements to behave with courtesy and respect and to maintain confidentiality.
- 10 It may be helpful, in certain circumstances, to state that you are expressing your own personal view, rather than the view of your public body. You should, however, always be mindful of how you could reasonably be perceived when doing so and whether your comments could objectively be considered as reflecting the views of your public body, regardless of any statement about it being a personal comment. It can be very difficult to persuade people that you can take a different view, or even have an open mind, in your capacity as a member of a public body from a view you may have expressed in your personal capacity. This is particularly pertinent in respect of using social media, or commenting in the press, where the separation of public and private comments may be unclear to someone reading them, and where information about your membership of the public body may be readily available online or from different sources (including your public body's website).
- 11 For example, if a college member posted a comment on social media to the effect that the college was underperforming, the staff were useless and the Chief Executive should resign, it is unlikely that the inclusion of words to the effect that it was a "personal comment" would bring the matter outwith the scope of the Code. That is because it would be likely that a member of the public reading the post, with knowledge of the relevant facts (being the individual's status as a member and the subject matter), would understand it to have been made by the individual in that capacity as board member of the college and with the knowledge they had gained as such.

- 12** Another example could be where a member, who includes being on the board of their public body in their Twitter profile, retweets a post which contains a description of the service provided by their public body as being substandard and unacceptably poor. While the post in question was not written by the member, the fact that they have chosen to retweet in circumstances where they are identifiable as a member, could be seen as being supportive of the criticism in their capacity as such.

## **Your Responsibilities**

- 13** As a board member, you have a responsibility to ensure the effective governance and financial management of your public body within the context of public service delivery and reform for the benefit of the Scottish public.
- 14** You should attend any training and induction sessions on ethical standards and should ensure you are familiar with, and understand, the provisions and principles of the Code, this Guidance, and any other guidance and advice notes issued by the Standards Commission. You may wish to discuss training and continuous professional development with the Chair of your public body when you are appointed and during any annual performance discussion.
- 15** Although it is ultimately your personal responsibility to comply with the Code, paragraph 1.9 of the Code makes it clear that if you are uncertain about how the Code should be interpreted and applied, you should seek advice. Your public body will have a Standards Officer. This is an employee who is either solely, or jointly, responsible for undertaking various duties and responsibilities related to the ethical standards framework (regardless of whether or not they have the formal title of Standards Officer). The Standards Commission has produced an Advice Note on the Role of a Standards Officer, which can be found at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.
- 16** The Standards Officer and other senior employees may have experience of dealing with queries relating to the Code and can give you advice. You may also wish to seek advice from the Chair or an experienced colleague. If applicable, you may also wish to refer to the Scottish Government's 'On Board' Guidance, which can be found at: <https://www.gov.scot/publications/board-guide-members-statutory-boards/>.
- 17** As it is your personal responsibility to comply with the Code, the fact that you may have sought, and then followed such advice would not be a defence to a breach of the Code; however a discussion with the Standards Officer or Chair may help to clarify your own thinking. If you are found to be in breach of the Code, the fact you sought advice may be taken into account by the Standards Commission as a mitigating factor when deciding on the appropriate sanction to apply following a breach finding. Conversely, a failure to seek and / or follow advice may be considered as an aggravating factor. The Standards Commission's Policy on the Application of Sanctions can be found at: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>.
- 18** You should always try to seek advice at the first opportunity. You should be mindful that the person from whom you are seeking advice may not have full knowledge of the matter, or your personal circumstances. On rare occasions, for example when an alleged breach is to be considered by the Standards Commission at a Hearing, you may wish to seek external legal advice. You will be responsible for the cost of any external legal advice you have chosen to obtain, either to assist you with interpreting the Code, or in responding to any complaint about your conduct.

- 19** You are encouraged to promote and support the Code at all times and to encourage others to follow your example in doing so. Experienced members should consider whether they can act as a mentor to others to help them to understand the Code.
- 20** The Code should be read as a whole. It may be necessary to cross-reference different provisions.

## **SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT**

- 21** The Code is underpinned by the nine key principles of public life in Scotland, namely: Duty, Selflessness, Integrity, Objectivity, Accountability & Stewardship, Openness, Honesty, Leadership and Respect.
- 22** The key principles are for guidance and you should ensure that you always have regard to, and follow, these principles. You should not persuade others to act in a way that would be contrary to the key principles.
- 23** A breach of one or more of the key principles does not in itself constitute evidence of a breach of the Code. However, the key principles can be used by both the Ethical Standards Commissioner's office (in its investigatory role) and the Standards Commission (in its adjudicatory role) to assist with interpretation of alleged breaches of the substantive sections of the Code, being Sections 3 to 6 inclusive.
- 24** It is your personal responsibility to ensure you are complying with the provisions of the Code. In doing so, you may need to exercise your judgement and consider how a member of the public, with knowledge of the relevant facts, would reasonably regard your actions or decision making in your role as a member. This is not the same as members of the public not liking a decision you have made or an opinion you have expressed legitimately in the course of your work; it is about whether you have acted properly and in accordance with the Code.

## SECTION 3: GENERAL CONDUCT

### Respect and Courtesy: General

- 25 You must treat everyone you come into contact with in your role as a member with courtesy and respect, even if you disagree with their views. This can include employees, officials from the sponsor body, members of the public, service users, politicians and fellow members.
- 26 It should be noted, in the context of paragraph 3.1 of the Code, that meetings can include virtual meetings or other forms of remote working via platforms such as MS Teams, Skype and Zoom.
- 27 While you are entitled to express your views and to disagree with others, you must do so in a respectful way. It is usually better to try and focus on the issue itself, rather than making any personal comments about an individual.
- 28 You should always be mindful about how others could reasonably perceive your conduct, and that even if it is not your intention to be disrespectful or discourteous, your behaviour could be interpreted as such.
- 29 If you make a comment in the heat of the moment, which you do not mean and then regret, you should consider retracting it and / or apologising. Bear in mind, however, that comments made on social media may have been circulated widely by the time you seek to retract them or apologise.
- 30 You should always think ahead. If you have any concerns about a potential problem, speak to your public body's Chair, Standards Officer or Chief Executive so that advice can be sought and / or action can be taken before a situation becomes a serious problem. This could avoid or reduce the likelihood of an inadvertent breach of the Code and / or a complaint being made about you. The fact that you have sought advice, or indeed failed to seek advice, may be taken into account at a Hearing. Similarly, evidence of an immediate apology or retraction may be a mitigating factor at a Hearing.
- 31 You should ensure you are familiar with the [Equality Act 2010](https://www.equalityhumanrights.com/en/equality-act-2010), which provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. The Equality and Human Rights Commission has produced guidance on the Equality Act, which can be found at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance>.

### Respect and Courtesy: Applicability of the Code

- 32 It is very important to note that the rules of good conduct set out in Section 3 of the Code must be observed in all situations where you are acting as a member of your public body, which includes when you are the public body on official business.
- 33 As noted in the Introduction Section of the Code, it is also applicable in all situations where you have identified yourself as a member or where you might objectively be perceived to be acting as a member. You should be mindful, therefore, that your perception of when you are carrying out official business and when you are acting privately may be different to how it is viewed by a member of the public. Factors to consider include whether:
  - you are clear about the capacity in which you are acting;
  - you describe yourself as a member or are otherwise readily identifiable as a member in the situation / circumstances;
  - you are on the public body's premises or at one of its events;

- you are using IT equipment and / or an email account supplied by your public body;
- your conduct could reasonably be regarded as bringing your position as a member, or your public body, into disrepute;
- you are engaged in political activity or commenting on political matters or matters of public concerns, and whether these relate to fall to, or fall within, the scope of the public body's functions; and
- you are representing the public body or speaking on behalf of the public body.

- 34** In making any decision on whether the Code applies, the Standards Commission will consider whether a member of the public, with knowledge of the relevant facts, could reasonably perceive you as having been acting as a member at the time of the alleged breach of the Code.

*A member shared an article that contained a sectarian comment on their LinkedIn profile. While the LinkedIn profile was a personal one, and did not state explicitly that the individual in question was a member of their public body, the Panel determined that it was apparent from the content of the profile, other posts, and shared items that this was the case. Therefore, the Panel found that it would have been reasonable for an informed member of the public to have perceived that the individual could have been acting in their capacity as a member of the public body. The Panel accepted that the member's position was that they had not read the article in full, and that the member was absolutely appalled by the remark in question, but nevertheless found that there had been a breach of the Code. The Panel agreed that sharing an article of that nature was likely to bring both the member and their public body into disrepute.*

*A councillor was convicted of sexual assault in respect of an incident that occurred at a Trades Association event. The Panel was satisfied that it would have been reasonable for an informed member of the public to have perceived that the councillor was acting as a councillor at the event, given both the public nature of it and also because the invitation to attend had originally been sent to another councillor, a party group leader, before being passed on. The Panel concluded that the Code applied.*

*A member sent and encouraged an employee of his public body with whom he had a personal relationship to send, inappropriate social media messages, including messages of a sexual nature, during office hours. The Panel rejected arguments that the member had been acting in an entirely personal capacity. It found that the member could not completely separate himself from his role as a board member of his public body, and that, when sending or encouraging the employee to send the messages during working hours, he was acting as a board member.*

### **Respect and Courtesy: Social Media**

- 35** The rules of good conduct also apply when you are engaging in online activity, including when using social media. Social media is a term used to describe online technologies, platforms, applications and practices that are used to share information, knowledge or opinions. These can include, but are not limited to, social networking sites, blogs, wikis, content sharing sites, photo sharing sites, video sharing sites and customer feedback sites.
- 36** The Standards Commission has produced an Advice Note for Members on the Use of Social Media. This can be found at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.
- 37** The conduct expected of you in a digital medium is no different to the conduct you should employ in other methods of communication, such as face to face meetings and letters. Before commenting or posting, you should consider very carefully whether:



- you understand the immediate and permanent nature of any comment or post you are about to make, and that you will have no control over the extent to which it is shared, and by whom;
- you would make that comment or post in-person, face to face;
- you have such conviction in what you are about to share that you would be prepared to justify it if challenged at a later date; and
- you fully understand that even if you delete your post, it may have been captured by way of a screenshot or otherwise retained in some way (including being automatically cached online) and that fully deleting content once it has been shared online is almost impossible to achieve.

**38** Other important factors to consider when using social media include whether:

- you are identifiable as a member by directly referring to yourself as such or indirectly by referring to the public body, or the functions of your role as a member, or through any information or images posted;
- the account you are using is ‘private’ and whether you have set your privacy controls accordingly. You should bear in mind that anyone who is able to view your social media content will be able to screenshot and publicly share it, if they choose to do so;
- the number of ‘followers’ you have and whether these individuals are following your account because you are a member of your public body;
- you have complied with any policy your public body has produced on the use of social media;
- information you are posting is confidential and you only have access to it because you are a member of the public body;
- you are demonstrating bias or pre-determination;
- you are using the public body’s equipment and / or your public body’s information technology network or your own; and
- you have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions.

*A complaint alleged that a member had set up a Facebook account under a false name in order to post derogatory comments about employees of the public body. The owner of the account was identified as the posts contained information about specific employees that could only be known by a member. It was established that by posting the comments, the member in question had been acting in their capacity as a member, regardless of whether or not they had identified themselves as such. It was found that the member had breached the respect provisions of the Code.*

## **Respect and Courtesy: Article 10 ECHR – Your Right to Freedom of Expression**

**39** You have a right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR). You are entitled to express your views and opinions.

**You should note, however, that the protection Article 10 affords is not absolute and does not extend to, or excuse, hate speech or egregious offensive and abusive personal attacks.**

Therefore, you may wish to think about:

- whether your comments are likely to bring your office or the public body itself into disrepute;
- whether you are treating others with courtesy, respect and consideration;
- whether making your point in a respectful and constructive manner may have more of an impact in terms of influencing others;
- the fact that ‘liking’, re-posting and re-tweeting comments or posts, or publishing links to other sites are likely to be perceived as endorsing the original opinion, comment or information, including information on other sites;
- whether to allow disagreement on your social media pages;

- the fact that tone can be harder to convey online so consideration should be given to whether humour, irony and sarcasm will be perceived as such;
  - whether you have to respond and / or if it is appropriate or helpful to do so;
  - whether anything you post could be considered obscene.
- 40** The Standards Commission has produced an Advice Note that outlines the approach it will take when issues that concern the application of Article 10 of the ECHR and the right to freedom of expression arise. It also suggests issues members should consider in order to ensure compliance with the provisions concerning courtesy, respect and confidentiality in the Code. The Advice Note is available on the Standards Commission’s website at:  
<https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.

### **Respect and Courtesy: Equalities**

- 41** You are expected to advance equality of opportunity and to seek to foster good relations between different people. It is unacceptable for a public figure such as a member of a public body to express views that indicate a discriminatory attitude towards people on the basis of race, age, sex, sexual orientation, gender reassignment, disability, religion or belief, marital status or pregnancy/maternity.

*A complaint alleged that a member had posted a homophobic comment on the complainer’s Facebook page and that he had accessed his account using a mobile phone issued by his public body when doing so. It was found that the comment made by the member had clearly been intended to insult and demean the complainer. The member was found to have breached the Code.*

*A complaint alleged that a councillor had shared, on Facebook and Twitter, a blog article which was critical of a union member who had organised an equal pay strike in Glasgow. The article contained references to “Mein Kampf” and of Hitler having accused “The Jew” of gradually assuming membership of the trade union movement. It was found that the article promoted negative stereotypes and was antisemitic in nature. The councillor was found to have breached the respect provisions of the Code.*

*A councillor referred to the complainer as a ‘TERF’ (Trans Exclusionary Radical Feminist) in a series of tweets and emails. The Panel found that while the term TERF was potentially controversial and could be seen as one of abuse, it could also be used or perceived as simply a descriptor. It was found, however, that it was evident from the Respondent’s description, over an extended period of time, of TERFS as being “scum” and “hateful and vile”, that the councillor intended it to be one of abuse. It was further found that the councillor had directed the term at the complainer as an individual and that it was about her as a person, rather than simply being a descriptor of her alleged views. As such, it was determined that the reference to the complainer as a TERF, in context, amounted to a personal attack on her and that the councillor had failed to behave in a respectful manner. It was further determined that the councillor had used a highly derogatory profanity about a member of the public in another tweet. It was found that using such a word in a public forum such as a tweet was highly offensive and inappropriate, regardless of whether it had been directed at any individual or identifiable group of individuals. The councillor was found to have breached the Code.*

### **Respect and Courtesy: Bullying & Harassment**

- 42** Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. It usually, but not always, arises as a result of an individual misusing their power.

- 43** Harassment is any unwelcome behaviour or conduct which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable. It can be experienced directly or indirectly (for example, being in the room which unacceptable conduct is being displayed and being affected by it).
- 44** It should be noted that bullying and harassment (which includes sexual harassment) can be a course of behaviour or a one-off incident.
- 45** Even if the behaviour in question is unintentional, it can still be classed as bullying and / or harassment. It is the impact of the behaviour, not the intent, that is the key. You should therefore at all times be aware of the impact of your conduct on others, and remember that what may seem harmless to you can be offensive to someone else.
- 46** Bullying and harassment can occur through all means of conduct and communication – including social media posts, shares and comments. It can also arise through a lack of communication, such as the deliberate exclusion of an individual from a conversation, work or social activity.
- 47** You are responsible for your own behaviour. You must ensure that you are aware of, and comply with, the provisions concerning bullying and harassment in the Code and also any policy your public body has on ensuring dignity in the workplace.
- 48** The Standards Commission has produced an Advice Note for Members on Bullying and Harassment. The Advice Note is available on the Standards Commission’s website at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.

*A complaint alleged that a member had behaved in a disrespectful manner towards two female fellow members and employees. It was established that the member had made unwarranted and inappropriate physical contact with the fellow members and employees at an official event and had also made remarks towards the employees which were patronising and demeaning. The member was found to be in breach of the Code.*

*A complaint alleged that a member had sent an email to a number of employees of their public body and posted a Twitter message, describing an employee as “arrogant, lazy, mentally challenged” and as having been “useless for years”. The impact of the emails led the employee to seek medical and other support and resulted in him taking sickness absence due to stress. The Panel found the emails and tweet to be completely unwarranted and would have adversely affected the employee’s ability to carry out his role. The Panel found the member’s conduct amounted to a breach of the Code.*

*A complaint alleged that a member made a number of allegations and critical comments on his online blog about the complainer, who was a fellow member, which were of a personal and insulting nature. It was found that the comments had been made without factual basis, were disrespectful and were clearly intended to demean the complainer in a public forum. The member was found to have breached the Code.*

*A complaint alleged that a councillor had made remarks of an abusive, insulting and personal nature to a police officer, and also made a number of unfounded allegations about him during two telephone calls to a Police Station. It was found that the councillor had made the telephone calls in his capacity as a ward councillor and concluded that the provisions of the Code applied to him at the time of the events in question. It was further found that the comments made by the councillor in the telephone conversations amounted to an unacceptable personal attack on the police officer and that he had breached the respect provisions in the Code.*

## Respect and Courtesy: Public Body Employees

- 49 It is understood that there may be tensions in an environment where individuals have different backgrounds and experiences. It is nevertheless essential to ensure that the public has confidence in the public body and the role of its members. This can only be achieved if members behave in a respectful way towards each other and towards the public body's employees.
- 50 The requirement to respect all public body employees includes employees of contractors providing services to the public body; and employees of any other organisations where it might be reasonably perceived that the public body (and by implication the member) has an influence over that organisation.

*A complaint alleged that a councillor had sent a series of emails (and made statements in council meetings) over a period of eleven months, to his fellow councillors and to senior council employees, alleging corruption in the allocation of a council property a family member of another councillor. The councillor in question had provided no proof to back up his claims of corruption. A number of internal council investigations, and finally an independent investigation carried out by Audit Scotland, had all concluded that there was no evidence to suggest any corruption in relation to the housing allocation. The Panel considered that by making such serious and unwarranted public accusations about the conduct of employees, the councillor's conduct was offensive and fell well below the standard to be expected of a councillor, and therefore found that the Code had been breached. It is worth noting that in this case, due to the seriousness of the contravention and two previous breach findings against him, the councillor was disqualified.*

## Distinguishing between Strategic and Operational Matters

- 51 The Standards Commission has produced an Advice Note for Members on Distinguishing Between their Strategic Role and any Operational Work, which can be found at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>. In general, if a duty is delegated to an employee, then it is likely to be operational in nature. You may wish to seek information about specific matters, cases or a particular item of work, but you should be aware that employees may feel pressured by a member challenging their actions or appearing critical of some aspect of their work. This is particularly the case with junior employees, who may not be used to dealing directly with members. Any concerns about performance should be raised in private with the Chair who can then bring them to the attention of the Chief Executive or the employee's line manager, as appropriate.

## Respect and Courtesy: Public Comment about Public Body Employees

- 52 As a member, you are entitled (and indeed required) to scrutinise the effective delivery of services and whether operational targets have been achieved. You should be careful, however, not to make public statements which expressly, or by implication, criticise the actions (or inaction) of an individual employee or identifiable group of employees (where individuals in that group are, or could be, identifiable). You should note that the concept of a public statement is wide and can cover a variety of scenarios such as the published minutes of a board meeting, a comment on social media, or being overheard in a public area, such as a corridor or tearoom.

For example, in a scenario where you are concerned about the quality of a report before you, you should consider how you raise your concerns. Saying "I note this report does not contain a risk assessment – I would be grateful if a risk assessment could be undertaken" would be respectful, whereas saying "as usual, your report is inadequate and poorly prepared as it does not contain a risk assessment" could be perceived as being personally critical of the report's author.

An example of effective scrutiny could be to say at a public meeting *“I have concerns about this service we are providing in respect of X, as it appears there are undue delays. Could a report therefore be prepared on service delivery for X against key performance indicators over the last six months? Where these are not met, could information be provided as to why not and on what steps are being taken to improve matters”*. However, saying that *“the performance of Ms A, as the director, appears to be lacking, as service X is clearly not meeting its key performance indicators”* could be seen as being critical of Ms A as an individual.

- 53** If you have concerns about the performance, conduct or capability of an employee, you must raise them in private with senior management and in accordance with your public body’s procedures. You may wish to discuss your concerns with the Chair in the first instance, to see if they are shared by other members. If you are raising concerns about an employee with senior management, you should try to be as objective and specific as possible.

For example, it would be more helpful to say: *“I am concerned about the way X spoke to me at the board meeting on Y date in that I found his remark to the effect that... to be rude and disparaging”*, rather than *“X is rude towards board members”*.

Similarly, it would be more constructive to say *“I am concerned about X’s performance as the reports she produced for the meetings on Y and Z dates were not of the quality I would expect from someone of her grade in that they lacked any detail about... and did not cover...”*, rather than *“X’s performance is not up to scratch as her reports are rubbish”*.

- 54** If you have concerns about the performance, conduct or capability of your public body’s Chief Executive, you should raise them in private with the Chief Executive. You should discuss your concerns with the Chair before doing so, to see if they are shared by other members and / or are already being addressed.

*A complaint alleged that a member had become inappropriately involved in disciplinary proceedings being brought against an employee of their public body. The member sought to influence the operational decision-making by sending a number of emails to the employee’s line manager excusing the employee’s alleged misconduct and praising their performance. In trying to interfere with the line manager’s performance of their operational duties the member lost sight of their strategic role and overall responsibility to their public body. The member was found to have breached the Code.*

*A complaint alleged that a member engaged in public criticism of the Chief Executive of their public body by posting information and comments on a stakeholder’s Facebook page. The member did not give the Chief Executive an opportunity to respond before publishing the comments on the Facebook page. The member was found to have breached the Code.*

*A public body was in the process of updating its website’s design and content. One of its members sent numerous emails, and made multiple telephone calls, to the public body’s IT department questioning the proposed layout, the timescale for the roll-out and the design of other websites in the supplier’s portfolio. The member also suggested wording and other content to be used on specific pages and questioned the proposed menu headings for the new site. While the Panel accepted that members would have a strategic role in such a project, and would be entitled to scrutinise its implementation and make some suggestions, the member in question was found to have strayed too far into discussions and decision-making at an operational level. Indeed, the Panel found that the member’s interference resulted in delays to the project as employees’ time was taken up in dealing with the member’s enquiries and suggestions. The member was found to have breached the Code.*



## Respect and Courtesy: Public Body Meetings

- 55 The word 'Chair' in paragraph 3.10 of the Code, and the word 'Chair' in this Guidance, are not restricted to those specific terms and apply to any individual holding a similar chairing role.
- 56 The role of the Chair in any public body meeting, including a committee meeting or a meeting of a working group or similar forum, is to ensure that the agenda of business is properly dealt with and clear decisions are reached. To do this, the Chair has a responsibility to ensure that the views and opinions of other participants (including the advice of employees) can be expressed. At the same time, the Chair has a responsibility for proper and timely conduct of the meeting and for helping to ensure the meeting is conducted in compliance with the public body's Standing Orders. This includes determining the point at which conclusions should be reached. Chairs are required to adopt a balanced approach to help ensure fairness to participants while at the same time dealing firmly with any attempt to disrupt or unnecessarily delay the meeting. If you are present, you share the responsibility for the proper and expeditious discharge of business. As such, you should ensure you are familiar with your public body's relevant rules, regulations or Standing Orders. The role of the Chair in reaching judgements about how the meeting is to be conducted should be supported and respected.

*A complaint alleged that a member had failed to respect the Chair and other colleagues during a board meeting. Despite the Chair determining that the matter under consideration had been agreed, the member continued to speak over the Chair, requiring her to adjourn the meeting. Upon reconvening, the member continued to speak over the Chair. A motion was passed in terms of the public body's Standing Orders to suspend the member from the board meeting. Despite this motion, the member initially refused to leave, and it took a further adjournment from the Chair to persuade the member to remove himself. The Panel held that the member had breached the Code.*

- 57 You are accountable for your own conduct at all times in terms of the Code, irrespective of the conduct of others. Abusive or offensive language and / or unnecessarily disruptive behaviour should not be tolerated. During the course of a meeting, the Chair has the right to rule on and to take appropriate action as necessary on the acceptability of conduct, and any language used and comments made. This can include requiring the withdrawal of a remark, asking for an apology, or any other action necessary to allow the meeting to proceed properly. Factors you should consider include whether:
- your behaviour, including your body language, is courteous and respectful (even when you hold a different view to that of other participants);
  - you are treating others with courtesy, respect and consideration;
  - your choice of language in meetings is appropriate and meets the high standards expected by the general public;
  - it is appropriate to refer to other members by nicknames or to refer to them in the second person, by using terms such as 'you';
  - newspapers, mobile phones, laptops and other devices are being used appropriately or whether their usage could be perceived as you not being engaged in the meeting or listening to what others are saying; and
  - your conduct could diminish the public's opinion of, and trust and confidence in, the public body and / or its members.

*A complaint alleged that a member had been disrespectful towards a fellow member by making disparaging remarks about their input into a discussion. Their remarks included a personal comment about the other member's intelligence and their suitability to be a board member. It was found that the member's remarks amounted to a personal attack and were egregious and inappropriate. The member was found to have breached the Code.*

*At a board meeting a member challenged a senior employee's integrity by accusing them of falsifying data in a performance report. The Panel found this behaviour particularly egregious given that the employee in question was not present at the meeting and, therefore, could not address the accusations. In addition, the concerns had not been raised previously with the employee or their line manager in private. The member was found to have breached the Code.*

*A councillor said "sieg heil" when the Chair of a committee curtailed debate on a motion. It was found that the words "sieg heil" are synonymous with the former fascist Nazi regime in Germany and are directly associated with obedience to an oppressive dictatorship. As such, it was found that the councillor's use of them could only be taken as an unacceptable way of protesting about how the Chair had conducted the meeting in respect of the item under consideration. Although the councillor had retracted the comment when asked to do so, it was found that he had breached the Code by failing to show respect to the Chair.*

## **Collective Responsibility**

- 58** The provision in the Code concerning collective responsibility is not intended to inhibit or reduce private discussion by members in matters of decision-making and corporate responsibility. However, while you should be ready to offer constructive challenge in your capacity as a member, you must share collective responsibility for decisions taken by the board of your public body as a whole once such decisions have been made. The principle of collective responsibility applies at all times where you are acting as a member of your public body or could reasonably be perceived to be acting as a such. This could include when you are making a press statement or providing a quote to the media.
- 59** If you fundamentally disagree with the decision taken by your board, then you have the option of recording your concerns in the minutes of the board meeting. If you remain discontented, you may wish to ask the Chair of your board for a meeting to discuss your concerns. Ultimately, though, if your concerns are not resolved to your satisfaction and you cannot accept and support the collective decision of your board, you may wish to consider whether it is appropriate to resign.
- 60** It should be noted that the requirement to respect the principle of collective decision-making and corporate responsibility does not prevent a board from making a subsequent formal decision to alter, delete or rescind a decision (although if the board does so, the principle will apply to the new or altered decision).

*During a board meeting of their public body, a member voiced their disagreement with a decision taken by their board. This disagreement was registered in the minutes of the board meeting. However, following the board meeting, the member posted an angry comment on Twitter criticising their board and stating in very strong terms that they did not agree with its decision. The Panel found that while the member was entitled to have their disagreement recorded in the minutes of the board meeting, their conduct in posting the Tweet failed to adhere to the principle of collective responsibility. As such, they were found to have breached the Code.*

*An NHS Board was seeking to buy land for potential car parking. Having identified a suitable site, the Board decided to make an offer that was slightly above market value, due to concerns about a third-party's interest in the land in question. One board member did not consider that the purchase at the proposed offer price represented best value, and was the only member to vote against the proposal. While the member accepted the majority decision of the Board, she later made adverse comments about the purchase to a local community group. The Panel found that by making such critical comments, the member had breached the Code.*

## Gifts and Hospitality

- 61 The Standards Commission has produced a separate Advice Note for members on Gifts and Hospitality which can be found at:  
<https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.
- 62 In your role as a member, you should never **ask** for any gifts or hospitality. However, you will be **offered** gifts and hospitality: the Code makes it clear that the default position is you should refuse these, except in the very limited circumstances listed at paragraph 3.15 of the Code – see Notes 68 to 70 below for further information. It should be noted that acceptance can include accepting the *promise* of a gift or hospitality.
- 63 ‘Gifts’ or ‘hospitality’ can come in many forms. Beyond the everyday things like bottles of wine or offers of lunch, they can include benefits such as tickets to sporting or other events; provision of services at a price below that generally charged to the public; incurring personal debts or obligations on your behalf, relief from indebtedness, loan concessions, or other financial inducements.
- 64 **Objective test:** you should always consider whether your acceptance of a gift or hospitality, in the limited circumstances permitted under paragraph 3.15 of the Code, would allow an informed member of the public to think it might lead to your being influenced in your judgement on matters. You should also always consider whether you would have been given the gift or hospitality if you were not a board member. In doing so, you should think not just of your own perception, but the perception of others.
- 65 You should also not give or offer a gift or hospitality that is intended to induce someone, for example an employee or fellow member, to act improperly. You should note that in terms of the [Bribery Act 2010](#), the following cases are offences:  
**Case 1** is where:  
(a) P offers, promises or gives a financial or other advantage to another person, and  
(b) intends the advantage  
(i) to induce a person to perform improperly a relevant function or activity, or  
(ii) to reward a person for the improper performance of such a function or activity.
- Case 2** is where:  
(a) P offers, promises or gives financial or other advantage to another person, and  
(b) P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
- 66 An example of bribery might be where a windfarm operator promises to pay community benefit to an organisation in a councillor’s ward if that councillor votes in favour of granting planning permission in circumstances where it would not otherwise be granted (i.e. if the proper statutory test of considering the provisions of the development plan and all material planning considerations was not applied or if community benefit was wrongly taken into account in determining a planning application).
- 67 You should, therefore, be aware that irrespective of any of the provisions in the Code, a gift which



induces an individual to improperly undertake a statutory duty, such as a regulatory decision, is still likely to fall foul of the provisions of the Bribery Act 2010. This is regardless of whether the gift is given directly to the individual, or to someone else. Such an action could result in a criminal prosecution.

- 68** Paragraph 3.18 of the Code makes it clear that where an individual or organisation is awaiting a decision from, or seeking to do business with, the public body, you should not accept any form of gift or hospitality from them, no matter how small in nature or value. This is irrespective of whether you sit on a committee or working group with an influence on the outcome of such matters, as there could still be a perception that you might be in a position to influence colleagues making the decision one way or another. As you have a personal responsibility to comply with the Code, the onus is on you to ascertain whether the individual or organisation offering you gifts and / or hospitality is awaiting a decision from, or seeking to do business with, your public body.

### **Limited circumstances in which gifts and hospitality may be accepted**

- 69** Provided paragraph 3.18 of the Code does not apply, paragraph 3.15 sets out the very limited circumstances in which you might accept a gift or hospitality from another person in your role as a member. These would be things such as a pen, or a notepad, or hospitality such as tea or coffee at a local event, or a sandwich or buffet lunch included as part of a daily rate charged and provided to all delegates at a training event or conference. For example, as board member of a National Park Authority, you are asked by the Chair and Chief Executive to attend the opening of a new café within the national park. It would be reasonable for you to attend, and to accept an offer of a light lunch.
- 70** Similarly, where you are representing the public body in an official role, you will be expected to accept hospitality normally associated with that role, for example, a dinner to commemorate the anniversary of an event. If you are invited to such events, you should always check, in advance, with your public body that you can accept the invitation.
- 71** Paragraph 3.19 of the Code also recognises that there may be situations where, as a member, you may be expected to accept gifts on the public body's behalf. These could be, for example, from representatives of a similar body from another country. In those circumstances, if it would cause embarrassment or offence to refuse the gift, you can accept it. You should, however, pass the gift to the appropriate employee of your public body at the earliest opportunity.

### **Perception and Influence**

- 72** The provisions in the Code on gifts and hospitality are designed to avoid any perception that members may be using their role to obtain access to benefits that members of the public would otherwise be expected to pay for, and also to prevent them from being influenced (inadvertently or otherwise) into making decisions for reasons other than the public interest (for example, by serious organised crime gangs seeking to obtain contracts and licences to facilitate money laundering).
- 73** The requirement for members to advise their public body's Standards Officer of any offers of any gifts or hospitality from the same source on a repeated basis is important as it ensures the public body can take action if it appears the same individual or organisation is attempting to influence its board members and decision-making. It is also open to you, in the interests of transparency, to declare any gifts and hospitality you have declined.

*A complaint alleged that a member accepted and subsequently failed to declare hospitality received from a law firm that was involved in a tender application to provide legal services to the member's public body. The hospitality involved a trip to watch the Scottish Cup Final at Hampden. It could not be said that the hospitality in question was minor, or that it was associated with the member's duties as a member of their board. In addition, it was found that it should have been evident to the member that there was a possibility that the law firm would submit a tender to provide services to the public body. Although the member was not directly involved in the tender decision, the Panel found that it was likely that a member of the public would reasonably consider that the hospitality could have led the board member to influence others involved in making the decision. By accepting the hospitality, the member was found to have breached the Code.*

*A complaint alleged that a councillor had failed to declare hospitality received during a site visit from a recipient of planning permission who was to make further applications for the same development. However, there was no evidence to suggest that any Council representative, including the councillor in question, received any gift or further hospitality other than being provided with light refreshments mid-morning. Evidence suggested that these had been provided by the developers, following a Council request. This was not regarded as inappropriate for the purposes of the Code.*

## **Confidentiality**

- 74** You have a statutory right, subject to certain statutory exemptions (including those covered by data protection legislation), to the public body's information under the [Freedom of Information \(Scotland\) Act 2002](#). You also have a right to request information where you can show a need to know that information in order to perform your duties as a member.
- 75** It is legitimate, however, for your public body to require you to treat certain documents and information, provided to you in your capacity as a member, as confidential. Given the potential damage that the unauthorised disclosure of confidential material can do to the standing, reputation and integrity of a public body, it is essential that you respect the provisions at paragraphs 3.22 to 3.25 of the Code.
- 76** Information can become confidential in a number of ways, including in terms of the following examples:
- a public body employee, or a member of the public, has asked you to treat it as confidential;
  - the public body has resolved to treat it as exempt information in terms of Freedom of Information legislation, or is likely to do so; and
  - information which, under the data protection legislation or the General Data Protection Regulation contains personal data, the release of which would lead to a breach under those provisions.
- 77** Sometimes the confidential nature of the material will be explicit, such as if the document is marked 'confidential'. In other cases, it will be clear, from the nature of the information or from the circumstances in which it was provided to you, that it is confidential. This may include the following types of information.
- commercial information, such as information relating to a contract or a contractor's business;
  - personal or sensitive information, such as information relating to an individual's employment or health;
  - information which is confidential as a result of a statutory provision;
  - information discussed in closed or private sections of meetings;
  - legal advice obtained by the public body (either provided by employees or external legal advisers). This will be covered by legal privilege and should not be disclosed without the

- public body's permission;
  - information received as a result of a relationship where there is an expectation of confidence, such as between a member and a service user; and
  - information about any ongoing investigation being undertaken by the Ethical Standards Commissioner.
- 78** The [Public Interest Disclosure Act 1998](#) (PIDA) allows individuals to disclose certain issues to *particular* external parties (known as 'prescribed' individuals or bodies) where there is good reason to believe that internal disclosure will not be taken seriously or will cause the individual making the disclosure to be penalised in some way. This is known as 'whistleblowing'. You should familiarise yourself with the types of matters which should be reported and the reporting procedure that should be followed where any wrongdoing is suspected, as outlined in the Act. A disclosure of confidential information to an external party, such as a media outlet, which is not included in the list of prescribed individuals or bodies is likely to be a breach of the Code.
- 79** As a member, you are a data user and must comply with data protection legislation and your public body's data protection policies when handling information. Public body information provided to you must only be used by you for the purpose for which it was provided.
- 80** You should be aware that a breach of confidentiality could result criminal proceedings, civil liability for damages and / or a fine being imposed by the Information Commissioner, in addition to any reputational damage being incurred by you and / or the public body.
- 81** Confidential information must not be disclosed or in any way used for personal advantage or in such a way as to discredit the public body. This applies even in circumstances where you hold the personal view that such information should be publicly available.
- 82** You must not provide the media with 'off the record' briefings on the general contents or 'line' of confidential material or information. Disclosures of this kind can also seriously undermine and devalue the work of the public body and its committees.
- 83** Sometimes, confidentiality is a matter of timing, in that information may be released into the public domain at a later stage (either in the short or long term). However, you must respect the requirement for confidentiality even if you do not agree with it or consider that the information should be released at an earlier stage.
- 84** You should seek advice if you are in any doubt as to whether any documents, information or advice are confidential, particularly if you are intending to disclose these to any outside body or individual.
- 85** As a member, you are in a position of trust and service users may provide you with information that could reasonably be regarded as confidential. If the status of any discussion is unclear, you should establish, at the earliest possible opportunity, whether some or all of the matters being discussed are to be treated as being confidential.
- 86** If you are considering disclosing any information which could reasonably be regarded as being confidential, you should always obtain confirmation (preferably in writing) that you have the authority to do so. However, you must be aware that the person who holds the information may not necessarily have the authority to permit any such disclosure. For example, another member may have passed on information to you. The fact that this information has been passed to you by another member does not mean that the information in question is not confidential, or that the member in question has the authority to permit you to disclose it further.

- 87** You should be aware of the provisions of data protection legislation. If you hold personal information (such as personal details of a service user or other information such as medical conditions), you may require to be registered as a data controller under data protection legislation. You must abide by the following rules when holding and processing personal data:
- you must only use the information for the purposes for which it was given;
  - you must not share such information with anyone without the consent of the person giving the information, or unless required to do so by law. You should note, however, that you do not need a service user's consent to share information with your public body's employees for the purpose of assisting with the resolution of an enquiry or complaint, provided you do not use the constituent's personal data in a way that goes beyond their reasonable expectations in contacting you (unless you are required to do so by law); and
  - you should not keep the information any longer than you need to.

*A complaint alleged that a member disclosed confidential information relating to the health of a public body employee to a third party. It was found that the member had breached the Code by disclosing to a third-party information about the employee which was private, personal and sensitive and that was, by its very nature, confidential.*

*A complaint alleged that a member disclosed, in two Facebook posts, sensitive information about his public body's response to the Covid-19 pandemic. The information in question had been provided by employees at private briefings. The Panel, having heard from a number of witnesses, including other members, was satisfied that it was evident the information was intended to remain confidential until the public body had prepared its public communications. This was especially important given the nature of the communications, which could have caused undue fear or alarm. The Panel concluded, therefore, that the member had breached the confidentiality provisions of the Code.*

*A member disclosed to the press the identity of an employee who had made a claim for constructive dismissal against their public body. The member could only have become aware of the information he disclosed by virtue of being a board member, and would reasonably have been aware that the information was sensitive, confidential and not for public disclosure. The Panel concluded that the member had breached the Code.*

*A board meeting was convened to agree upon an action plan for the sale of part of a public body's property assets. During that meeting a 'ballpark' figure that the public body might accept for one of its properties was discussed. Subsequent to that board meeting, one of the members present at the board meeting attended a fishing trip organised by a close personal friend who was a property developer. The member disclosed to their friend that their public body was looking to dispose of part of its property assets, and additionally disclosed the 'ballpark' figure that had been discussed during the board meeting. The Panel found that by disclosing this information to their friend, the member had breached the confidentiality requirements of the Code.*

*A report from a health and social care partnership's Chief Officer, presenting a procurement business case for social care services, was being considered by its board. The report contained information in respect of the tendering exercise and subsequent award of a contract. The information about the award of the contract was disclosed by a board member to a third party after the meeting. In determining whether the member had breached the Code, the Panel noted that while the part of the report containing the information had not been explicitly marked as confidential, it had been discussed in a private part of the meeting. The Panel concluded, as such, that the board member, would have known, or should reasonably have been aware, that the information was confidential and should not have been disclosed. The member, therefore, was found to have breached the Code.*

## Use of Public Body Resources

- 88** As a general rule, facilities paid for by the public purse, and provided for use in public body business, should only be used for public body business, unless otherwise expressly permitted by the public body itself. It is recognised, however, that some public bodies may allow members occasional personal use of public body-provided equipment, such as laptops, mobile telephones and tablets. It is likely that your public body will have policies and protocols on related matters, including the use of IT and other equipment for personal and official purposes. The Code obliges you to adhere to such policies and protocols and, therefore, you should familiarise yourself with their contents.
- 89** The Code now explicitly forbids the ‘imprudent’ (i.e. without thinking about the implications or consequences) use of public body facilities. Given the importance of achieving [best value](#), it is important that members are not seen to be using facilities irresponsibly or wastefully. An example of this would be printing documents unnecessarily.
- 90** Facilities must never be used for political activities.
- 91** Any expenses claims should be appropriate and necessary to perform your duties as a member of the public body. You should ensure that you are familiar with, and abide by, any policy your public body has in respect of expenses.
- 92** The provisions at paragraphs 3.26 and 3.27 of the Code apply at all times and not just when you are acting as a member of the public body. Other factors to consider include:
- whether you are either explicitly or impliedly allowing others to use public body facilities improperly;
  - how the resource you are using is funded (for example, who pays for any transport or administrative support); and
  - whether the resource is being used solely for you to carry out official public body business or for an activity which has expressly been authorised by your public body, or whether you are using it for something else as well.

*A complaint alleged that a member used his public body’s email account and computer to submit a tender application to another public body on behalf of his private consultancy business. It was found that the member had breached the provisions in the Code prohibiting the improper use of public body facilities.*

*A complaint alleged that a member asked employees in her public body’s print room to print a substantial number of posters and flyers advertising a function being held to raise money for an external charity. While it was noted that the print room employees could have declined the request, the fact that it was made by a board member had made it difficult for them to do so. The Panel accepted that while the member had gained no personal benefit, she had nevertheless breached the Code.*

*A complaint alleged that a councillor had used Council facilities to send an email in relation to an application for planning permission submitted by his own company. He was found to have breached the provision in the Code concerning the improper use of Council facilities.*

## Dealing with my Public Body and Preferential Treatment

- 93** As a member, you must avoid conduct which seeks to further your own personal interests, or the interests of others you are connected to. You must also avoid conduct that may give the

impression you are seeking preferential treatment. The test is not only whether it is your intention to seek preferential treatment but also whether a member of the public, with knowledge of all the relevant facts, would reasonably consider that preferential treatment is being sought. You should note that *seeking* preferential treatment can be a breach of the Code, regardless of whether any action is taken as a result. Factors to consider include whether you are asking employees to:

- to act in a way that suggests you are seeking preferential treatment for yourself or others;
- undertake work or do a task that is outwith their normal duties (unless prior approval has been given by the employee's line manager). As a member, you are in a position of influence and, as such, it may be difficult for an employee to refuse a request, even if they have concerns that it may not be appropriate for them to agree.

**94** Paragraphs 3.28 to 3.30 of the Code are designed to ensure there is transparency in your dealings with employees of the public body. There is an onus on you to advise employees of any connection you may have to a matter when seeking advice, assistance or information whether within or outwith a formal meeting of the public body or its committees. This applies equally in circumstances where employees are seeking advice, assistance or information from you.

**95** You should not assume that employees will be aware, or will remember, any personal interest you have in a matter, when you are seeking their advice, assistance or information. It is important that you identify any connection as it may be that it is inappropriate for the employee to provide you with advice, assistance or information on the matter, if your connection is one that could amount to declarable interest. For more information on what is meant by 'connection' and a 'declarable interest' in this paragraph, see the further guidance provided under Section 5 (Declaration of Interests).

*A complaint alleged that a member of an NHS board sought preferential treatment when contacting employees about a close relative's place on a waiting list for hospital treatment. In contacting the employee, the member had sought information which would not normally be available to members of the public. The member had also sought to exert influence in asking that the relative's treatment be expedited. It was found that the member's actions amounted to attempts to seek preferential treatment in breach of the Code.*

*A member asked an employee for their login details so they could log into a case management system in order to check the progress of a complaint made by a close friend. The employee in question refused to share the login details. However, the member was found to have breached the preferential treatment provision of the Code by virtue of their actions in seeking to gain entry to a case management system that they would not otherwise be allowed to access. While the member would have been entitled to ask for an update on the status of the complaint, the case management system contained personal data and confidential information to which the member was not entitled.*

*A firm, in which a councillor was a partner, submitted a planning application for a wind turbine. The Panel heard that the councillor sent two emails from his council email address, signed off by him as a councillor, to members of the planning committee that was due to consider the application. In his emails, the councillor outlined a number of points in favour of the planning application. The Panel determined that members of the public would reasonably conclude that, by sending the emails from his council email address and signing them off as a councillor, he was using his position as a councillor to seek preferential treatment. The councillor was found to have breached the Code.*

## **Appointments to Outside Organisations**

- 96** Public bodies may, on occasion, appoint or nominate their board members to outside bodies. If you are appointed or nominated to an outside body, you are still bound by the Code, but you will also have responsibilities as a member of the outside body. These responsibilities may potentially include personal liabilities and could also give rise to conflicts of interest. Such conflicts may arise through competing personal interests, or the competing interests of the respective organisations of which you are a member. Public bodies will therefore need to consider this issue carefully when appointing board members to outside bodies. You need to consider carefully whether you can accept such appointments in each case.
- 97** You should be aware that you may need to register, in terms of Section 4 of the Code, your membership of another body. That membership could also amount to an interest that would require to be declared in terms of Section 5. More guidance in this regard can be found in the notes below on Sections 4 and 5.
- 98** If you are appointed or nominated by your public body to an outside body, as a director or a trustee, you will assume legal responsibilities as an individual. These legal responsibilities, as a director of a company, arise by virtue of the Companies Acts, and / or as a charity director or trustee by virtue of the [Charities and Trustee Investment \(Scotland\) Act 2005](#) (if the outside body is a registered charity). The Office of the Scottish Charity Regulator has up to date guidance on the latter scenario at: <https://www.oscr.org.uk/guidance-and-forms/guidance-and-good-practice-for-charity-trustees/>. If appointed or nominated to an outside body, you should ensure that you are clear about the role and the responsibilities you will have to it as an individual. You will also have to act in the outside body's best interests and, as a member, will be bound by the provisions in any code of conduct it has adopted, when acting as such.
- 99** If you have any doubts about your responsibilities or concerns about the impact of an appointment to an outside body on your ability to adhere to your public body's Code, you should seek advice before accepting such an appointment or before any meeting at which appointments are to be made. Advice can be sought from your public body's employees or, if appropriate, from employees of the outside body.



## SECTION 4: REGISTRATION OF INTERESTS

- 100** This section of the Code is intended to give members of the public confidence that decisions are being taken in the best interests of the public and not those of you or your family, friends or personal associates.
- 101** The Register is intended to be a public record of the interests that might, by their nature, be likely to conflict with your role as a member.
- 102** The fact that you have subsequently declared a registrable interest at a meeting would not necessarily be a defence to a complaint that you breached Section 4 of the Code by failing to register it. Accordingly, you should be as transparent and careful as possible when considering which interests you are required to register.
- 103** The Register should cover your whole term of office. Should an interest no longer apply (for example if you cease to receive remuneration through employed work during your term of office), the entry should still be listed in the Register and retained for the whole term of office. However, you should amend the Register to reflect the change of circumstances, e.g. *“management consultant from xx/xx/2019 until xx/xx/2020”*.
- 104** You should be aware that the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Register of Interests\) Amendment \(No. 2\) Regulations 2021](#) (the 2021 Regulations) state that public body employees must retain the record for a period of five years after the date a member ceases to be in office.
- 105** You are required by the 2021 Regulations to update your entries in the Register of Interests within one month of your circumstances changing. While your public body may issue a reminder annually or even on a more frequent basis, it is nevertheless your personal responsibility to ensure your entry is updated within one month of a new interest arising or of your circumstances changing. You should also ensure that you review all your entries in the Register at least once a year, even if you think nothing has changed.
- 106** For categories where the Code does not specifically mention the level of detail to be registered, it is for you to decide. In making such a decision, you should observe the key principles and, in particular, those of selflessness, integrity, openness and honesty. You should ensure you have provided enough information for a member of the public to be able to understand the nature of the entry in your register without having to undertake any research. A failure to include sufficient information for an entry to be understandable could amount to a breach of the Code. For example, if you are registering employment you should include the full name of your employer, not just an abbreviation.

### Category One: Remuneration

- 107** The level of remuneration, or how much you receive, does not matter in terms of whether an entry needs to be made under this category. The question is only whether you have received remuneration. This means paid work, no matter how casual or trivial in nature, requires to be registered.
- 108** You do not need to state the exact job title of any remunerated post you hold as an employee, but you should provide a description that allows a member of the public to understand the type of role. For example, you could state:



*“Since 2019, receive an ongoing salary as a part-time customer service agent for X+Y Limited, being an IT consultancy firm”; or “receive hourly rate payment for one day per week self-employed work for GreenFingers, being the trading name of my landscape gardening business which has operated since 2016”; or “received two fixed payments for writing two articles, published in May and September 2021 for Z, a trade magazine”.*

- 109** ‘Undertaking’ is defined in Annex B of the Code as (a) a body corporate or partnership; or (b) an unincorporated association carrying on a trade or business, with or without a view to a profit. ‘Body corporate’ includes entities such as companies, limited liability partnerships and, potentially, Scottish Charitable Incorporated Organisations. ‘Unincorporated associations’ includes clubs, societies, and mutual associations. The key as to whether an interest is registrable under this category is whether you carry out work for the undertaking for which you receive some form of ‘remuneration,’ i.e. wage, salary, share of profits, fee, expenses or other monetary benefit or benefit in kind.
- 110** Paragraph 4.5 of the Code confirms you do not have to register any work that you carry out on behalf of the public body in your capacity as member.
- 111** Paragraph 4.10 of the Code indicates that you should register ‘any other work’ besides a trade, profession or vocation. Such work might include freelance work that you undertake for a particular sector, or a paid consultancy, or educational or training courses you provide in return for payment.

### **Category Two: Other Roles**

- 112** If you have been appointed as a member of an outside body (including where you have been nominated or appointed by your public body), you should ensure that the membership is registered in your Register of Interests either under Category One: Remuneration (if the position is remunerated) or under Category Eight: Non-Financial Interests (if the position is not remunerated).
- 113** If you hold an unremunerated directorship in an undertaking, and you are remunerated by a parent or subsidiary of that undertaking, you should register the unremunerated directorship under ‘Other Roles.’ For the sake of transparency, you should register the name and registration number of both undertakings, and the relationship between the two. Your remuneration in the parent or subsidiary undertaking should also be registered under Category One: Remuneration.

### **Category Three: Contracts**

- 114** You must register an interest under this category where:
- you as an individual; or
  - an undertaking that you have a substantial interest in either as a partner, director or shareholder (where the value of shares you hold is as described under Category Four: Shares and Securities)
- has an upcoming or ongoing contract with the public body for the supply of goods or services, or for the execution of works. You do not need to state the value of the contract.

This category may overlap with Category One: Remuneration. If so, you should add an entry under both sections, for transparency. An example of the detail required would be as follows: *Director and shareholder of cleaning company which has a contract with MidScotland College to valet the college’s vehicle fleet. Contract start date: 1 February 2010.*

#### **Category Four: Election Expenses**

**115** ‘Donations’ towards election expenses would include those received via crowdfunding, if individual contributions (including any from the same source) amount to more than £50.

#### **Category Five: Houses, Land and Buildings**

**116** You should note that you are only required to register an interest in a house, land or building if the objective test is met. If you are required to register an interest under category five (in terms of paragraph 4.18 of the Code), you will need to provide your public body’s Standards Officer with the full address of the house, land or buildings you own or have any other right or interest in. However, there is no requirement for any full address you provide to be disclosed on your public body’s website or otherwise made publicly available. This means it is sufficient for the purposes of your publicly available register to simply identify where the property is located. For example, if you were a member of a national park authority, it would be sufficient to state: *“I own a residential property located within X National Park”*.

**117** Examples of other rights you may have in houses, land and buildings may include a right as a tenant, an agricultural tenant, as a trustee or beneficiary of a trust, or through a liferent.

#### **Category Six: Interest in Shares and Securities**

**118** ‘Shares and securities’ is intended to cover all types of financial investment models, including stocks, bonds, options, investment trusts, and other forms of part-ownership, including equity and debt ownership.

**119** You have a registrable interest, in terms of paragraph 4.20(a) of the Code if, at any time, you own, or have an interest in more than 1% of the issued share capital of a specific company or body.

**120** You have a registrable interest, in terms of paragraph 4.20(b) of the Code if, at the relevant date, the market value of any shares and securities (in any one specific company or body) you own or have an interest in is greater than £25,000. The ‘relevant date’ is defined in Annex B of the Code as the date you were appointed as a member, and on 5 April each year following your appointment.

**121** For example, you are appointed as a board member of MidScotland College on 7 June 2021. For the purposes of paragraph 4.20(b) of the Code, 7 June 2021 is the first ‘relevant date’ on which you must consider the market value of your shares and securities. If, on 7 June 2021, the market value of any shares and securities (in any one specific company or body) you own or have an interest in is greater than £25,000, you must register that shareholding. Thereafter, the next ‘relevant date’ on which you must consider the market value of your shares and securities is 5 April 2022, and then 5 April each following year.

**122** An interest under shares and securities will also include investments made under self-invested pension plans. However, you do not need to declare an interest in your public body’s pension fund (if applicable).

**123** In relation to paragraph 4.20 of the Code you will have a registrable interest as a trustee, (either as an individual or jointly with other trustees), where you have an interest as a beneficiary of the trust and where the benefit is greater than 1% of the trust’s value or the value of that benefit is greater than £25,000.

## **Category Seven: Gifts and Hospitality**

**124** The default position is you should refuse gifts and hospitality, except in very limited circumstances (see paragraphs 3.13 to 3.21 of the Code). However, if you have accepted and registered gifts and hospitality under the previous versions of the Code, these should remain on your Register of Interests for the term of office.

## **Category Eight: Non-Financial Interests**

**125** When considering whether you have a registrable non-financial interest, you should bear in mind that the test is whether the interest is one which members of the public might reasonably think could influence your actions, speeches, decision-making or voting in the public body. An example of this might be membership of a society. You should consider whether such membership might lead members of the public to reasonably conclude that it could influence your actions, speeches, decision-making or voting, in terms of paragraph 4.22 of the Code. If so, you should register the interest.

**126** In order to ensure you are being as transparent as possible, you should consider erring on the side of caution. You are reminded that any non-financial interest registered under Category Eight of the Code, is a connection in terms of Section 5 of the Code. That means you will have to consider whether it also needs to be declared, if the objective test is met, in terms of paragraph 5.5 of the Code.

**127** You should bear in mind that the examples of possible non-financial interests stated in paragraph 4.22 of the Code are illustrative only and, therefore, are not an exhaustive list of potential non-financial interests.

## **Category Nine: Close Family Members**

**128** Paragraph 4.23 of the Code is intended to help ensure that your public body complies with accounting standards that require a public body's accounts to disclose the possibility that its financial position may have been affected by any related party transactions. Such transactions include contracts for the supply of goods and services, and the execution of works. While you are also required to declare the financial interests of others under paragraph 5.5 of the Code, if the objective test is met, there is a risk that your public body's finance team may not realise that you have done so when preparing the accounts. You are, therefore, required to register the interest of any close family member who has transactions with your public body or is likely to have transactions or do business with it. This is to ensure there is transparency in respect of any potential influence that anyone close to you, in your capacity as a member of your public body, may have over a transaction your public body has been involved in that, in turn, had an impact on its overall financial position.

**129** The Code does not define what is meant by 'close family member' as this will depend on your individual circumstances, but it is likely that a spouse, cohabitee, partner, parent and child would be considered to fall within this category. You do not need to disclose the family member's name or any other personal data in the register; it is sufficient for you to identify the relationship and nature of the transaction. For example, *"my son is a partner in a law firm that has a contract to provide legal services to the health board"*.

**130** The fact that a close family member may be employed by your public body would not be considered a transaction or business for the purposes of Category Nine. Therefore, while such a connection could amount to a declarable interest under Section 5 of the Code, it would not

require to be registered.

*A board member of a Regional Transport Partnership (RTP) failed to register his membership of a prominent cycling pressure group. The Panel found that a member of the public with knowledge of the membership of the pressure group might reasonably think that the member's actions and decision-making at the RTP would be influenced by that interest. As such, the Panel determined it was an interest that should have been registered as a non-financial interest under Category Eight.*

*A member failed to register that they received a one-off payment for writing an article in a trade magazine. The article was published and payment was received after the member's appointment to the board of her public body. The Panel accepted that the failure to register was inadvertent, but nevertheless found that a breach of the Code had occurred.*

*A member failed to ensure his one-third shareholding in a company was registered correctly and timeously. While the Panel accepted that there was no intention to mislead or deceive, and that neither the member nor the company had gained any benefit from the oversight, he was nevertheless found to have breached the Code.*

*A complaint alleged that a councillor failed to register a financial interest in respect of her remunerated employment as an office manager with a member of the Scottish Parliament. The Panel noted that the councillor had publicly announced, via a posting on a social media site, that she would be working for the MSP. While it was accepted that this demonstrated there was no evidence of any deliberate attempt to conceal the employment, the councillor was nevertheless found to have breached the Code.*

## **SECTION 5: DECLARATION OF INTERESTS**

**131** The requirement for members to declare certain interests is a fundamental requirement of the Code. A failure to do so removes the opportunity for openness and transparency in a member's role and denies the public the opportunity to consider whether a member's interests may or may not influence their discussion and decision-making.

**132** Should you be in any doubt about the legal implications of your participation in a public body discussion or decision, you should seek advice from your Standards Officer, Chair or Chief Executive before taking part.

### **Stage 1: Connection**

#### **Paragraph 5.1**

**133** In your work as a member, you will have connections with a great number of people and organisations. In the same way, your financial affairs, employment and property holdings - or those of individuals close to you or bodies you are involved with - will sometimes mean that you have a connection to a matter that your public body is considering, in some way.

**134** Such connections will not always amount to an interest that you are required to declare. However, you should always consider whether this is a possibility, in the context of your role as a member and in respect of any specific matter you are being asked to consider. You should always err on the side of caution, and if you are in any doubt you should consult your public body's Standards Officer.

#### **Paragraph 5.2**

**135** The Code cannot provide for every type of relationship that could result in a connection, as this will depend on the facts and circumstances; for example, how close you are to the individual in question and how often you see them. It should be noted, however, that certain relationships such as spouse, partner, cohabitee, close friend, parent or child are likely to result in a connection.

**136** It is impossible to list every type of connection you could possibly have with a matter involving or to be considered by your public body. However, some common examples would include:

- your public body considering some form of financial assistance or decision that could have a direct effect on an organisation you, your partner, or someone close to you works for;
- your membership of another body or organisation that is seeking to agree a contract with your public body;
- some form of personal connection with a person making an application, or a complaint, to public body.

**137** The Code does not restrict the ability of a public body to benefit from the knowledge and experience of its members. Having knowledge or experience of a matter that is to be considered by your public body is not necessarily a connection. For example, if your public body is considering tenders received for the provision of a new IT system, your knowledge and experience as an IT specialist would not be considered a connection.

#### **Paragraph 5.3**

**138** Paragraph 5.3 of the Code makes it clear that anything you have registered as an interest in terms

of Section 4 of the Code (Registration of Interests) would be considered a connection for the purposes of Section 5.

#### Paragraph 5.4

**139** You should also be mindful of the specific responsibilities you have to different bodies and be aware of the potential for conflicts of interests between your different roles. Membership of a body you have been appointed or nominated to by the public body, as its representative, would not normally be a connection.

**140** However, this does not apply where the matter being considered by your public body is quasi-judicial or regulatory in nature. An example of where you would have a connection as a member of a different body would be where the other body has applied for a licence or consent from your public body, or is an objector to such an application. This is regardless of whether or not you actively participated in the decision by the other body to make the application or objection.

**141** In terms of being a member of an outside body, the Code also states you may have a connection where you have a personal conflict, either by reason of:

- a. your actions;
- b. your connections (other than your membership of the outside body); or
- c. your legal obligations.

**142** An example of where you may have a personal conflict, and therefore a declarable interest, **by reason of your actions** could be where, just before being appointed to your board, you made critical comments in the press about another organisation's wastefulness in terms of expenditure. If, following your appointment, the other organisation makes a funding application to your public body it is likely that your actions may have resulted in you having a personal conflict.

**143** An example of where you may have personal conflict **by way of a connection** (other than solely from your membership of the outside body) would be where your partner works for the outside body, and the body is seeking funding from the public body for its operations that could have an impact on your partner's job.

**144** Examples of where you may have a personal conflict **as a result of legal obligations** would include where you are either a director of a company or a charity trustee. Both the Companies Acts and the Charities and Trustee Investment (Scotland) Act 2005 impose obligations on you to act in the best interests of the company or charity, and those obligations may conflict with your role as a member. If you are in doubt as to what your legal obligations are to the outside body, you should seek advice from its legal advisers.

#### Stage 2: Interest

##### Paragraph 5.5

**145** Having decided that you have a connection to a particular matter, you should apply the objective test to that connection to decide whether it amounts to an interest that requires to be declared.

**146** The **objective test** outlined in paragraph 5.5 of the Code assumes that a member of the public has knowledge of the relevant facts. The question you need to consider is whether a member of the public, with this knowledge, would reasonably regard the connection as so significant that it would be likely to prejudice your discussion or decision-making in your role as a member. If the answer is yes, the connection is an interest which you should declare.

**147** At all times when applying the objective test, you should be aware that it is just that – objective. The test is not what you yourself know about your own motivations and whether the connection would unduly influence you: it is what others would reasonably think, if they were in possession of the relevant facts.

**148** There may be instances where, having applied the objective test, you consider the connection is so remote and insignificant that you do not think it amounts to an interest. Examples might be where a charity you occasionally donate to is seeking funding from your public body, or when a neighbour you have little social contact with works for a company that has a contract to provide cleaning services for the building where your public body’s offices are located.

*A complaint alleged that a member of a public body sat on the Appointment Panel for the recruitment of a new Chief Executive, despite being a close friend of one of the candidates. Having reviewed all evidence, including that given by witnesses at the Hearing, the Panel determined that there was no breach of the Code. This was because there was no evidence that the member’s association with, or connection to, the candidate in question went beyond a limited professional relationship or that they had engaged in any contact outside a work setting. The Panel concluded that a member of the public, with knowledge of these relevant facts, would not reasonably regard the member’s connection as being so significant that it would be considered as being likely to influence their discussion or decision-making. As such, the connection did not amount to an interest that would require to be declared for the purposes of Section 5 of the Code.*

*A member of a health board took part in a discussion about snagging issues in respect of the construction of a new hospital, despite having previously been engaged in a claim for legal damages against a subsidiary of the construction company, in respect of a private property. Having applied the objective test, the Panel determined that while the member had a connection to the company, this did not amount to a declarable interest. This was because the Panel did not consider that a member of the public, with knowledge of the relevant facts (being the fact that the legal dispute had concluded and was against a subsidiary company), would reasonably regard the member’s connection to the matter as being sufficiently significant as to be likely to influence her discussion on the snagging issues in her role as a member.*

**149** Section 3 of the Code sets out the very limited circumstances in which you would accept gifts and hospitality. As you must apply an objective test when deciding whether or not to accept any gift or hospitality being offered, it would be unusual for such a gift or hospitality to be so significant that it would constitute an interest.

**150** When making a declaration of interest you only need provide enough information for those at the meeting to understand why you are making a declaration. For example, it may be sufficient to say: “*I declare an interest as my partner is a member of the organisation making the application*”. You might not necessarily need to provide details about how long your partner has been a member and in what capacity.

**151** You must disclose or declare your personal interests both in formal and informal dealings with public body employees and other members, not just in formal board or committee meetings. This is an important consideration, especially when you are seeking advice or assistance from public body employees or other sources. You should not assume that employees and others will know or will remember what your interests are.

**152** You should be mindful of the need to protect the confidentiality of another person’s business or financial interests when making a declaration of interest. You are only required to provide enough information to make it clear why you consider you have a clear and substantial interest.

*A complaint alleged that a member took part in a discussion at a NHS Board meeting on review of child health and medical paediatric inpatient services at a local hospital, where a freedom of information (Fol) request and press coverage were considered. This was despite being aware that an Fol request had been submitted to the Health Board on behalf of his employer, who was a Member of the Scottish Parliament. The employer, who had an interest in retaining certain services under consideration, had previously raised the issue in the Scottish Parliament and had made public statements in the press. The Panel found that the member had failed to apply the objective test as, had he done so, he would have realised that in taking part in the discussion, where issues and concerns that were similar to those raised by his employer could be raised, a member of the public with knowledge of the relevant facts might reasonably conclude that he could be influenced by his employer. The Panel concluded that the nature of an employee / employer relationship could not reasonably be considered to be remote or insignificant. The member was found to have breached the Code.*

*A complaint alleged that a member had not declared an interest at a board meeting where reports were presented about the public body's contribution towards the funding of certain voluntary organisations, which included her employer. This was despite her employer having been mentioned specifically in reports considered at the meeting in question. It was found that the member should have applied the objective test, declared a non-financial interest and taken no further part in the discussions and decision-making at the meeting. She was found to have breached the Code.*

*A college board was considering a plan for the restructuring of the college's academic faculties. Though the exact details of the restructuring were not yet finalised, it was likely that the plan would result in a number of job losses. A board member, who had a close friend employed as a lecturer in one of the faculties potentially under threat by the restructuring, failed to declare that friendship as an interest. By failing to declare the interest, the Panel found that the member had breached the Code. Although it was not certain that the restructuring would have resulted in the loss of his friend's job, a member of the public, with knowledge of the relevant facts, could reasonably have regarded the member's friendship as being likely to prejudice the discussion and decision-making related to the restructuring.*

### **Stage 3: Participation**

#### **Paragraph 5.6**

- 153** If you decide that you should declare an interest, you should do so at the earliest opportunity. If you only realise a declaration is necessary when the discussion in respect of a matter is underway, you may wish to consider whether you should provide a brief explanation as to why you had not realised you had an interest at the outset of the meeting.
- 154** Thereafter, when the item is being considered, you should leave the room. It is not sufficient for you to retire to the back of the room or the public gallery. If the meeting is being held online, you should retire to a separate breakout room or leave and re-join after the discussion on the matter has concluded. It is not sufficient for you to turn off your camera and / or microphone for the duration of the matter.
- 155** You should not give anyone reason to doubt that you are no longer in any position to influence the outcome of deliberations on the relevant item either directly or indirectly. This means that you should refrain from contacting your member colleagues remotely (for example by email or text) while they are considering the item.



*A member who was involved in a decision regarding whether to retain paediatric A&E services at a specific hospital, made a declaration of interest stating that their partner was a nurse in the A&E department in question. The member's declaration was noted and they were asked to leave the meeting, which was being held online. However, instead of fully leaving the online meeting, the member simply switched off their camera, meaning that they were still able to see and hear the proceedings. The member then sent WhatsApp messages to their colleagues on the board, outlining further arguments as to why the A&E services should be retained. The Panel found that the member had breached the Code.*

*Part of the agenda for a public body's board meeting dealt with consideration of a proposed memorandum of understanding between the public body and a university. At the outset of the board meeting, a member, who was also Chancellor of the university in question, declared an interest. When the agenda item arose, the member excused themselves from the board meeting and left the room, returning only when discussion of the memorandum had completed. The member's declaration, together with the fact they had left the meeting, was documented in the board minutes. The member had, therefore, acted in accordance with the Code.*

- 156** Where the only interest is in relation to an item included in an agenda which is before the public body or one of its committees, for noting or formal approval, no declaration is required unless it is then decided that the item needs to be discussed or debated as a substantive issue.
- 157** You are reminded that, when considering whether a declaration of interest is appropriate or the effect of making a declaration in terms of the actions you are then required to take, you should refer to the full provisions of the Code. The Standards Commission has produced an Advice Note for Members on How to Declare Interests, which can be found at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>.
- 158** You may wish to check that any declaration of interest you have made at a formal meeting is recorded in the minute with the relevant agenda item identified. For example: *"Ms A declared an interest in relation to the funding application at Agenda Item 16 as she is a director of the company making the application. Ms A therefore left the room and took no part in the discussion or decision-making on that item"*.

### **Paragraph 5.7**

- 159** You may wish to think about whether you should indicate why you consider any connection you have to a matter does not amount to a declarable interest. This is particularly if you know that members of the public are aware of your connection, but where you suspect they may not have knowledge of all the relevant facts.
- 160** In those circumstances you might want to make a transparency statement. For example, you could state: *"I have a connection to this item by reason of... However, having applied the objective test I do not consider that I have an interest to declare. This is because..."*. If you think it would be helpful, you can ask the employees who are clerking the meeting to note your transparency statement in the minutes. Similarly, you may wish, for the sake of transparency, to state that you were offered, but turned down, a gift or hospitality.

### **Paragraph 5.8**

- 161** The Standards Commission can consider requests for dispensations in certain circumstances, either from a member as an individual or to a class or description of members who are affected

by a particular category of interest.

**162** Any application for a dispensation should be submitted either by email to [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk) or by mail to the Executive Director, The Standards Commission for Scotland, Room T2.21, The Scottish Parliament, Edinburgh, EH99 1SP. Any application should detail all the relevant information, including the reasons why a dispensation is sought. Factors to consider before making the application include whether:

- it would be in accordance with both the spirit and intent of the Code to grant the dispensation; and
- you have provided sufficient reasons for the request, including what the effect or consequence would be if it was not granted.

**163** The Standards Commission will respond as soon as practicable after receipt of all information, usually within 20 working days. Where an application for dispensation relates to a specific item of business, the Standards Commission will endeavour to respond before the meeting in question. However, Standards Commission Members work on a part-time basis, so this may not always be possible. As such, all applications should be submitted to the Standards Commission as soon as the relevant information / circumstances are known.

**164** If a dispensation is granted, you should consider stating this at the meeting, and asking for this to be recorded in the minutes.

### **Paragraph 5.9**

**165** There is no definition for what may constitute a 'frequent' declaration of interest in terms of paragraph 5.9 of the Code, as this will depend entirely on the specific facts and circumstances of each case and how often the matter in which you have an interest is discussed by the public body. For example, declaring the same interest at four meetings of a public body that only meets on a quarterly basis might be considered 'frequent'. However, this may not necessarily be the case if the public body met twice a month and discussed the same matter in which you have an interest at a few consecutive meetings.

## **SECTION 6: LOBBYING AND ACCESS TO BOARD MEMBERS**

- 166** As a member, you will be approached by those wishing to make their views known. This is perfectly legitimate and should be encouraged, as it is important that individuals are able to engage with public bodies.
- 167** Paragraph 6.1 of the Code sets out some of the ways in which you, as a member, may be lobbied. For example, you may be lobbied by a service user on a personal issue, such as the service your public body is providing. You may be approached by someone seeking financial or other benefit from the public body, either by way of a contract for goods or services, or some form of licence or consent.
- 168** It is easy for the lines between these different types of approach to become blurred, particularly when you are dealing with casework or regulatory matters, such as planning or licensing. It is important to recognise, however, that the integrity and reputation of the public body's decision-making process depends on openness, transparency and following proper process. There is a risk that private meetings with lobbyists, particularly those that fall outwith the public body's procedures, and where employees are not involved, will undermine or could reasonably be perceived as undermining this.
- 169** Lobbyists can expect to deal with public body employees at certain stages of an application process. If you are seen as facilitating an approach outwith the normal process, there may be a perception that you have allowed the lobbyist special access to the decision-maker and that you are bypassing employees. As such, if you are approached by anyone about a pending decision of any kind, you should advise the employees who are dealing with the matter and give them all relevant information.
- 170** Paragraph 6.5 of the Code notes that if you have concerns about the approach or methods used by any person or organisation in their contacts with you, you can seek the guidance of the Chair, Chief Executive or Standards Officer. You can also seek advice from a colleague or external advice, as you deem appropriate.
- 171** Discussing the information you have received from lobbyists with employees will give you an opportunity to establish if it is something that they were not aware of and / or if it is relevant to any decision you will be making. It may be that lobbyists will present information in a way that is favourable to their case, but which does not give the complete picture. Employees can give you professional advice on what may or may not be a relevant consideration in respect of any decision you will be making.
- 172** Even if you do not make casework or regulatory types of decisions, there are still likely to be issues under the Code that you will need to consider. In particular, it would be a breach of the Code for you to lobby employees who are making decisions on casework or contracts, either on your behalf, or on behalf of others.

### **Service User Enquiries**

- 173** As a member of a public body, you have a representative role and, as such, may be approached by service users. Allowing service users to advise you of their views, including any concerns, helps ensure the public body is perceived as being open, accessible and responsive to the needs of the public. When you respond, you should be mindful of the need to treat everyone with respect, and to otherwise promote the key principles outlined in Section 2 of the Code. In some cases, however, you may feel that there is nothing further to be gained by responding to a service user

and that you are not able to help them further. In those circumstances, you should politely inform the service user that is the case.

- 174** You are entitled to raise a service user's enquiry with the relevant employee, although you should, at all times, follow your public body's policies on the processing of personal data. You can ask questions about how a service has been delivered, and can seek information on progress on behalf of a service user, but you should be careful not to stray into operational management (for more advice on this, please see the Standards Commission's Advice Note for members on distinguishing between their strategic role and any operational work, which can be found at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>).
- 175** You should be aware of the distinction between a service user's request for service (or for information about a service), and a complaint about a service received. In the latter case, you should recommend that the service user makes use of the public body's formal complaints procedure, as this enables common patterns of complaint to be identified, and enables a complainer to escalate their complaint to the [Scottish Public Services Ombudsman](#), if necessary and as appropriate.
- 176** Inevitably there will be occasions where the service user looking for your help is also a public body employee. While they are entitled to do so as a private individual in the same way as any other service user, you should decline to get involved in anything which relates to their status as an employee (such as performance or attendance management). You are a member of the organisation that employs them, and employment matters should be handled by their line manager or their union representative, as appropriate.

## Lobbying

- 177** Paragraph 6.7 of the Code notes that it is important that you understand the basis on which you are being lobbied in order to ensure that any action taken in connection with a lobbyist complies with the standards set out in the Code and the [Lobbying \(Scotland\) Act 2016](#). This Act aims to increase public transparency about lobbying and defines particular types of communication as 'regulated lobbying'. From 12 March 2018 anyone who engages in regulated lobbying must record details of their activities on a Lobbying Register website. Regulated lobbying only involves lobbying when it takes place face-to-face with:
- Members of the Scottish Parliament;
  - Members of the Scottish Government (including the Scottish Law Officers); and
  - Junior Scottish Ministers; the Permanent Secretary of the Scottish Government; and Scottish Government Special Advisers.
- 178** Private meetings with lobbyists - whether professional lobbyists or members of the public seeking your support - can undermine public trust in decision-making processes. It can also have consequences for the lobbyist. For example, a private meeting could disqualify them from the tender process if they are bidding for a public body contract. Private meetings can also involve offers of hospitality, which could lead to a breach of the gift and hospitality provisions at paragraphs 3.13 to 3.21 of the Code.
- 179** If you are approached by a lobbyist, it is likely that they are seeking your involvement as a lobbyist in turn, whether as a decision-maker or otherwise. It is important to recognise that there is a difference between lobbying on behalf of a commercial or personal interest, and lobbying for a policy change or benefit which affects a group of people, a community, or an organisational

sector. You should always consider what will benefit the public body and its service users as a whole, not just any narrow sectoral interest.

**180** You must not, in any case, accept any paid work in which you give advice on how to influence your public body. An example of a breach of the Code in this regard could be if a member of the Standards Commission provided paid consultancy services to a political party in respect of how to best respond to complaints and represent its members at Hearings convened to consider potential breaches of Codes.

**181** In all situations, care is needed. You should be guided by the Code and, in particular, consider:

- could anything you do or say be construed as you having been improperly influenced to take a particular stance on an issue;
- are you giving, or could you be perceived as giving, preferential access to any one side of an argument;
- when seeking information on the progress of a case or particular matter are you doing so in a factual way or could you instead be perceived as making representations or lending support; and
- are you reaching your own view on a matter having heard all the relevant arguments and evidence (including the guidance of public body employees), and not simply agreeing or complying with any view expressed by your member colleagues.

**182** If you choose to be an advocate for or against a particular cause, you will forfeit your right to be a decision-maker in regulatory or quasi-judicial decisions concerning that cause. If you are approached, you can listen to views expressed but you must make it clear that you cannot lend support or make a decision until the appropriate meeting, when you have heard and considered all relevant and material evidence and information. However, you can:

- advise employees of the representations you have received;
- assist service users in making their views known to the relevant employee;
- seek factual information about the progress of a case; and / or
- advise those that are lobbying who they can contact (being the relevant employee).

*A board member introduced a change to her public body's funding application policy, which was subsequently approved by the board. Following board approval, a service user sent the member an email complaining about the policy change. The member referred the service user's email to the Chief Executive for an employee response. The service user complained that the member's failure to respond indicated that she did not want to engage with him and had denied him access. The Panel noted, however, there was no specific obligation under the Code for individual members to respond to all who seek to lobby them. The Panel considered that the member had acted appropriately in referring the email to the Chief Executive so that the appropriate employee could respond. As such, it determined that the complaint did not amount to a breach of the Code.*

*A complaint alleged that a councillor had been involved in a 'secret' meeting with some local residents. The outcome of the meeting resulted in a Traffic Regulation Order (TRO), which ultimately led to the introduction of parking restrictions. The complainer alleged that, by attending the meeting, the councillor had failed to be accessible to the public and had demonstrated bias in favour of some residents. It was established, however, that the councillor had been accompanied at the meeting by an officer from the Council's Roads Services. No evidence was found that the councillor had indicated support for or against the making of the TRO, and as such his conduct did not give rise to a breach of the Code.*

*A complaint alleged that a Health Board member had held an individual meeting with a supplier of medical equipment, despite knowing that the supplier was involved in an ongoing tender process. The*

*member met with the supplier alone, without taking an employee of his public body, and without informing his board in advance that he was meeting the supplier. At the next meeting of the board, the tender applications were discussed and the supplier in question was awarded the contract. The Panel found that by meeting with the supplier alone and by subsequently taking part in the discussions and decision-making over the tender, the member had breached the Code. It was likely that a member of the public, with knowledge of the relevant facts, would perceive that the member had offered preferential treatment to the supplier compared to the other suppliers involved in the tender.*

*A member of a board involved in the provision of grant funding accepted payment from a lobbying organisation. At a subsequent board meeting, convened to discuss and decide upon a round of funding, the member posed a number of critical questions and made derisive comments regarding the majority of the funding applicants. The member did not, however, criticise or comment upon an application for funding by a body that transpired to be a client of the lobbying organisation. The Panel found that by accepting the payment from the lobbying organisation, the member had breached the Code and, further, that it was clear from his actions in the board meeting that, in return for the payment, he was attempting to accord preferential treatment to the lobbying organisation's client.*

## ANNEX A

### BREACHES OF THE CODE

#### Hearings

**183** The Standards Commission, after receiving a report from the Ethical Standards Commissioner, (ESC), can decide to hold a Hearing (usually in public) to determine whether a breach of the Code has occurred and, if so, to determine the appropriate sanction. A policy outlining the factors the Standards Commission will consider when making such a decision on a report referred by the ESC can be found at: <https://www.standardscommissionscotland.org.uk/cases>.

**184** Details of the procedures followed at a Standards Commission's Hearing are outlined in its Hearings Process Guide and Rules, which can be found at: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>. In certain circumstances and following the agreement of parties involved in the Hearing, the Standards Commission may use an Abbreviated Hearing Process.

#### Sanctions

**185** [Section 19 of the Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (2000 Act) obliges a Hearing Panel to impose a sanction. This can be either a censure, suspension, or removal from the board and disqualification:

**Censure:** A censure is a formal record of the Standards Commission's severe and public disapproval of the member.

**Suspension:** This can be a full or partial suspension (for up to one year). A full suspension means that the member is suspended from attending all meetings of the public body. A partial suspension means that the member is suspended from attending some of the meetings of the public body. In imposing a suspension on a member, the Standards Commission can direct that any remuneration or allowance deriving from membership of the body that would be payable to the member be not paid or be reduced.

**Disqualification:** Disqualification means that the member is removed from their membership and disqualified from membership of the body for the period determined (which can be up to five years). In circumstances where the member is also a councillor, or a member of another devolved public body, the disqualification may extend to that member's status as a councillor or member of the other devolved public body.

**186** The Standards Commission's policy outlining the factors a Hearing Panel will consider when making a decision on the sanction to be imposed can be found at: <https://www.standardscommissionscotland.org.uk/cases/hearing-rules>.

#### Interim Suspensions

**187** Section 21 of the 2000 Act gives the Standards Commission power to impose an interim suspension on a member on receipt of an interim report from the ESC about an ongoing investigation. A policy outlining the Standards Commission's approach to interim suspensions can be found at: <https://www.standardscommissionscotland.org.uk/cases/details-of-alleged-breach>.

**188** The decision to impose an interim suspension should not be seen as a finding on the merits of a complaint, nor as a disciplinary measure.



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**MEMBERS' ALLOWANCE  
&  
EXPENSES GUIDANCE**

**May 2017**

To discuss this document, feel free to contact:

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## **1.0 INTRODUCTION**

Remuneration arrangements for elected members came into force on 2 May 2007 by virtue of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 and subsequently amended in 2016. This applied to all local authorities in Scotland and Joint Boards. However, the Regulations did not apply to SPT.

Further to this, the Minister for Local Government and Housing has subsequently confirmed the remuneration levels should be increased by 0.2%, w.e.f. 5 May 2017, and annually thereafter by the percentage increase in the median annual earnings of public sector workers in Scotland (letter of 9 March 2017).

In order to regulate matters, the Partnership agreed to adopt the principles outlined in the Regulations for approved duties. A copy of the minute is reproduced as part of attached appendices for information.

New guidance on the Regulations was issued by Scottish Government in April 2010 and took effect from 5 April 2010.

This guidance note and documentation replaces all previous member travel and subsistence arrangements and guidance notes.

SPT does not make special responsibility payments to any member other than the Chair and Vice-Chair(s). All councillor members will receive their basic salary from their constituent council. Any councillor member can decide to renounce receipt of any payment, or part of the payment made in respect of the approved duties, if they chose to do so. Payments will be made 4 weekly in arrears directly to a designated bank or building society account. For calculation purposes, salaries are based on 365 days per year.

Where an elected member has been suspended as a result of a contravention of the Members Code of Conduct, the Standards Commission may, on imposing such suspension, direct that any remuneration or allowance deriving from membership of SPT, and that would be payable to the member, not be paid or be reduced as directed.

HM Revenue & Customs has confirmed that for income tax and national insurance purposes, councillors are regarded as office holders and liable for PAYE and Class 1 national insurance contributions. As such, councillors will be entitled to Statutory Sick Pay and Statutory Maternity Pay. These payments are not classed as social security benefits but replacement earnings and are therefore taxable and subject to national insurance contributions as employment income in the same way as other elements of their remuneration.

## **2.0 ELEMENTS OF REMUNERATION PACKAGE**

### **2.1 Payment**

All councillor members will receive their basic remuneration from their respective council. SPT has agreed to make a payment to the Chair and Vice-Chair(s) in respect of the approved duties undertaken by both these roles. SPT has 2 Vice Chairs.

PT has agreed that the Chair will receive a total payment, inclusive of the basic remuneration, of £38,087 (w.e.f. 5 May 2017). SPT will therefore make a payment of up



to £21,161 to the Chair of SPT. This sum will be subject to PAYE and NI contributions via the SPT payroll.

SPT has agreed that the Vice-Chair(s) will receive a total payment, inclusive of the basic remuneration, of £28,565. SPT will therefore make a payment of up to £11,639 to the Vice-Chair(s) of SPT. This sum will be subject to PAYE and NI contributions via the SPT payroll.

These sums are based on a basic remuneration level of £16,926 with effect from 5 May 2017. The basic remuneration cannot be varied by individual councils but is set nationally.

## **2.2 Pension Payments**

The current local government pension scheme (LGPS) is now available to all Councillors. Deductions will be made by the "employing authority".

The LGPS should apply at the same retirement age as others in the scheme. Member contributions are set on a tiered basis, depending on remuneration levels, the same as other members of the scheme and normal employer contributions will apply with calculations based on career average rather than final salary. This differs from that applying to other members of the scheme and is intended to reflect that councillors may hold positions of responsibility with higher remuneration at various points in their career. However, at the time of writing, the above regulations and the relevant definition of pensionable pay does not include payments made by SPT. As a result, the payments made by SPT will not be subject to pension deductions and will not count towards a member's pension calculation.

The regulations governing pension matters is the responsibility of the Scottish Public Pension Agency.

## **2.3 Allowances and Expenses**

Any member of the Partnership is entitled to receive payments from the Partnership in respect of reimbursement of travel, subsistence or other expenditure incurred by that member, but only where the following conditions are met:

*The expenditure on travel, subsistence or other expenditure is expenditure reasonably incurred by the member for the purpose of enabling them to perform an approved duty as a member of the Partnership;*

The expenditure is defined in Schedule 2 of the Local Government (Allowances & Expenses) (Scotland) Regulations 2007; and the expenditure is fully receipted.

## **2.4 Approved Duties**

A list of the current approved duties is attached for information as Appendix 2.

Reimbursement of any expense incurred while undertaking SPT approved duties must be claimed directly from SPT and not from constituent councils unless prior arrangements have been made between the respective Chief Financial Officers as to the appropriate process for reimbursement between the two bodies.

## **2.5 Claim Forms**



Standard claim pro-formas must be completed by the claimant, detailing all of the relevant information about claims. Receipts **must** be attached where appropriate. Unreceipted expenditure will not be reimbursed.

Copies of the claim forms to be used are included at Appendix 3, and are also available electronically at:

[http://www.spt.co.uk/wmslib/Documents\\_Partnership/member\\_expense\\_guide.pdf](http://www.spt.co.uk/wmslib/Documents_Partnership/member_expense_guide.pdf)

## 2.6 Travel by Private Transport

There is a presumption that SPT members will travel by public transport unless in exceptional circumstances. However, RTP members may claim costs incurred when travelling by private car or van, motorcycle and bicycle on approved duties, and may also claim costs for travelling with passengers, where both the RTP member and the passenger are carrying out any approved duty or partnership business. The allowance for travel by private car, motorcycle and bicycle are as follows:

- 45p per mile for travel by car or van
- 24p per mile for travel by motorcycle
- 20p per mile for travel by bicycle
- 5p per passenger per mile where both the passenger and the councillor are carrying out an approved duty

The number of miles per mode reimbursed will be included with SPT's publication of members expenses – see section 2.11.

HM Revenue & Customs has intimated that mileage up to 10,000 miles per annum will be tax free. Payments for mileage beyond this are taxable and should be declared.

Leased cars will not be made available to members. SPT, as the promoter of public transport, expects that cost effectiveness and value for money will be considered when choosing mode and class of travel. It is expected that members should travel by standard / economy class on public transport for the vast majority of their journeys.

Receipts are required for:

- Parking charges – receipted costs of expenses incurred
- Road Tolls – cost of expenses incurred
- Road pricing / congestion charges – receipted costs of expenses incurred but not penalty charges
- Ferry fares for cars / motorcycles and bicycles – receipted costs of expenses incurred

SPT will not reimburse any costs associated with parking fines or recovery of vehicles towed away.

For the purposes of calculating claims, a member's normal place of residence is regarded as his or her normal place of work, so expenses associated with travel from home to SPT places of business may be claimed back. Equally if a member travels on SPT business from his or her place of employment of business, that will be reimbursed. However, if the cost of making that journey would have been lower had it started at the member's home, then that lower cost is the maximum that will be reimbursed.



SPT will not reimburse mileage costs for journeys outside Scotland, unless in exceptional circumstances where the cost of private travel outweighs the cost by public transport. In such circumstances, the arrangements and price comparisons must be agreed prior to travel arrangements being made.

## **2.7 Travel by Public Transport**

SPT's core business and objectives centre on the planning, promotion and delivery of effective public transport solutions and services, which are fit for purpose and accessible by all. SPT therefore actively supports and encourages all members to use public transport services wherever possible.

The following expenses may be reclaimed by members who use public transport to carry out their duties:

- Buses and Trams – expenses incurred and receipted, including a season ticket if this is a more cost effective solution
- Trains, air travel, ferry travel – receipted cost of fare
- Taxi – receipted costs but taxi fares will only be reimbursed where no alternative transport service is available or in the interests of safety.

It is expected that all members should travel by standard or economy class for the vast majority of journeys. However, members of SPT should also consider the cost effectiveness and value for money when choosing the mode of transport for a journey on SPT business.

In assessing private transport or public transport, consideration must also be given to the practical realities of time to travel and whether journeys by public transport are the most effective in terms of cost.

## **2.8 Meals and Allowances**

Where members are required to carry out SPT business outwith their own ward or outwith the SPT offices, the actual cost of reasonable expenses incurred for meals may be reimbursed on the production of a receipt. The maximum daily limits have been set by regulation and only receipted costs will be reimbursed up to:

- Breakfast - £8 per day
- Lunch - £12 per day
- Dinner - £25 per day

SPT will continue to provide a sandwich lunch on days of Committee meetings and Partnership meetings only, recognising that the SPT geographical area is considerable and, for some members, can involve travel of some distance.

Each element of reimbursement claimed is unique. Members must not claim reimbursement for the same expense more than once.

## **2.9 Overnight Subsistence Rates**



Where a member has an overnight stay away from home there are upper limits of £110 for the UK, and £131 for London to cover bed and breakfast. These are the maximum sums and will only be reimbursed on production of receipts.

Where a member must travel overseas on SPT business, the London rate of £131 per night for bed and breakfast will apply. These are the maximum amounts and will only be reimbursed on production of receipts.

Where an overnight claim has been made, no additional payment for breakfast will be reimbursed.

Bookings should be made by individual councillors and reimbursed. However, where several members are attending an event or conference and SPT can demonstrate best value would be achieved, it may choose to book accommodation on behalf of members. These costs should be within the above rates. All costs incurred for members will be publicly reported.

## **2.10 Overseas Travel and Accommodation**

Travel for overseas business will normally be based on economy or standard class travel. The exceptions to this are in instances of long haul flights greater than 6 hours in duration (USA or Far East) when premium economy (if available) or business class may be considered where merited in the circumstances.

## **2.11 Telephone and Equipment**

SPT will provide equipment necessary to allow members to carry out their approved duties and roles, consistent with the assessment of normal business needs. Members will not be reimbursed for purchasing such equipment.

Any telephone costs necessarily incurred to allow members to carry out their role effectively may also be reimbursed.

SPT may provide the Chair and Vice-Chair(s) of the Partnership with mobile phones if this is a more cost effective way of conducting SPT business. In these circumstances, this will be at the cost to SPT and each member will be asked to certify that the device is not used for personal purposes, thus complying fully with HM Revenue and Customs treatment. All personal calls should be identified and paid for by the member.

## **2.12 Publication of Remuneration Information**

The Partnership must publish information on members' allowances and payments in respect of the previous year in a standard format by 1 June of each year. This should include information on all costs reimbursed but also information on any cost for transport or subsistence, or other costs, which have been booked or provided by the Partnership on behalf of the member.

SPT has also decided that all member expenses will be presented to the Audit and Standards Committee for review at each cycle.

The Partnership will also be required to make information on members' remuneration and expenses available at the Partnership offices when requested to do so in writing.



There is also an expectation that at the same time as publishing the members' expenses, the Partnership will also publish details of any training undertaken by members in the previous year. As a minimum this will include reference to the number of members undertaking training provided by SPT and the various courses and conferences attended should be included as a footnote.

The minimum information to be published will include:

- name of the member;
- position held and unitary authority represented;
- remuneration;
- car and van mileage;
- other travel;
- subsistence costs, split between accommodation and meals;
- training and conference expenses;
- telephone and information communication technology expenses, excluding capital costs where ownership is retained by SPT;
- other expenses;
- total expenses; and
- total salary & expenses.

Specifically, the Public Services Reform Act (Scotland) 2010, places a duty on SPT to make an additional public statement in relation to overseas travel and the associated cost. This covers the cost of overseas travel by any member, irrespective of whether or not this has been included in an expense reimbursement statement expense claim. This will include:

- cost of hotel;
- conference fee;
- cost of travel;
- subsistence; and
- any other related expenditure.





## APPENDIX 1

### Excerpt from minute of the meeting of the Strathclyde Partnership for Transport held on 31 May 2012

\* \* \* \* \*

#### 8. Chair and Vice-Chair remuneration

There was submitted and approved a report (issued) of 14 May 2012 by the Secretary,

- (1) reminding members of the changes to the way in which elected members were remunerated as a result of the Local Government (Scotland) Act 2004;
- (2) advising members
  - (a) that, although the Act applied to all local authorities and joint boards, it did not apply specifically to Regional Transport Authorities; and
  - (b) that although the Transport (Scotland) Act 2005 and subsequent orders permitted Regional Transport Partnerships to make payments for members' expenses only, the previous powers of the former SPTA which had been transferred to this RTP, permitted SPT to make payments for the following approved duties:
    - attendance at a meeting of the body;
    - attendance at a meeting of a committee or sub committee of the body in particular circumstances; and
    - doing anything for the purposes of, or in connection with, the discharge of the functions of the organisation; and
- (3) proposing that SPT continue to adopt the principles outlined in the legislation, insofar as was practicable as previously agreed;
- (4) informing members
  - (a) that the impact of this would be that the Chair of the RTP would be entitled to receive a total payment of £36,528 per annum which equated to 75% of the remuneration of the leader of the highest banded council and Vice-Chairs 75% of the Chair's remuneration (£27,396 per annum), inclusive of any sum paid to them as a councillor; and



- (b) that consistent with previous decisions, it was proposed that the applicable date was the date of appointment with the exception of where the holder of the post of Chair or Vice-Chair previously held a post with SPT immediately prior to the new Partnership;
- (5) highlighting the fact that SPT's SRAs were not classed as remuneration within the legislation which would permit members to join the local government pension scheme; and
- (6) explaining that a full copy of the Members' Allowance and Expenses Handbook was contained within the Governance Manual distributed to all members.



## APPENDIX 2

### APPROVED DUTIES FOR MILEAGE/SUBSISTENCE

1. Attendance at a meeting of the RTP or any of its committees, sub committees or pre-agenda meetings.
2. Attendance at any meeting or conference to which the member has been appointed or invited by the RTP or a committee to attend.
3. Attendance at visits and inspections arranged by the RTP or at a function approved by the RTP.
4. Attendance at consultations with departmental officers.
5. Attendance at duties in connection with any bodies specifically prescribed by the First Minister.
6. Attendance at meetings of a community relations nature, including meetings of the community councils, residents' associations, community groups etc in so far as they affect the planning and provision of transport.
7. Visits to the departments of the RTP to discuss departmental matters affecting the Strathclyde area or matters raised by members of the RTP.



### APPENDIX 3

#### DETAILS OF NEW ELECTED MEMBERS

<b>NAME</b>	
<b>ADDRESS</b>	
<b>DATE OF BIRTH</b>	
<b>NAT. INSURANCE NO</b>	
<b>EMPLOYMENT STATUS</b>	
<b>COUNCIL REPRESENTED</b>	

Please supply the following information:

<b>BANK NAME</b>	
<b>BRANCH</b>	
<b>ADDRESS</b>	
<b>SORT CODE</b> (6 digits)	
<b>ACCOUNT NO:</b> (8 digits)	
<b>SIGNATURE</b>	
<b>DATE</b>	

Internal Use Only – complete and initial confirmation

P46 Issued / P45 Received  
Tax Code  
NI Category



## APPENDIX 4

### MEMBERS TRAVEL & SUBSISTENCE EXPENSE CLAIM FORM effective from January 2017

<b>Name</b>		<b>Payroll No</b>	
<b>Vehicle Reg No</b>		<b>Period End</b>	

#### Summary of Claim

	£	Official Use Only
Car Mileage	£0.00	
Motorcycle Mileage	£0.00	
Bicycle Mileage	£0.00	
Passenger Mileage	£0.00	
Staying with Friends Allowance	£0.00	
Subsistence	0	
Other Travel	0	
Other Expenses	0	
<b>Total Claim</b>	<b>£0.00</b>	

#### Declaration

I declare that:

The amounts of travel and subsistence expense claimed, have been actually and reasonably incurred for the purpose of enabling me to perform approved duties as a member of SPT.

I have paid the fares shown and all other amounts claimed are in accordance with rates approved by the RTP.

I have attached all necessary receipts in connection with expenses claimed.

I have not made, and will not make, any other claim under any enactment for subsistence expenses or allowances in connection with the duties indicated in this form.

Where I am claiming mileage expenses, I have a valid licence and appropriate motor insurance, which covers my vehicle being used for business purposes.

**Signature**

**Date**

Internal Use Only

Checked By

Date



## NOTES OF GUIDANCE FOR COMPLETION OF CLAIM FORM

The claim form has been devised to take account of the requirements for publishing information in a standard format about members' claims. This form will also provide the necessary documentation for HM Revenue and Customs and Internal and External Audit.

To assist in the completion of the form your attention is drawn to the following points:

1. Date – please insert the date for which the expense is being claimed.
2. Times of departure and arrival – departure and arrival times should be entered for verification of amounts claimed for subsistence
3. Detailed description of approved duty – clearly indicate which meeting you have attended or the relevant detail of the approved duty undertaken. Approved duties should indicate – Partnership meeting, duties in connection with Partnership functions, conference, seminar etc, nominee to other bodies, duties undertaken by Chair/Vice-Chair(s) and meetings with named officers.
4. Expense Items/journey details – as meetings and approved duties are held at various locations, it is essential for the calculation of mileage that all locations visited are entered onto the claim form.
5. Passenger miles – this calculation should be entered by calculating the number of miles travelled multiplied by the number of passengers e.g. 2 passengers x 30 miles = 60 passenger miles.
6. Subsistence – subsistence relates to overnight accommodation and meals. Only receipted costs will be reimbursed to the prescribed maximum levels when SPT business is required to be conducted outwith the SPT area, or outwith the Partnership premises, or otherwise in accordance with Schedule 2 to the Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007.
7. Other travel expenses – this column should be used to record claims for public transport, taxi and fares and any other allowable travel expenses for which a receipt is available.
8. Other Expenses – this column should be used for reimbursement of other receipted allowable expenditure.

All details/dates etc. are reconciled and reimbursement is only made when supporting receipts and attendance is confirmed.



RECORD OF CLAIMS – Annual Return

APPENDIX 5

NAME	DESIGNATION	SALARY	REIMBURSEMENT OF EXPENSES								
			TRAVEL EXPENSES		SUBSISTENCE EXPENSES		TELEPHONE & INFORMATION COMMUNICATION TECHNOLOGY (ICT) EXPENSES	OTHER EXPENSES	TOTAL EXPENSES	SALARY & EXPENSES TOTAL	
			Car & Van	Other Travel	Accommodation	Meals					
(A)	(B)	(C) £	(D) £	(E)	(F)	(G) £	(H) £	(I) £	(J)=(D) – (I) £	(K)=(C)+(J) £	





# **Multi member wards protocol**

## **COUNCILLOR AND OFFICER GUIDANCE FOR MULTI -MEMBER WARDS**

### **Background**

1. This guidance has been established to assist members and officers develop efficient working relations in the new multi-member ward system.
2. The single transferable voting (STV) system of proportional representation was introduced for local government elections in Scotland at the election held on 3 May 2007.
3. This guidance provides initial guidance for officers in dealing with some of the more practical issues which might arise under the new arrangements of multi-member wards.
4. Further work is required to identify any issues or problems members are experiencing in practice arising from multi-member wards working over and above the co-ordination and communication issues set out in the guidance. The outcome of this work should be used to inform and develop the guidance.
5. This note should be read in conjunction with the Employees Code of Conduct and SPT's Members' Code of Conduct.

### **General guidance**

- Members elected to multi-member wards have equal status and represent the whole ward.
- When dealing with enquiries about which local member represents any particular ward, officers should provide the names of **all** members in the ward along with their political affiliation.

### **Consultation with Councillors**

- Whenever SPT undertakes any form of consultative exercise on local transport issues particular to a ward or wards, officers should notify all ward members of the consultation and request their views on the matter.

### **Public meetings**

- Whenever a public meeting is arranged by SPT to consider an issue local to one or more wards, all the ward members should be invited to attend the meeting;
- If an officer is attending a public meeting in a ward with one member, the other ward members should be advised of this as a courtesy.

- Officers may be invited to public meetings by local people or organisations. If so, they should advise the ward members of this.
- When hosting a civic event or function for a local group/organisation pertinent to a local ward, all associated ward members should be invited.
- When SPT is hosting an official opening of a new facility, all local ward members must be invited.

### **Site visits**

If an officer is attending a site meeting at the request of/or instigation of one member, the decision on whether to advise the other ward members of this will rest with the member attending a site meeting.

### **Correspondence with Members**

- When officers are providing general service information to members, all affected members should be provided with that information.
- Where departments are required to advise or inform the local member of information, all members should be provided with that information.
- When dealing with a routine or business as usual request received from a member, the department should deal with this in the normal manner. There is no specific requirement to consult the other ward members.
- Where a member has been involved in an issue affecting the ward generally then the relevant officers should keep the member and all other ward members informed of developments until the issue is finalised.
- All members in a multi-member ward should be kept informed of SPT business which affects their wards.
- To comply with data protection legislation, any correspondence between an individual member on behalf of a constituent in their ward and an officer relating to a transport /SPT issue should not be copied by the officer to any other ward member unless the constituent has provided clear consent.



# **Code of Practice on Publicity**

# **Code of recommended practice on local authority publicity**

---

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

Department for Communities and Local Government  
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PUBLICITY

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**Circular 20/88**  
(Department of the Environment)

**Circular 16/88**  
(Scottish Development Department)

**Circular 30/88**  
(Welsh Office)

Joint Circular from the
<b>Department of the Environment</b> <b>2 Marsham Street, London SW1P 3EB</b>
<b>Scottish Development Department</b> <b>New St. Andrew's House, Edinburgh EH1 3SZ</b>
<b>Welsh Office</b> <b>Cathays Park, Cardiff CF1 3NQ</b>

15 August 1988

### **Code of Recommended Practice on Local Authority Publicity**

1. We are directed by the Secretary of State for the Environment, the Secretary of State for Scotland and the Secretary of State for Wales to draw the attention of your authority to the annexed code of recommended practice on local authority publicity, which they have issued under their powers under section 4 of the Local Government Act 1986, as amended by section 27 of the Local Government Act 1988.
2. Section 4 provides for the Secretary of State to issue codes of recommended practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section, as amended, also requires that local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.
3. The code has been prepared following consultations with the associations of local authorities, the local authorities with whom the Secretaries of State thought consultation desirable, and other bodies concerned. A draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
4. The code has no significant implications for either local authority expenditure or manpower.

**A J C SIMCOCK**, *Assistant Secretary*  
**MRS G M STEWART**, *Assistant Secretary*  
**D M TIMLIN**, *Senior Principal*

The Chief Executive

County Councils in England and Wales  
Regional and Islands Councils in Scotland

District Councils in England, Wales and Scotland  
London Borough Councils  
The Council of the Isles of Scilly

The Town Clerk, City of London

The Chief Officer

Metropolitan County Passenger Transport Authorities  
Metropolitan County Police Authorities  
Metropolitan County Fire and Civil Defence Authorities  
The London Fire and Civil Defence Authority

The Education Officer and Chief Executive, Inner London Education Authority

The Chief Executive, The Broads Authority

The Clerk

Parish Councils in England  
Community Councils in Wales

[DOE LGR/57/5/02]

[SDD L/ACT/217/2]

[WO LG/49/3/49]

## **CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY**

### **INTRODUCTION**

#### **Status of the Code**

1. This Code is issued by the Secretaries of State for the Environment, Scotland and Wales in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was drawn up following the consultations with interested parties in local government required by section 4(4) of the Act. It has been approved by a resolution of each House of Parliament. Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Code in coming to any decision on publicity.

#### **Why have a Code?**

2. Local authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a council's activities, is to be welcomed. This Code is not intended to discourage such publicity.

3. Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local authorities has been significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made, in accordance with clear principles of good practice. The purpose of the Code is to set out such principles. It reflects the conventions which should apply to all publicity at public expense, and which traditionally have applied in both central and local government.

4. The principles set out below recognise the political nature of local government. They take account of the fact that some local authority publicity will deal with issues that are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, nor stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

#### **Scope of the Code**

5. The Code is not concerned with the interpretation of section 2 of the Local Government Act 1986. (That section provides that a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party.) The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind in decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial,

but which are not prohibited by section 2.

**6.** Section 6 of the 1986 Act defines publicity as "any communication, in whatever form, addressed to the public at large or to a section of the public". The Code will therefore be relevant across the whole range of local authorities' work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns, and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.

**7.** The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.

**8.** The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based, and to apply them accordingly.

**9.** By virtue of section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

## CODE OF RECOMMENDED PRACTICE

### Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
  - (i) the publicity should be relevant to the functions of the authority.
  - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.
  - (iii) in areas where central government, another tier of local government, or another public authority have the primary service or policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

### Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is

needed for publicity.

**9.** In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.

**10.** In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:

- (i) whether the publicity is statutorily required or is discretionary.
- (ii) where it is statutorily required, the purpose to be served by the publicity.
- (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

## **Content and style**

**11.** Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.

**12.** Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.

**13.** Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.

**14.** Publicity relating to the provision of a service should concentrate on providing factual information about the service.

**15.** In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.

**16.** Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

**17.** Publicity should not attack, nor appear to undermine, generally accepted moral standards.

**18.** Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract

tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.

**19.** Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

## **Dissemination**

**20.** The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

**21.** Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

**22.** Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

**23.** Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.

**24.** Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.

**25.** Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.

**26.** Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.

**27.** Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

## Advertising

**28.** Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area of economic development generally.

**29.** The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

**30.** Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.

**31.** Advertising in media which cover a 's area or to use its facilities.

**32.** The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.

**33.** It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.

**34.** Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.

**35.** Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

## Recruitment advertising

**36.** Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.

**37.** The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local



authority staff.

**38.** Advertisements for staff should not be placed in party political publications.

### **Publicity about individual members of an authority**

**39.** The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.

**40.** In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.

**41.** For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.

**42.** This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

### **Timing of Publicity**

**43.** Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members.

### **Assistance to others for publicity**

**44.** The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

(a) incorporate the relevant principles of the Code in published guidance for applicants for grants;

(b) make the observance of that guidance a condition of the grant or other assistance;

(c) undertake monitoring to ensure that the guidance is observed.

**45.** It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

*DETR Circular 06/2001*

**Department of the Environment, Transport and the Regions  
Eland House, Bressenden Place, London SW1E 5DU**

*2 April 2001*

## **ALTERATIONS TO THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY**

- 1.** Section 4 of the Local Government Act 1986 provides for the Secretary of State to issue, revise or withdraw a code of recommended practice as regards the content, style, distribution and cost of local authority publicity, and such other related matters as he thinks appropriate. Local authorities shall have regard to the provision of any such code in coming to any decision on publicity.
- 2.** Using these powers the Secretary of State for the Environment, the Secretary of State for Scotland and the Secretary of State for Wales issued, on 15 August 1988, "The Code of Recommended Practice on Local Authority Publicity" ("the Code") as an annex to a Joint Circular from the Department of the Environment (20/88), the Scottish Development Department (16/88) and the Welsh Office (30/88).
- 3.** The Secretary of the State for the Environment, Transport and the Regions, in exercise of his powers conferred on him by section 4(3) of the Local Government Act 1986 now revises the Code to reflect changes in council constitutions and the advent of referendums and petitions. I am directed by the Secretary of State to draw the attention of your authority to the annexed alterations to the Code which shall apply to county councils, district councils and London borough councils in England only.
- 4.** In accordance with section 4(6) of the Local Government Act 1986, The Secretary of State for the Environment, Transport and the Regions laid before each House of Parliament a draft of proposed alterations to the Code on 15 February 2001.
- 5.** The proposed alterations have been the subject of a consultation with the Local Government Association in accordance with section 4(4) of the Local Government Act 1986.

P ROWSELL,

a Senior Civil Servant in the Department of the Environment, Transport and the Regions.

## ANNEX

### ALTERATIONS TO THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY, WHICH APPLY TO LOCAL AUTHORITIES IN ENGLAND ONLY

1. Insert after paragraph 9 of the Introduction to the Code of Recommended Practice on Local Authority Publicity, dated 15 August 1988, ("the Code") the following:

#### **"Alterations to the Code - local authorities in England**

10. The alterations to the Code which are set out in Appendix 1 shall apply in relation to county councils, district councils and London borough councils in England only. The alterations reflect changes in council constitutions and the advent of referendums and petitions. Throughout this Code, as it applies to such local authorities in England, any reference to "councillor" includes, unless the context requires otherwise, a reference to an elected mayor. The alterations shall have effect on and after Monday 2nd April 2001.

2. Insert after paragraph 45 of the Code the following:

Appendix 1

*Alterations to the Code which shall apply to county councils, district councils and London borough councils in England only*

<b>Paragraph of the Code</b>	<b>Alteration to paragraph</b>
4(iii)	Omit paragraph 4(iii)
16	Insert after the word council,, the words  <i>is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity</i>  For the words It should, substitute the words  <i>Issues must be presented clearly, fairly and as simply as possible, although councils should</i>
18	Insert after the words "for example,", the words -  <i>"as part of consultation processes where local views are being sought, or"</i>  For the words "race relations", substitute <i>"equal opportunities"</i>
20	

	<p>Insert after the word "performs;", the words -</p> <p><i>"to allow local people to have a real and informed say about issues that affect them;"</i></p>
23	<p>After the word "leaflets," , omit the word "and"</p> <p>Insert after the words "house to house" , the words -</p> <p><i>"and information on websites"</i></p> <p>For the words "inevitably more intrusive", substitute the words -</p> <p><i>"able to reach far wider audiences"</i></p> <p>Insert after the word "council." , the words -</p> <p><i>"Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems."</i></p>
<a href="#">24 &amp; 25</a>	<p>For both paragraphs substitute -</p> <p><i>"24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues."</i></p>
26	<p>For the words ", but they may touch on controversial issues. If", substitute the words -</p> <p><i>"or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where"</i></p>
27	<p>Insert after the words "voluntary organisations", the words -</p> <p><i>", and making use of electronic communication systems"</i></p>
28	<p>For the words "tourism, and in the area of economic development generally" substitute the words -</p> <p><i>"promoting the social, economic and environmental well-being of the area"</i></p>
39-43	<p>For paragraphs 39 to 43, and the headings to those paragraphs, substitute -</p> <p><b>"Individual Councillors"</b></p>

39. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

40. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

#### **Elections, referendums and petitions**

41. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.

42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to

- Publish material which appears designed to influence

	<p>local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;</p> <ul style="list-style-type: none"> <li>• Assist anyone else in publishing such material; or</li> <li>• Influence or assist others to influence local people in deciding whether or not to sign a petition.</li> </ul> <p>Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.</p> <p>43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act."</p>
45	<p>For the words "can be ", substitute the word "is"</p> <p>After the words "legal provision", insert the words -</p> <p><i>"(authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000)"</i></p>

## CODE OF RECOMMENDED PRACTICE

### Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
  - (i) the publicity should be relevant to the functions of the authority.
  - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

### Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as



compared with other uses to which the resources could be put.

**10.** In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:

- (i) whether the publicity is statutorily required or is discretionary.
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- (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

## **Content and Style**

**11.** Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.

**12.** Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.

**13.** Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.

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**15.** In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.

**16.** Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

**17.** Publicity should not attack, nor appear to undermine, generally accepted moral standards.

**18.** Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment.

Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.

**19.** Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

## Dissemination

**20.** The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

**21.** Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

**22.** Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

**23.** Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.

**24.** Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.

**25.** there is no paragraph 25

**26.** Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.

**27.** Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

## **Advertising**

**28.** Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.

**29.** The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

**30.** Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.

**31.** Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.

**32.** The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.

**33.** It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.

**34.** Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.

**35.** Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

## **Recruitment Advertising**

**36.** Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its

composition from time to time.

**37.** The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.

**38.** Advertisements for staff should not be placed in party political publications.

### **Individual Councillors**

**39.** Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

**40.** Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

### **Elections, referendums and petitions**

**41.** The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.

**42.** The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to

- Publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
- Assist anyone else in publishing such material; or

- Influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

**43.** County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

### **Assistance to others for publicity**

**44.** The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
- (b) make the observance of that guidance a condition of the grant or other assistance;
- (c) undertake monitoring to ensure that the guidance is observed.

**45.** It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.



# Counter Fraud Strategy

November 2021



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<p style="text-align: center;"><b>Fraud Response</b> telephone number <b>0141 333 3141</b> (in confidence)</p>
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## 1. Introduction

- 1.1 Strathclyde Partnership for Transport (the Partnership) is an employer, service provider and purchaser of goods, services and works. As with other public sector organisations, the size and nature of our services puts us at risk of loss due to fraud, corruption or bribery, both from within and from outside the Partnership.
- 1.2 We (the Partnership) are committed to the prevention, detection, investigation and reporting of fraud and corruption. We are committed to recovering losses from fraud and to taking action against those who perpetrate fraud or corrupt acts against us.
- 1.3 This document outlines our Counter Fraud Strategy which is designed to ensure that our assets are safeguarded against loss and theft. In summary:
- the Partnership does not tolerate fraud and corruption;
  - the Partnership will investigate all allegations of fraud and corruption;
  - the Partnership will recover funds from parties found to have defrauded it; and;
  - the Partnership will assist in the prosecution of any person(s) who attempts to or commits fraud against it (the Partnership).
- 1.4 SPT management are responsible for the prevention and detection of fraud, as per the Fraud Response Plan (Appendix 1). However, we expect every Partnership employee, and those acting on behalf of the Partnership, to comply with the Seven Principles of Public Life (Appendix 2) and to be familiar with both this policy and the warning signs of fraudulent activity that might be present in their area of responsibility.
- 1.5 The Partnership expects all employees, contractors, service providers and service users to be fair and honest and to give the Partnership any help, information and support needed to deal with fraud and corruption. For the purposes of this strategy, employees include full-time, part-time, and agency staff.
- 1.6 We expect employees to report any suspicions in confidence to their manager, or to the individuals named in the attached Fraud Response Plan (Appendix 1) or in accordance with the Whistleblowing Policy (Appendix 3). If you wish to clarify any matters in this strategy or supporting appendices, contact the Audit and Assurance Manager, in confidence, on 0141 333 3195 or in person.
- 1.7 The strategy set out in this document covers the following areas:
- The Partnership's written rules;
  - How we expect our employees to behave;
  - Preventing fraud and corruption;
  - Detecting and investigating fraud and corruption; and
  - Training and awareness.

This plan is intended to be implemented where suspicions of fraud or corruption have been raised.

**Fraud** is defined as:

*'an illegal act categorised by deceit, concealment or violation of trust'.*





**Note:** this includes cyber fraud. Cyber-crime is any criminal act dealing with computers and networks (called hacking). Additionally, cyber-crime also includes traditional crimes conducted through the Internet.

**Corruption** is defined as:

*'dishonest or fraudulent behaviour by a person(s) in authority'*.

## **2. The Partnership's written rules**

2.1 The Partnership has policies, procedures and rules to make sure that the financial, operational and organisational processes are properly controlled. These arrangements are an important part of the system of internal control.

2.2 The internal control documents include the following:

- Scheme of Delegated Functions;
- Financial Regulations;
- Standing Orders Relating to Contracts;
- Code of Conduct for Employees;
- Code of Conduct for Members;
- Code of Corporate Governance;
- Guidance on the Register of Interests for Employees; and
- Employees' conditions of service.

2.3 Individual services have measures which are designed to control their activities to complement these corporate policies and procedures. Examples include Standard Procedural Instructions and other operational guidance.

2.4 Directors/managers must make sure that all staff have access to these rules and regulations and that staff receive suitable training.

2.5 Employees must make sure that they read and understand the rules and regulations that apply to them, and act in accordance with them.

2.6 If any employee breaks these rules and regulations, the Partnership may take such formal action as considered appropriate in the circumstances of the case. This may include invoking the disciplinary procedures against individual employee(s) which can lead to terminating their employment with the Partnership.

## **3. How we expect our employees to behave**

3.1 We expect all people and organisations that are in any way associated with the Partnership to be fair and honest in their dealings with each other, service providers and service users. The Partnership expects all employees, full-time, part-time and agency staff, to lead by example in these matters.

3.2 Our Code of Conduct for employees set out an approach to work that is both fair and honest. Employees are required to act in accordance with this code at all times.



- 3.3 We feel our employees have an important part to play in preventing and detecting fraud and corruption. We actively encourage our staff to inform us if they suspect or have any information relating to fraud and corruption.
- 3.4 We will treat all information received on these matters fairly and confidentially. We will endeavour not to reveal the names of the person(s) who provided us with the information. The attached Fraud Response Plan (Appendix 1) and Whistleblowing Policy (Appendix 3) offer more advice on this issue for all employees including agency staff.
- 3.5 The Nolan Committee set out the seven guiding principles that apply to people who serve the public. We will develop our working behaviour around these principles, as per Appendix 2.
- 3.6 We expect that any and all suspected, attempted or incidents of fraud or corruption will be reported immediately to the employee's manager/Director. (The employee may wish to report this matter in accordance with the Whistleblowing policy (Appendix 3)). The employee's Director will then make a report to the Assistant Chief Executive for further investigation and reporting.

**Important note:** the employee and/or his/her manager **must not investigate** fraud or corruption themselves. All issues relating to these matters should be formally reported in accordance with the Fraud Response Plan and/or Whistleblowing policy.

- 3.7 We will endeavour to ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations, may lead to the disciplinary procedures being invoked.

#### **4. Preventing fraud and corruption**

- 4.1 We believe that if fraud and corruption are to be beaten, they must be prevented from happening in the first place. It is essential that we have clear rules and procedures, within which employees, contractors and service providers can work.
- 4.2 We will regularly review and update our policies, and procedures and rules to ensure that they address the current risks (including fraud) facing the Partnership. We require all employees to comply with these rules and policies.
- 4.3 We recognise that it is the responsibility of SPT management to manage the risk of fraud and corruption. We will therefore implement internal controls which contribute to the prevention and detection of fraud and corruption. Audit and Assurance will assist management in this process by assessing, reviewing and reporting on the robustness of these internal controls and recommending remedial action, where appropriate. The Assistant Chief Executive will initiate any and all investigation of fraud incidents.
- 4.4 We must follow our procedures when vetting and employing staff. We will check the previous employment records, references and where relevant, request additional checks (i.e. Disclosure checks) of anyone we are considering employing. This applies to both permanent and temporary posts.



- 4.5 We are committed to working and co-operating with other organisations to prevent fraud and corruption. Wherever possible, we will assist and exchange information with other organisations to deal with fraud and corruption.
- 4.6 Any disclosure of information will be tightly controlled particularly in relation to data protection issues. Legal advice maybe sought prior to any exchange of information.
- 4.7 We will endeavour to provide confidential facilities for people to give us information that may prevent fraud and corruption.
- 4.8 We will endeavour to ensure that full details of the Partnership's Whistleblowing policy is available to all employees and that all information we receive in this way is investigated accordingly.

## **5. Detecting and investigating fraud and corruption**

- 5.1 This section should be read with the Partnership's Fraud Response Plan (Appendix 1) and the Bribery Act 2010 (Appendix 4)
- 5.2 In accordance with the Financial Regulations employees must report any evidence or reasonable suspicion of any irregularity relating to funds, stores or other property of the Partnership immediately to the Assistant Chief Executive. Reporting cases in this way is essential to the delivery of the Counter Fraud Strategy and makes sure that:
- suspected cases of fraud and corruption are investigated properly;
  - the fraud response plan is carried out properly;
  - there is a standard process for dealing with all suspected cases of fraud and corruption; and
  - our interests and those of the individuals are protected.
- 5.3 The Partnership's Whistleblowing Policy (Appendix 3) is intended to encourage and enable staff to raise serious concerns. Employees reporting these concerns, in this way, are afforded certain rights through legislation.
- 5.4 We will investigate all allegations and suspected incidents of fraud or corruption. The Assistant Chief Executive will determine the extent of the investigation and report as considered necessary. The Assistant Chief Executive will inform the Chief Executive in all cases where it is considered that there may be a crime or an offence involved.

### Audit and Assurance

- 5.5 In accordance with the Internal Audit Charter; Audit and Assurance staff are granted the authority to have unrestricted access to all Partnership assets, correspondence, documents, records and systems (computerised and otherwise); books, records and premises and employees in the course of the investigation of suspected fraud. Where appropriate the Defalcation procedures will be invoked (Appendix 5).



- 5.6 A report will be made by the Assistant Chief Executive to Police Scotland in all circumstances of financial irregularity where it appears that a crime or an offence may have been committed.
- 5.7 It is our intention to recover any funds or property which have been misappropriated from us by either individuals or organisations.

#### National Fraud Initiative

- 5.8 We will participate in the National Fraud Initiative (NFI) data matching exercise. The Audit and Assurance Manager will investigate all data matches on behalf of the Partnership to identify and report on potential errors or fraud.

#### Bribery and Corruption

- 5.9 Any suspected contravention of the Bribery Act 2010 will be investigated internally by the Assistant Chief Executive and where the Partnership considers that a breach of the Act has occurred; this will be referred to the relevant regulatory authorities for further action, as appropriate.
- 5.10 The Partnership will appoint the Assistant Chief Executive to have responsibility for ensuring that adequate procedures and appropriate documentation are put in place to reflect the requirements placed upon the Partnership and associated persons under the Act such as its officers, suppliers and partners. This will include, but is not limited to: Codes of Conduct; Procurement guidelines, processes and documentation; guidance on the acceptance of gifts and hospitality; and the Register of Interests.

### **6. Training and awareness**

- 6.1 We understand that the key to implementing a successful Counter Fraud Strategy and making sure it continues to apply will depend on programmed training and the way all our employees respond.
- 6.2 We support the provision of training for our employees who are involved in, and/or manage internal control systems, to make sure that their responsibilities and duties are regularly reviewed and reinforced.
- 6.3 We are also committed to training and developing our employees who are involved in investigating fraud and corruption, and will provide suitable training.
- 6.4 We will raise awareness of the risk of fraud and corruption and encourage participation in counter fraud measures including cyber resilience arrangements outlined by the Scottish Government.

### **7. Conclusion**

- 7.1 The Partnership is committed to the prevention, detection, investigation and reporting of fraud and corruption. Our response will be efficient, effective and fair and will rely on the principles included in this document.



- 7.2 We will continue to monitor our rules, processes and procedures and will make sure that this strategy document is regularly reviewed so that it remains effective.



## Fraud Response Plan

### 1. Introduction

The Fraud Response plan must be followed by management in the event of a fraud being suspected, attempted or committed within Strathclyde Partnership for Transport.

The plan offers guidance on the following matters:

- Responsible persons;
- Initial evaluation;
- Informing relevant parties;
- Maintaining a fraud register;
- Swift initial action;
- Investigation;
- Reporting;
- Asset recovery;
- Prosecution and disciplinary action.

### 2. Responsible persons

Whenever it is suspected or known that a fraud has occurred, in any service, the matter should be immediately reported to the relevant manager/Director who will immediately inform the Assistant Chief Executive.

### 3. Initial evaluation

The manager/Director and Assistant Chief Executive, having been so informed, shall immediately contact the Audit and Assurance Manager requesting that an investigation is carried out. The Audit and Assurance Manager will then carry out an initial evaluation.

### 4. Informing relevant parties

On completion of the initial evaluation by the Audit and Assurance Manager, the Assistant Chief Executive will determine which other parties are to be informed. These other parties include, but are not limited to, the Strategy Group, Legal Adviser, Police Scotland, SPT's insurers and bankers. The Assistant Chief Executive will also consult with the Media and Public Affairs Manager, if appropriate.

### 5. Maintaining a fraud register

The Audit and Assurance Manager will maintain a register of all reported frauds including suspected or attempted frauds. This register will record fraud incidents, results of investigations and any action undertaken.



## **6. Swift initial action**

After the preliminary evaluation by the Audit and Assurance Manager, a decision shall be taken by the departmental manager/Director in consultation with the Director of Finance as to whether or not the employee(s) concerned should be temporarily removed from his/her existing workplace. This may involve finding alternative work or suspension with pay pending the results of the investigation. The Audit and Assurance Manager will also offer guidance on how to stem any loss, ensure the integrity of evidence is maintained, and the need to withdraw any authorities and accesses (including Digital equipment and systems and access to premises) used by the employee(s).

## **7. Investigation**

If in the course of the investigation, interviews conducted by Audit and Assurance and/or other officials are required, with the employee(s) concerned, the employee(s) must be given the opportunity of being accompanied. He/she may select a trade union or professional association representative or a colleague who is not involved in the area of work to which the investigation relates.

## **8. Reporting**

The Assistant Chief Executive will make a report to Police Scotland in all circumstances of irregularity where it appears that a crime has been committed. In addition, following advice, the matter may also be reported to other partner and external organisations, i.e. bank, external audit, insurance provider and media.

## **9. Asset Recovery**

Where appropriate the Assistant Chief Executive will initiate action to trace and recover any misappropriated assets and notify insurers where necessary.

## **10. Disciplinary action**

In the event of fraud or corruption being identified, disciplinary action will be pursued in accordance with the Partnership's disciplinary policy.



## The Seven Principles of Public Life (Nolan)

<b>Selflessness</b>	Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
<b>Integrity</b>	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of their official duties.
<b>Objectivity</b>	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
<b>Accountability</b>	Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
<b>Openness</b>	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
<b>Honesty</b>	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
<b>Leadership</b>	Holders of public office should promote and support these principles by leadership and example.





## Whistleblowing Policy

Employees are often the first to realise that there may be something seriously wrong within the Partnership (i.e. suspected fraud, corruption or other wrongdoing). However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Partnership. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Partnership is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others with serious concerns about any aspect of the Partnership's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff can do so without fear of reprisal.

This Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the Partnership rather than overlooking a problem or approaching the media or other external bodies as a first resort.

### 1. Aims and scope of the policy

(a) This policy aims to:

- provide avenues for staff to raise concerns and receive feedback on any action taken;
- inform staff on how to take the matter further if they are dissatisfied with the response, and
- reassure staff that they will be protected from reprisal or victimisation for whistleblowing in good faith.

(b) There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures. That concern may be about something that:

- is unlawful; or
- is against the Partnership's Standing Orders or policies; or
- falls below established standards or practices; or
- amounts to improper conduct.

### 2. Safeguards

(a) **Harassment or Victimisation:** The Partnership recognises that the decision to report a concern can be a difficult one to make, not least because of the reaction of those responsible for the malpractice. The Partnership will not tolerate



harassment or victimisation and will take action to protect staff when they raise a concern in good faith. This does not mean that if a member of staff is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of their whistleblowing.

- (b) **Confidentiality:** The Partnership will do its best to protect an individual's identity when he/she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.
- (c) **Anonymous Allegations:** This policy encourages staff to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Partnership. In exercising this discretion, the factors to be taken into account would include, but not limited to:
  - the seriousness of the issued raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources
- (d) **Untrue Allegations:** If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an individual makes malicious or vexatious allegations, disciplinary action may be considered and invoked.

### 3. Raising a concern

- (a) For some relatively minor issues (e.g. personal use of Partnership equipment, abuse of flexi-time), the employee(s) should normally raise concerns with their immediate manager or their superior. In general, however, the whistleblowing procedure is expected to be used for potentially more serious and sensitive issues (e.g. suspected fraud, corruption and safety critical issues);

The first step, for all serious issues, will be to approach the relevant Director (unless he/she or senior management is the subject of the complaint in which case the Assistant Chief Executive should be informed directly). Should the complaint be found by the Director to be substantiated, he/she will consult with the Assistant Chief Executive. All staff can raise concerns directly with the Strategy Group should they be unhappy with the internal investigation.

- (b) Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible, should be set out and the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing; can telephone; or meet an appropriate officer in person.
- (c) The earlier the concern is expressed, the easier it is to take action.
- (d) Although staff are not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.



- (e) Advice and guidance on how matters of concern may be pursued can be obtained from the Audit and Assurance Manager.
- (f) Individuals may invite their Trade Union or professional association to raise a matter on their behalf.

#### **4. How the concern will be dealt with**

- (a) The action taken by the Partnership will depend on the nature of the concern. The matters raised may:
  - be investigated internally; and/or
  - be referred to Police Scotland; and/or
  - be referred to the external statutory agencies.
- (b) In order to protect individuals and the Partnership, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other existing procedures (e.g. health and safety) will normally be referred for consideration under those procedures.
- (c) Some concerns may be resolved by agreed action without the need for investigation.
- (d) Within ten working days of a concern being received, the Assistant Chief Executive will write to the complainant:
  - acknowledging that the concern has been received;
  - indicating how it is proposed to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - telling them whether any initial enquiries have been made; and
  - telling them whether further investigations will take place, and if not, why not.
- (e) The amount of contact between the organisation considering the issues (as set out at (a) above) and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistleblower(s).
- (f) When any meeting is arranged, the employee(s) has the right, if they so wish, to be accompanied by a trade union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- (g) The Partnership will take steps to minimise any difficulties which staff may experience as a result of raising a concern. For instance, if employee(s) are required to give evidence in criminal or disciplinary proceedings, the Partnership will advise them about the procedure.
- (h) The Partnership accepts that employee(s) need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, staff will receive information about the outcome of any investigations.



**5. The responsible officer**

The Assistant Chief Executive has overall responsibility for the maintenance and operation of this policy. That officer shall maintain a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the Partnership.

**Whistleblowing** telephone number **0141 333 3141**  
(in confidence)



## Appendix 4

### Bribery Act 2010

Strathclyde Partnership for Transport (the Partnership) recognises its responsibilities under the Bribery Act 2010.

The Partnership is an employer, service provider and purchaser of works, goods and services, and as such it will not tolerate any contravention of the Act.

The Bribery Act 2010 makes it a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad, as follows:

#### Section 1 – Offences of bribing another person (active)

Where a person offers, promises or gives a financial or other advantage to another person, intending to induce them to perform improperly a relevant function or activity, or to reward a person for such improper performance.

#### Section 2 – Offences related to being bribed (passive)

Where a person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly by themselves or another.

It does not matter whether the advantage is direct or through a third party, nor whether the benefit is for that person or another.

#### Section 6 – Bribery of foreign public officials

Where a person in the act of intending to obtain or retain business, or an advantage in the conduct of business, bribes a foreign public official with the intent to influence them in their capacity, is guilty of an offence.

This only applies if they directly, or through a third party, offer, promise or give any financial or other advantage to the foreign official or to another at the officials request or with their assent or acquiescence and the official is neither permitted nor required by the applicable local written law to be influenced in their capacity by the offer, promise or gift.

#### Section 7 – Failure of commercial operations to prevent bribery

A relevant commercial organisation is guilty of an offence if a person associated with it bribes another person intending to obtain or retain business for it or obtain or retain an advantage in the conduct of business for it.

It is a defence for the organisation to show it had adequate procedures in place to prevent persons associated with it from undertaking such conduct.

#### Section 12 – Offences under the Act: territorial application

An offence is committed under section 1, 2 or 6 in Scotland, England and Wales, or Northern Ireland if any act or omission forming part of the offence takes place in that part of the UK.

#### Section 14 – Offences under sections 1, 2 and 6 by bodies corporate etc.

Where offences under these sections are committed by a body corporate or partnership, if the offence is committed with the consent or connivance of:

- a) a senior officer of the body corporate or partnership, or
- b) a person purporting to act in such capacity,



the senior officer or person **as well as** the body corporate or partnership is guilty of the offence. General points to remember:

- a simple offer can be sufficient to complete an offence;
- a bribe may be financial or in another form of 'advantage'
- having adequate procedures can reduce the risk.

The Partnership will not employ individuals, nor conduct business with any individual or third party which does not abide by the terms of the Act. Any suspected contravention of the Act should be notified to the Assistant Chief Executive and where the Partnership considers that a breach of the Act has occurred, this will be referred to the relevant regulatory authorities for further action as appropriate.

The Partnership will appoint the Assistant Chief Executive to have responsibility for ensuring that adequate procedures and appropriate documents are put in place to reflect the requirements placed upon the Partnership and associated persons under the Act such as its officers, suppliers and contractors. This will include, but is not limited to: the Codes of Conduct; Procurement guidelines; associated tender documentation; guidance on the acceptance of gifts and hospitality; and the Register of Interests contained in the governance manual.

Thereafter, the Assistant Chief Executive will regularly monitor and review the Partnership's procedures and documents and keep members advised of any breaches of the Act. Any reports relating to these matters will be referred to the Partnership.



## Defalcation Procedures

### Definition

*'Defalcation is the misappropriation or embezzlement by an employee of monies or materials, etc. placed in that employees charge'.*

### Departmental Arrangements

All Departments must have suitable arrangements in place to ensure that where defalcation is suspected or has occurred, the matter is reported immediately to the relevant Director or to a nominated Senior Officer. At this stage, it should be made clear to those involved that SPT's defalcation procedure, and not the disciplinary procedure is being followed.

If a Director or a nominated Senior Officer is informed of a suspected or known Defalcation; they must contact the Assistant Chief Executive and the Audit and Assurance Manager immediately. The Audit and Assurance Manager will thereafter carry out a preliminary investigation and report back to the Director or nominated Senior Officer concerned. As part of the preliminary investigation, employees may be asked to provide information to establish the facts.

### Audit and Assurance

Audit and Assurance will investigate allegations of defalcation or irregularity. In terms of the Internal Audit Charter, this includes the right, on production of identification, to:

- unrestricted access to all Partnership premises;
- unrestricted access to all assets, correspondence, documents, records and systems (computerised and otherwise);
- all personnel pertinent to the investigation;
- receive any information and explanation, considered necessary, concerning any matter under investigation;
- require any Partnership employee to account for cash, stores, and any other authority asset under their control; and
- access records belonging to third parties i.e. contractors and partner organisations, when required (this must be written into all agreements and contracts entered into with third parties).

### Investigation

On the basis of a report on the preliminary investigation from the Audit and Assurance Manager, a decision shall be taken by the relevant Director or nominated Senior Officer, in consultation with the Assistant Chief Executive, as to whether or not any employee should be removed from the current workplace and found alternative duties, or suspended with pay pending the results of further investigation.

A precautionary suspension can be applied where it is considered advisable that the employee should not attend the workplace while an investigation is underway. The suspension should be implemented as per SPT's disciplinary procedure.



Prior to this decision being implemented, the employee concerned shall be called to an interview (accompanied if so wished, by a trade union or other appropriate representative) and advised of the reasons for the interview, of the decision to extend the investigation and whether a removal to another work location or suspension with pay is proposed pending the completion of the investigation.

If, in the course of the further investigation, supplementary interviews by Audit and Assurance or other appointed officers are required with the employee concerned, the employee must be given the opportunity of being accompanied by a fellow worker or trade union representative. If the employee wishes to be accompanied by someone other than a fellow worker or trade union representative, advice should be sought from Human Resources staff.

If at any point during the preliminary investigation, the Audit and Assurance Manager, or a member of the investigating team, identify that one particular employee is likely to have been responsible for the defalcation, then in any interviews with that employee; the employee shall be given the opportunity of being accompanied as above.

On completion of the investigation, a written report shall be prepared by the Audit and Assurance Manager and sent to the relevant Director. Where the Director, in consultation with the Assistant Chief Executive, considers disciplinary procedures to be necessary, the Chief Executive shall be advised accordingly.

Thereafter, the relevant Director should advise the Chief Executive; and the Assistant Chief Executive in the role as Monitoring Officer; in writing of what further action they consider should be taken.

At the conclusion of the investigation when the findings are known and any required consultations between the Chief Executive, the Assistant Chief Executive and the Audit and Assurance Manager have taken place, the employee concerned shall be called to a further interview by the relevant Director, or the nominated Senior Officer, and advised of the broad nature of the findings and of the proposed course of action (e.g. a return to place of work and normal working, or disciplinary action).

### **Actions following investigation**

In the event of disciplinary procedures being invoked, the employee shall be advised that SPT's disciplinary procedure will now apply and be given written information on the nature of the findings of the investigation. Thereafter, the employee shall be called to a disciplinary interview by the Director of the Department (or the Senior Officer appointed by the Director of the Department). Employees have a right to be accompanied by a fellow worker or trade union representative when they are required to attend disciplinary hearings where action may be taken and if they make a reasonable request to be accompanied as per SPT's disciplinary procedure.

### **Police Scotland**

**No approach is to be made to the Police Scotland** regarding defalcation except by the Chief Executive or other nominated Senior Officer acting on the Chief Executive's authority.





## Appendix 4

### Bribery Act 2010

Strathclyde Partnership for Transport (the Partnership) recognises its responsibilities under the Bribery Act 2010.

The Partnership is an employer, service provider and purchaser of works, goods and services, and as such it will not tolerate any contravention of the Act.

The Bribery Act 2010 makes it a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad, as follows:

#### Section 1 – Offences of bribing another person (active)

Where a person offers, promises or gives a financial or other advantage to another person, intending to induce them to perform improperly a relevant function or activity, or to reward a person for such improper performance.

#### Section 2 – Offences related to being bribed (passive)

Where a person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly by themselves or another.

It does not matter whether the advantage is direct or through a third party, nor whether the benefit is for that person or another.

#### Section 6 – Bribery of foreign public officials

Where a person in the act of intending to obtain or retain business, or an advantage in the conduct of business, bribes a foreign public official with the intent to influence them in their capacity, is guilty of an offence.

This only applies if they directly, or through a third party, offer, promise or give any financial or other advantage to the foreign official or to another at the officials request or with their assent or acquiescence and the official is neither permitted nor required by the applicable local written law to be influenced in their capacity by the offer, promise or gift.

#### Section 7 – Failure of commercial operations to prevent bribery

A relevant commercial organisation is guilty of an offence if a person associated with it bribes another person intending to obtain or retain business for it or obtain or retain an advantage in the conduct of business for it.

It is a defence for the organisation to show it had adequate procedures in place to prevent persons associated with it from undertaking such conduct.



### Section 12 – Offences under the Act: territorial application

An offence is committed under section 1, 2 or 6 in Scotland, England and Wales, or Northern Ireland if any act or omission forming part of the offence takes place in that part of the UK.

### Section 14 – Offences under sections 1, 2 and 6 by bodies corporate etc.

Where offences under these sections are committed by a body corporate or partnership, if the offence is committed with the consent or connivance of:

- a) a senior officer of the body corporate or partnership, or
- b) a person purporting to act in such capacity,

the senior officer or person **as well as** the body corporate or partnership is guilty of the offence.

General points to remember:

- a simple offer can be sufficient to complete an offence;
- a bribe may be financial or in another form of 'advantage'
- having adequate procedures can reduce the risk.

The Partnership will not employ individuals, nor conduct business with any individual or third party which does not abide by the terms of the Act. Any suspected contravention of the Act should be notified to the Assistant Chief Executive and where the Partnership considers that a breach of the Act has occurred, this will be referred to the relevant regulatory authorities for further action as appropriate.

The Partnership will appoint the Assistant Chief Executive to have responsibility for ensuring that adequate procedures and appropriate documents are put in place to reflect the requirements placed upon the Partnership and associated persons under the Act such as its officers, suppliers and contractors. This will include, but is not limited to: the Codes of Conduct; Procurement guidelines; associated tender documentation; guidance on the acceptance of gifts and hospitality; and the Register of Interests contained in the governance manual.

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A precautionary suspension can be applied where it is considered advisable that the employee should not attend the workplace while an investigation is underway. The suspension should be implemented as per SPT's disciplinary procedure.



Prior to this decision being implemented, the employee concerned shall be called to an interview (accompanied if so wished, by a trade union or other appropriate representative) and advised of the reasons for the interview, of the decision to extend the investigation and whether a removal to another work location or suspension with pay is proposed pending the completion of the investigation.

If, in the course of the further investigation, supplementary interviews by Audit and Assurance or other appointed officers are required with the employee concerned, the employee must be given the opportunity of being accompanied by a fellow worker or trade union representative. If the employee wishes to be accompanied by someone other than a fellow worker or trade union representative, advice should be sought from Human Resources staff.

If at any point during the preliminary investigation, the Audit and Assurance Manager, or a member of the investigating team, identify that one particular employee is likely to have been responsible for the defalcation, then in any interviews with that employee; the employee shall be given the opportunity of being accompanied as above.

On completion of the investigation, a written report shall be prepared by the Audit and Assurance Manager and sent to the relevant Director. Where the Director, in consultation with the Assistant Chief Executive, considers disciplinary procedures to be necessary, the Chief Executive shall be advised accordingly.

Thereafter, the relevant Director should advise the Chief Executive; and the Assistant Chief Executive in the role as Monitoring Officer; in writing of what further action they consider should be taken.

At the conclusion of the investigation when the findings are known and any required consultations between the Chief Executive, the Assistant Chief Executive and the Audit and Assurance Manager have taken place, the employee concerned shall be called to a further interview by the relevant Director, or the nominated Senior Officer, and advised of the broad nature of the findings and of the proposed course of action (e.g. a return to place of work and normal working, or disciplinary action).

### **Actions following investigation**

In the event of disciplinary procedures being invoked, the employee shall be advised that SPT's disciplinary procedure will now apply and be given written information on the nature of the findings of the investigation. Thereafter, the employee shall be called to a disciplinary interview by the Director of the Department (or the Senior Officer appointed by the Director of the Department). Employees have a right to be accompanied by a fellow worker or trade union representative when they are required to attend disciplinary hearings where action may be taken and if they make a reasonable request to be accompanied as per SPT's disciplinary procedure.



## Police Scotland

**No approach is to be made to the Police Scotland** regarding defalcation except by the Chief Executive, the Assistant Chief Executive, or other nominated Senior Officer acting on the Chief Executive's authority.



# **STRATHCLYDE PARTNERSHIP FOR TRANSPORT**

## **CODE OF CONDUCT FOR EMPLOYEES**

**August 2022**



Please note that if a copy of this document is downloaded and saved, it may become inaccurate and the hyperlinks contained within it may not work. Reference should be made at all times to the Information Library - Conditions of Service section on the intranet. Further information can be obtained from the HR Department.

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- A Posts Designated by SPT as Politically Neutral
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## 1. Introduction

The reputation of Strathclyde Partnership for Transport (SPT) and the trust the public have in its integrity is of great importance. A breach of trust damages an organisation and all staff who work for that organisation. This code is a set of **minimum** standards of conduct for employees that, when followed, ensure that SPT's reputation and integrity is maintained. This code is founded on the now well established principles of public life and is consistent in that regard with all other public service organisations.

The central message of this code is that employees are responsible for their own conduct and meeting the standards of this code. However, if any employee, having consulted this code, is in a situation where they are still uncertain as to what is the correct course of action, they should seek guidance from their Manager, Head of Department or Director.

If an employee becomes aware of any contravention of these standards they must report it to their Manager, Head of Department or Director. No employee will be disadvantaged as a result of reporting any matter where that has been done in good faith.

This Code of Conduct applies to **all** employees, unless in the case of certain of its provisions it is otherwise stated.

## 2. Consequences of Breaching the Code

If an employee contravenes this code then this may result in disciplinary action being taken against them. The seriousness of the disciplinary action taken will reflect the seriousness of the breach of the code. It must be understood that the fundamental principle on which this code is based is that of mutual trust and confidence between SPT and its employees. Therefore, if a breach is of sufficient seriousness a complaint of gross misconduct could result.

## 3. Standards

The Code of Conduct has been based on the following key principles set out by the Nolan Committee on Standards in Public Life. As an employee of SPT I will carry out my duties to the highest standards and I will behave in accordance with these principles. I understand that they should be used for guidance and interpreting the provisions in the Code.

### 3.1 Duty

I have a duty to uphold the law and act in accordance with the law and the public trust placed in me. I have a duty to act in the interests of SPT of which I am an employee and in accordance with the core functions and duties of that body.

### 3.2 Selflessness

I have a duty to take decisions based solely on the best interests of SPT. I must not act in order to gain financial or other material benefit for myself, family or friends.





### **3.3 Integrity**

I must not place myself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence me in the performance of my duties.

### **3.4 Objectivity**

I must make decisions solely on merit and in a way that is consistent with the functions of SPT when carrying out its business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

### **3.5 Accountability**

I am accountable to SPT for my decisions and actions. I have a duty to consider issues on their merits, taking account of the views of others and I must ensure that SPT uses its resources prudently and in accordance with the law.

### **3.6 Openness**

I have a duty to be as open as possible about my decisions and actions, giving reasons for my decisions and restricting information only when the wider interest of SPT clearly demands.

### **3.7 Honesty**

I have a duty to act honestly. I must declare any private interests relating to my duties and take steps to resolve any conflicts arising in a way that protects the interests of SPT.

### **3.8 Leadership**

I have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of SPT and its employees in conducting its business.

### **3.9 Respect**

I must respect all employees of SPT, appointed and elected members and the role they play, treating them with courtesy at all times. Similarly, I must respect members of the public when performing my duties as an employee.

## **4. Recruitment**

This section of the code should be read in conjunction with SPT's Conditions of Service : General, Section G.

**4.1** Appointments will be made on the basis of merit.

**4.2** Where I am, in any given instance, responsible for all or part of the recruitment and selection process and I am related to or have a personal relationship with any applicant I must disclose that relationship to the Director of Finance & Corporate Support at the earliest opportunity prior to interview process commencing. The Director of Finance & Corporate Support will advise on how the recruitment/selection process will be



conducted in these circumstances.

- 4.3** I understand that no relative of a Manager, Head of Department, Director or Chief Executive will be offered an appointment with SPT without consultation with the Director of Finance & Corporate Support.
- 4.4** I understand that no job applicant should attempt to solicit support for their application from members of the Partnership or employees of SPT. Should they do so I understand that candidate will be automatically disqualified from further consideration for that post.
- 4.5** I will not take part in procedures or processes relating to discipline, pay or performance of a relative or other member of staff with whom I have a personal relationship.

## **5. Political Neutrality**

- 5.1** Mutual respect between employees and members of the Partnership is essential to the efficient operation of the organisation. However, close personal familiarity between employees and the individual members of the Partnership can be detrimental to an effective working relationship and is therefore best avoided.
- 5.2** If, as part of my duties, I am required to give advice to members of the Partnership. I understand that when doing so I have a duty of impartiality and objectivity. When political groups seek advice from me, I will observe the following procedure.
- 5.3** The leader of the political group concerned must approach the Chief Executive or the Partnership Secretary. The group leader must state what type of advice they are seeking. The Chief Executive or the Partnership Secretary will then determine whether attendance at the meeting is appropriate and if it is which employees should attend. The appropriate employee(s) will then be notified. Once the employee has given their advice to the political group concerned, the employee must then leave the meeting before any decision is made. The employee must observe strict confidentiality; discussion in one political group must not under any circumstances be disclosed to another political group or to any member of such group.

## **6. Restrictions on Political Activity**

- 6.1** I understand that it could be viewed that certain types of political activity would, if undertaken by an employee of SPT, be considered as inappropriate or be open to misinterpretation when such an employee is meant to be objective and impartial.
- 6.2** In order to prevent such misinterpretation, I am aware that certain posts within the organisation will be designated as politically restricted and employees holding these posts will have certain restrictions placed on them in terms of what political activities they can undertake.
- 6.3** If I am elected as a councillor to any council whose area falls within the remit of SPT then I understand that I will have to resign from the employment of SPT.
- 6.4** I understand that politically restricted post holders will be precluded from undertaking a much broader range of activities. In addition to the relevant local councils I am aware that if I stand as a candidate for the United Kingdom or Scottish Parliament I would have to resign from the employment of the SPT.



- 6.5** In addition, if I hold a 'politically restricted post' I will not be able to act as an agent or officer for a political party, nor canvas or engage in public speaking for a political party.
- 6.6** A complete list of politically restricted posts is attached at Appendix A to this document. This list comprises the following posts: all Heads of Department, Directors and Chief Executive. The list also includes posts which give regular policy advice to the Partnership or represent the Partnership to the media.

## **7. Relationship with the Community**

I will always remember my responsibilities to the community and general public which I serve. I will be courteous, efficient and impartial in the delivery of a service to all groups and individuals within that community.

## **8. Relationship with Contractors**

- 8.1** This section of the Code of Conduct should be read in conjunction with Strathclyde Partnership for Transport's Standing Orders Relating to Contracts (CSO's). All employees involved in the administration and awarding of contracts should familiarise themselves with these standing orders.
- 8.2** All orders and contracts must be awarded in accordance with SPT's CSO's.
- 8.3** Where I have access to confidential information on tenders or costs for contractors I will not disclose such information to any unauthorised party or organisation.
- 8.4** I will adhere to the appropriate procedures when awarding contracts, as stated above. I will not show favouritism to businesses run by, for example, friends, partners or relatives. I have a duty to ensure that all aspects of the Equality Act are adhered to in the procurement of works, goods or services.
- 8.5** Where, as part of the duties of my post, I engage or supervise contractors, and have a relationship in a private or domestic capacity with such contractors, I will declare that relationship before the award of contracts. The register of interests is maintained by the Audit & Assurance Manager.
- 8.6** Where, as part of the duties of my post, I engage or supervise contractors, I must not derive any financial and/or material benefits as a result of that responsibility or relationship other than their proper remuneration.



## **9. Confidentiality**

- 9.1** I will not disclose confidential information or information which should reasonably be regarded as being of a confidential or private nature, without the express consent of the Chief Executive or Director authorised to give such consent, or unless required to do so by law. If I cannot obtain such express consent, I will assume that it is not given.
- 9.2** I understand that confidential information can include discussions, documents, and information which is not yet public or never intended to be public and information deemed confidential by statute.
- 9.3** I will only use confidential information to undertake my duties as an SPT employee. I will not use it in any way for personal advantage or to discredit SPT.
- 9.4** I understand that these confidentiality requirements do not apply to protected whistleblowing disclosures made to the prescribed persons as identified in SPT's Whistleblowing Policy.
- 9.5** I understand that all information, emails, correspondence etc received while undertaking my duties remains in the ownership of SPT during and after my period of employment.

## **10. Personal Interests**

- 10.1.** I have an obligation to act in the best interest of SPT and to avoid situations where there may be a potential, or reasonably perceived, conflict of interest.
- 10.2.** I must not allow any private interest, whether it is of a financial or non-financial nature, to influence my decisions at work. This includes an interest that a family member or partner (or people living in the same household) may have in the work of SPT.
- 10.3.** If I have a private interest which might reasonably be seen as, or perceived to be, influencing my work decisions I will inform my Head of Department, Director or Chief Executive of that interest. The register of interests is maintained by the Audit & Assurance Manager, and notifications should be made in writing or email.

## **11. Acceptance of Other Employment**

- 11.1** With the exception of Head of Department/Director or Chief Executive, no restrictions shall be placed on employees undertaking other employment of a remunerative nature outwith their normal working hours. If I accept other employment I will:
- (1) provide SPT with sufficient detail about the hours and patterns of work involved in such other employment to allow SPT to carry out a risk assessment as legally required under the Working Time Regulations and other health and safety legislation;
  - (2) ensure the additional employment does not interfere with or adversely affect my ability to carry out my duties efficiently for SPT; and



- (3) ensure the additional employment is not with any individual or organisation with which SPT does business **or** where the business of that individual or organisation affects the interests of SPT.

The onus is on me to ascertain whether any conflict occurs and to make the Head of Department/Director aware of this in the first instance.

## **12. Acceptance of Other Activities**

- 12.1.** During my employment with SPT, I will not hold office or undertake activities in or for another organisation, club or association which would cause me to be absent from work, or could be considered to bring the organisation into disrepute, unless SPT gives its consent for this to happen.
- 12.2.** I may be absent occasionally and temporarily during business hours to attend to duties or service of an honorary, charitable or philanthropic character, provided they are authorised by my Head of Department/Director. These duties or services however must not interfere with my ability to discharge my duties efficiently.

## **13. Acceptance of Hospitality, Gifts or Favours**

- 13.1.** I will treat with caution any offer of gifts, hospitality or favour made to me. I understand that the person or organisation making the offer may be doing or seeking to do business with the Partnership or seeking a decision from the officer which is favourable to them.
- 13.2.** I will only accept offers of hospitality if there is a business networking opportunity or for sharing of information or representing the Partnership in the community. I will accept invitations to attend purely social functions only when it is necessary that the Partnership be represented.
- 13.3.** I will ensure that the acceptance of hospitality is properly authorised by the appropriate Head of Department or Director. I will follow the separate guidance - Appendix B - on the acceptance of gifts and hospitality closely. The register of all gifts and hospitality offered and received or declined is maintained by the Audit & Assurance Manager.
- 13.4.** I will not accept significant personal gifts from contractors or suppliers although I am aware that I may be allowed to keep insignificant token gifts up to a value of £20. I will follow the separate guidance issued closely.
- 13.5.** When declining a gift, I will be courteous but firm. If I believe that it would be discourteous to reject a gift then I will ensure that I pass it over to the Audit & Assurance Manager who will arrange for it to be donated to a worthy cause. A record of this will be maintained.

**Note:** with regard to Sections 11. to 13. it is in your best interests to make SPT aware of any other employment, activities and hospitality, gifts or favours. If you are in any doubt, you should speak to your Line Manager or HR.



## **14. Sponsorship – Giving and Receiving**

- 14.1.** Where an outside organisation wishes to sponsor or is seeking to sponsor a Partnership activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. I understand that particular care must be taken with contractors or potential contractors.
- 14.2.** Where SPT wish to sponsor an event or service I understand that neither an employee, or any partner, spouse nor relative of an employee may benefit from such sponsorship in a direct way without disclosing such benefit to their Head of Department, or Director.

## **15. Corruption**

- 15.1.** I am aware that it is a criminal offence for me while acting in my official capacity to corruptly receive or give any gift, loan, fee or advantage for doing or not doing anything or showing favour or disfavour to any person.
- 15.2.** I am aware that I should ensure that I am familiar and comply fully, with SPT's counter fraud and whistleblowing policies.

## **16. Openness and Disclosure of Information**

- 16.1.** The decision making process within SPT must be as transparent and open as possible. SPT will provide the public with clear and accessible information about how it operates and the decisions it arrives at.
- 16.2.** It should be noted that there are exceptions to the principle of openness. These exceptions occur when a duty of confidentiality is involved. That is when disclosure of information would compromise a right of personal or commercial confidentiality. If an employee is in any doubt as to whether information can be disclosed they should consult with their Head of Department or Director. They in turn should seek advice from the Partnership's Senior Solicitor.
- 16.3.** Employees should not use any information obtained in the course of their employment for personal gain nor divulge it to others who might so use it.
- 16.4.** Employees must not make statements concerning SPT or its operations, its staff or Partnership members to the media. Employees must not make derogatory statements regarding SPT, its operations, its staff or Partnership members on social media forums. To do so without authority will be considered as a breach of organisational governance and will be considered as a breach of the code. Specific guidance relating to social media is contained at Appendix D.
- 16.5.** All media enquiries should be referred to the Media & Public Affairs Manager (or Chief Executive in their absence). The reason for such a rule is to allow the Partnership to issue a statement itself after proper consideration of the facts.



- 16.6.** Any article, publication or interview given on aspects of the Partnership's Policy or affairs written or given by an employee must be authorised by the Partnership (Chief Executive).
  
- 16.7.** If an employee has concerns with regard to some or any aspect of SPT's operation they should notify their Supervisor or Manager or if they have reasonable grounds for believing that any malpractice is occurring within SPT they have recourse to the provisions of SPT's Whistleblowing Policy (Appendix 3 to the Counter Fraud Strategy).



## APPENDIX A

### POSTS DESIGNATED BY SPT AS POLITICALLY RESTRICTED

Job Title	Department
Assistant Chief Executive	Chief Executive Unit
Audit & Assurance Manager	Chief Executive Unit
Bus Development Manager	Bus Strategy & Delivery
Chief Accountant	Finance & Corporate Support
Chief Executive	Chief Executive Unit
Contact Centre Manager	Finance & Corporate Support
Digital Manager	Digital
Director of Finance & Corporate Support	Finance & Corporate Support
Director of Subway	Subway
Head of Bus Strategy & Delivery	Bus Strategy & Delivery
Head of Engineering	Subway
Head of HR	Finance & Corporate Support
Head of Operations & Security (Bus)	Finance & Corporate Support
Head of Operations & Security (Subway)	Subway
Head of Policy & Planning	Chief Executive Unit
Head of Projects	Subway
Head of Service Availability & Maintenance	Subway
Head of Transformation	Subway
Information Governance Officer	Chief Executive Unit
Media & Public Affairs Manager	Chief Executive Unit
Network Analysis & Design Manager	Bus Strategy & Delivery
Principal Policy Officer	Chief Executive Unit
Principal Transport Planner	Chief Executive Unit
Schools Agency Services & Compliance Manager	Bus Strategy & Delivery
Senior Procurement Officer	Finance & Corporate Support
Senior Solicitor	Chief Executive Unit
Ticketing Commercial Team Leader	Finance & Corporate Support

**List of posts will be reviewed and amended on an ongoing basis to reflect the organisational structures and priorities.**





## APPENDIX B

### GUIDANCE RELATING TO GIFTS AND HOSPITALITY REGISTRATION

I understand that I may be offered gifts, hospitality and/or material benefits or services as part of my duties as an employee of Strathclyde Partnership for Transport.

I **will never** ask for, nor seek **any** gifts, hospitality or material benefits or services.

I will refuse any gift, hospitality or material benefits or services, unless it is:

- a minor item or token of modest intrinsic value offered on an infrequent basis;
- a gift being offered to Strathclyde Partnership for Transport;
- approved in advance by a member of the Strategy Group.

I will consider whether there could be a reasonable perception that **any** gift, hospitality or material benefits or services received by me could or would influence my judgement.

I will not allow the promise of money or other financial advantage to induce me to act improperly in my duties as an employee. I accept that the money or advantage does not have to be given to me directly. The offer of monies or advantages to others may amount to bribery, if the intention is to induce me to improperly perform my duties. I will report any instances where I reasonably believe this to be the case.

I will never accept **any** gift, hospitality or material benefit or service from any individual, applicant or organisation who is awaiting a decision from, or seeking to do business with Strathclyde Partnership for Transport.

I will familiarise myself with the terms of the Bribery Act 2010, as set out in the Counter Fraud Strategy (see SPT's Governance Manual, Appendix 4 - <http://spt.intranet.uk/publications/corporategovernance/Governance-Manual.pdf>), which makes it a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad.

If a gift or hospitality is approved by a member of the Strategy Group, details of the gift or hospitality should include the description/format (eg lunch/dinner), details of who has offered it, the venue and the date. Details must include all employees in receipt of gift or hospitality and must be advised by email within **7 days** of the date of receipt to the Executive Assistant to the Chief Executive.

The Executive Assistant to the Chief Executive will record all received notifications in the central register. This information will be subject to scrutiny by the Audit & Assurance Manager in the first instance and used to publish the register of gifts and hospitality received on the website.



## APPENDIX C

### GUIDANCE ON THE REGISTER OF INTERESTS

The main purpose of the Register of Interests is to provide information about any financial interest which an employee has, or any benefit which he or she receives, which others might reasonably consider to influence his or her actions when undertaking his or her prescribed duties.

Employees should always consider how their involvement or relationship with an organisation, club or association may be viewed from out-with SPT.

The interests which I require to register are set out in the following paragraphs:

#### **Remuneration**

I will register work for which I receive, or expect to receive, payment. I have a registrable interest where I receive remuneration by virtue of being:

- employed (other than SPT);
- self-employed;
- the holder of an office;
- a director of an undertaking;
- a partner in a firm;
- appointed or nominated by SPT to another body;
- engaged in a trade, profession or vocation or any other work.

#### **Directorships or Office Bearer**

I will register any unremunerated directorships or office bearer. I will provide the registered name and registered number of any and all subsidiary or parent company and nature of its business.

#### **Contracts**

I have a registrable interest where I am a partner or director or hold shares (more than 1% of the share value) in a company which has tendered for, or provides goods, services or works to Strathclyde Partnership for Transport.

#### **Close Family Members**

I have a registrable interest where a close family member does business with, has transactions with, or provides services to Strathclyde Partnership for Transport.

#### **Registration Process**

Registrable interests must be advised by email to the Executive Assistant to the Chief Executive.

The Executive Assistant to the Chief Executive will record all received notifications in the central register. This information will be subject to scrutiny on a regular basis by the Audit & Assurance Manager



Employees must register any change to their registrable interests within **one month**.

## **SOCIAL MEDIA BEST PRACTICE**

### **What is Social Media?**

Social media includes social platforms and apps that enable users to create and share content eg Twitter, Facebook, Instagram, LinkedIn, YouTube, Pinterest, WhatsApp and TikTok. This list is not exhaustive as new platforms appear frequently.

### **What are Social Networks?**

A social networking service is an online service, platform, or site that focuses on building and reflecting of social networks or social relations among people, who, for example, share interests and/or activities. A social network service consists of a representation of each user (often a profile), their social links, and a variety of additional services. Most social network services are web-based and provide means for users to interact over the internet, such as email and instant messaging. Social networking sites allow users to share ideas, activities, events, and interests within their individual networks.

### **What are Blogs?**

Short for “Web log,” a site that allows an individual or group of individuals to share a running log of events and personal insights with online audiences. In short, a diary which can be publicly viewed.

### **Best Practice**

I understand that as an employee and representative of SPT I am expected to demonstrate best practices and appropriate etiquette on social media.

- I will be respectful to all.
- I will not engage in activities on the internet which might bring SPT into disrepute.
- I will not use the internet in any way to attack or abuse colleagues.
- I will not post derogatory or offensive comments on your own page or someoneelse’s.
- I will not reference SPT in any form without prior permission from my line manager, including posting images or confidential information about SPT.

I understand that best practice to safeguard against this would be to **not reveal SPT as my place of work.**

I am aware that during working hours, all SPT employees are not allowed to access social media sites unless their role permits it. I understand that staff can browse social media sites during lunch breaks on their own devices, e.g. via mobile phone or tablet. I am aware that failure to follow this guidance may lead to disciplinary action.



I understand that any online activities associated with my work for SPT should be discussed and approved in advance with my line manager and that I should also use a disclaimer if publishing a blog, posting a comment, referencing SPT in any way or sharing an image that has something to do with the work they do at SPT.

I understand that this means that whether publishing a blog or participating in someone else's, it is made clear that what is said is representative of my individual views and opinions and not necessarily the views and opinions of SPT. As a minimum, I understand that my social media page should include the following standard legal disclaimer language:

*The postings on this site are my own and do not represent those of my employer.*

I acknowledge that that when posting a comment on someone else's page or feed that it can be traced back to me regardless of whether their page is private or not.

**Note to Managers and Supervisors** – this standard disclaimer does not by itself exempt SPT managers and supervisors from a special responsibility when using social media. By virtue of their position, managers and supervisors must consider whether personal thoughts they publish may be misunderstood as expressing SPT positions. A manager should assume that his or her team will read what is written. Social media is not the place to communicate SPT policies, standards, guidance or procedures nor to announce SPT news. Do not cite or reference clients, partners or suppliers without their prior approval. When SPT wishes to communicate publicly – whether to the marketplace or to the general public – it has well-established processes to do so. Only those officially designated by SPT have the authorisation to speak on behalf of the company.

Consideration towards members of staff when using social networking sites:

I understand that social networking sites allow photographs, videos and comments to be shared with potentially thousands of other users. I am aware that it may not be appropriate to share work-related information in this way. I am aware that there may be an expectation that photographs taken on SPT property or at a private SPT event will not appear publicly on the internet, both from those present and perhaps those not at the event. I will be considerate to my colleague(s) in such circumstance and I will not post information when I have been asked not to. I will remove information about a colleague(s) if that colleague(s) asks me to do so.

Under no circumstance will I make offensive comments about SPT colleagues on the internet. I understand that this may amount to cyber-bullying and could be deemed a disciplinary offence.

### **Open Access Online Encyclopedias**

I understand that in the course of SPT work, I may find errors in online encyclopedias. I am aware that if I edit online encyclopedias at work, the source of the correction will be recorded as a SPT IP address and the intervention may therefore look as if it comes from SPT itself. In the first instance I will discuss the change with my manager, act in a manner that does not bring SPT into disrepute, and not post derogatory or offensive comments on any online encyclopedias.



## Questionable Content

If/when I come across misinformation regarding SPT on social media I understand that I am expected to notify my line manager for SPT's marketing team to investigate.

## Security

I will exercise caution when using social media. I understand that not everyone using social media is necessarily who they say they are. I will always take time to check if I **know** the person, and if the friend/link/follow is genuine.

I will think about my digital footprint, which is a term used to describe the entirety of information that I post online, including photos and status updates. I understand that criminals can use this publicly available information to steal my identity, or use it to make phishing messages more convincing. I will always:

- Think about **what** I'm posting, and **who** has access to it. How I have configured the privacy options so that it's only accessible to the people I want to see it?
- Consider what my followers and friends **need** to know, and what detail is unnecessary (but could be useful for criminals).
- Have an idea about what your friends, colleagues or other contacts say about **you** online.



# **Guidance on the Register of Interests for Employees**



## **Register of Interest Guidance**

### **Introduction**

SPT officers must act, and importantly, be seen to act in an impartial manner in the dealings with the public, members and other stakeholders. The principles set out by the Nolan Committee on standards in public life, including openness, honesty and transparency, underpin this.

As a demonstration of this impartiality and openness SPT officers who have a direct or indirect interest in a SPT contract must formally record that interest, financial or otherwise, in the Register of Interests held by the ACE (Business Support). In addition, officers must ensure that they do not participate in the award of contracts or commercial decisions relating to such interests.

Officers should always consider how their involvement or relationship with an organisation may be viewed from outwith SPT.

### **Further Guidance in Support**

- A Register of Interests is held by the ACE (Business Support).
- Officers should advise of any ownership, directorships or non executive roles they hold in bodies other than SPT, irrespective of whether they receive financial remuneration for these roles.
- Officers should register any family connection they may have with bodies tendering for SPT contracts.
- Where officers retain shares in an organisation, they should consider whether their proportion of ownership is directly related to the sphere of influence. If it is the shareholding should be included within the register.

Valerie Davidson  
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5 November 2008