

**PERTH AND KINROSS COUNCIL**

**Scrutiny Committee – 21 June 2017**

**FOLLOWING THE PUBLIC POUND ANNUAL REPORT 2016/17**

**Report by Head of Legal and Governance Services**

This report describes the Council's arrangements for monitoring of the Council's performance against the Code of Guidance for Funding External Bodies & Following the Public Pound for financial year 2016/2017 and advises of the enhancements made to governance arrangements which align the Code with the Procurement Strategy.

**1. BACKGROUND**

- 1.1 'Following the Public Pound' means ensuring that there is proper accountability for public funds used in delivering services and providing social benefits, irrespective of the means of delivering them.
- 1.2 In common with other local authorities, the Council uses a number of external organisations to assist in the provision of its services. These external organisations can include community partner organisations, trusts, private sector companies and providers from the voluntary and not-for-profit sectors.
- 1.3 The Council developed a code of guidance based on the Code of Guidance on Funding External Bodies and Following the Public Pound issued by the Accounts Commission in co-operation with COSLA (the original code).
- 1.4 The Council's local 'Following the Public Pound' Code is in place to ensure there is consistency and transparency in respect of the funding of external organisations that are providing services which might otherwise have been provided by the Council.
- 1.5 The FPP Code applies in any situation where the Council decides to fund an external organisation by means other than those delivered by a transparent procurement process. The Code improves assurance for these agreements by adopting the FPP principles in circumstances where the arrangements with external bodies are exempt from procurement rules.
- 1.6 The Code was revised in 2016, ([report 16/270](#) refers) and Strategic Policy and Resources committee was advised that further work to review and improve the Council's Contract Rules and the Following the Public Pound practitioners' Toolkit had commenced. Since that time further revisions have also been made to the FPP Code to take account of the revised Council's Contract Rules and to reflect the relationship with the newly developed FPP

Practitioners Toolkit. These updates together brought arrangements for FPP agreements into line with changes to public procurement rules.

- 1.7 The revised Contract Rules and the FPP Toolkit are now complete and are appended to this report (Appendices 2 and 3).

## **2. CURRENT ARRANGEMENTS**

- 2.1 Registers of payments which are made under the FPP Code and the contracts agreed via a public procurement route are maintained by the Council. At present, tenders accepted each financial year are reported to Strategic Policy and Resources committee annually and the arrangements made under the FPP Code are reported to committee in a separate report.
- 2.2 The register of FPP arrangements is compiled from information captured in the Council's finance system on payments made as grants or to arm's length organisations through relevant budget codes. As part of the ongoing work to strengthen our governance arrangements the reporting on payments will be reviewed in 2016/17 to further automate how the data is captured.
- 2.3 For the financial year 2016/17 the reports have been presented separately to committee. Appendix 1 of this report sets out the arrangements recorded under the FPP Code for the year. A separate report to Strategic Policy and Resources committee today presents the tenders accepted under the public procurement regime.

## **3. PROPOSALS**

- 3.1 The further revision of the FPP Code and the Contract Rules to take account of new procurement legislation found that improved assurance is possible by presenting both the tenders accepted on behalf of the Council and the Following the Public Pound arrangements together, in one report. This approach will provide a transparent overview of the full extent of external expenditure.
- 3.2 The changes to procurement legislation introduce a new statutory reporting regime for public bodies spending in excess of £5,000,000. This regime requires public bodies to demonstrate in an annual report the ways in which external spend is being used to meet strategic objectives.
- 3.3 It is proposed that in future years Strategic Policy and Resources committee will receive a suite of related items comprising:
  - the Annual Report on the delivery of the Procurement Strategy, as required by legislation,
  - the detail of tenders accepted on behalf of the Council; as set out in the Scheme of Administration;

- and the record of FPP arrangements as defined in the local FPP Code.

3.4 Appendix 1 lists just over 240 providers that have been in receipt of funds during 2016/17. Funding reported under the FPP Code for 2016/17 amounted to almost £4m to third sector organisations with a further £31m of funding to ALEO's.

3.5 Appendices 2 and 3 set out the governance documents that have been prepared to align the Following the Public Pound regime with the current procurement legislation. The Contract Rules, the FPP Code and associated Practitioners Toolkit are provided for scrutiny and comment. The revisions are yet to be approved and the documents will be submitted to Strategic Policy and Resources committee in the next cycle.

#### 4. CONCLUSION AND RECOMMENDATIONS

4.1 By aligning the FPP Code and the Council's Contract Rules, we will develop a consistent approach to the risk assessment, management and monitoring of the spectrum of contractual arrangements, giving greater transparency across the supply chain.

4.2 It is therefore recommended that this Committee:

- note the performance under the arrangements Following the Public Pound set out in Appendix 1;
- scrutinise and comment on the draft of the revised Contract Rules, the revised FPP Code and proposed Practitioners' Toolkit presented in Appendices 2 and 3.

#### Author(s)

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#### Approved

Name	Designation	Date
Lisa Simpson	Head of Legal and Governance Services	08/06/2017

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## ANNEX

### 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	<b>None</b>
Corporate Plan	<b>Yes</b>
<b>Resource Implications</b>	
Financial	<b>None</b>
Workforce	<b>None</b>
Asset Management (land, property, IST)	<b>None</b>
<b>Assessments</b>	
Equality Impact Assessment	<b>No</b>
Strategic Environmental Assessment	<b>No</b>
Sustainability (community, economic, environmental)	<b>Yes</b>
Legal and Governance	<b>Yes</b>
Risk	<b>None</b>
<b>Consultation</b>	
Internal	<b>Yes</b>
External	<b>None</b>
<b>Communication</b>	
Communications Plan	<b>None</b>

#### 1. Strategic Implications

##### Community Plan / Single Outcome Agreement

1.1 Working with external organisations under the FPP Code to assist in the provision of services contributes to deliver of the Community Plan.

- (i) Giving every child the best start in life
- (ii) Developing educated, responsible and informed citizens
- (iii) Promoting a prosperous, inclusive and sustainable economy
- (iv) Supporting people to lead independent, healthy and active lives
- (v) Creating a safe and sustainable place for future generations

##### Corporate Plan

1.2 Working with external organisations under the FPP Code to assist in the provision of services contributes to deliver of the Corporate Plan.

- (i) Giving every child the best start in life;
- (ii) Developing educated, responsible and informed citizens;
- (iii) Promoting a prosperous, inclusive and sustainable economy;
- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

#### 2. Resource Implications

## Financial

- 2.1 There are no direct financial implications arising from this Report.

## **3. Assessments**

### Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 The information contained within this report has been considered under the Corporate Equalities Impact Assessment process (EqIA) and has been assessed as **not relevant** for the purposes of EqIA.

### Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 The information contained within this report has been considered under the Act. However, no action is required as the Act does not apply to the matters presented in this report.

### Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 3.6 The information contained within this report has been considered under the Act. However, no action is required as the Act does not apply to the matters presented in this report.

## **4. Consultation**

### Internal

- 4.1 The information contained in this report has been prepared in consultation with membership of the Policy and Governance Group; nominees of each Service area with a remit to review governance matters in each Service.

### External

4.2 No external consultation was required in the preparation of this report.

## **5. Communication**

5.1 Communication of the changes described in this report will be undertaken jointly by members of the Legal and Governance Service with the Corporate Procurement team. Documentation described in this report will be published on the Council's intranet.

## **6. BACKGROUND PAPERS**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

## **7. APPENDICES**

- Appendix 1 – Following the Public Pound Annual Report
- Appendix 2 – Contract Rules (drafted May 2017)
- Appendix 3 - Revised local Following Public Pound Code and Practitioners Toolkit (May 2017)

Following the Public Pound Annual Report  
Appendix 1

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
A & S Barbour	Gap Analysis Report for North East Green				1,400	1,400
Abernethy in Bloom	Annual Grant 2016/17 Abernethy in bloom				150	150
Aberuthven Ablaze	Annual Administration Grant 2016/17				150	150
Aberuthven Village Hall	Annual Grant 16016 Aberuthven Village Hall				250	250
Action for Children Services Ltd	Intensive Family Support		152,888			152,888
Airlie Street Hall	Annual Grant 2016/17				250	250
Alyth in Bloom	Annual Grant 2016/17 Alyth in Bloom				150	150
Alyth Out of School Care	Breakfast Club		1,890			1,890
Alyth Parish Church	Annual Grant 16081 Alyth Parish Church				250	250
Amulree Hall	Annual Grant 16040 Amulree Hall				250	250
Ardoch Gardening Club	Annual Administration Grant 2016/17				150	150
Auchterarder Bloom Association	Annual Administration Grant 2016/17				150	150
Ballintuim Village Hall Fund	Annual Grant 16017 Ballintuim Village Hall				250	250
Barnardo's	Hopscotch		7,880			7,880
Barnardo's Scotland	Funding 2016/17		65,640			65,640
Beautiful Perth	Annual Administration Grant 2016/17				150	150
Biodynamic Farms and Gardens	CECF**				8,364	8,364

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Blackford Is Brighter	Annual Administration Grant 2016/17				150	150
Blackwater Public Hall	Annual Grant 16017 Blackwater Public Hal				250	250
Blair Atholl Village Hall	Annual Grant 16019-Blair Atholl Village Hall				250	250
Blair In Bloom	Annual Administration Grant 2016/17				150	150
Blair Rattray & Dist Freedom Coach Assoc	Section 10 2016/17			8,120		8,120
Bonnie Rait	Annual Administration Grant 2016/17				150	150
Breatheaberdely.co.uk	SLA		3,600			3,600
Bridge Of Cally Hall	Annual Grant 16020 Bridge of Cally Hall				250	250
Bridge Of Earn Institute	Annual Grant 16021 Bridge of Earn Inst.				250	250
Brig in Bloom	Annual Grant 2016/17 Brig in Bloom				150	150
Bullionfield Recreation Club	Annual Grant 16022 Bullionfield Recreation Club				250	250
Burrelton Village Hall	Annual Grant 16023 Village Hall 2016				250	250
Cafe Eck's	Woodland Working Group				231	231
Caffe Canto	Tayside Recorder day/7.05.6				211	211
Camserney Hall	Annual Grant 16024 Camserney Hall				250	250
Caputh Village Hall	Annual Grant 16025 Caputh Village Hall				250	250
Carnbo & District Community Hall Assoc	Annual Grant 16026 Carnbo Hall				250	250
Carse in Bloom	Annual Administration Grant 2016/17				150	150

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Centre For Inclusive Living P & K	FAP 2016/17			39,729		39,729
Chapelhill Hall	Annual Grant 16027 Chapelhill Hall				250	250
CHAS	Contribution to Hospice Care 2016/17		17,730			17,730
Checkin	SLA 2016/17			27,030		27,030
Church Of Scotland	SLA 2016/17			92,565		92,565
Churches Action For The Homeless	SLA 2016/17 - Day Centre			145,307		145,307
Churches Action For The Homeless	SLA 2016/17 - Outreach			67,649		67,649
	<b>Churches Action For The Homeless Subtotal</b>			<b>212,956</b>		<b>212,956</b>
Cleish Village Hall	Annual Grant 16028 Cleish Village Hall				250	250
Clunie Public Hall	Annual Grant 16029 Clunie Public Hall				250	250
Common Ground Mediation Ltd	ASN Mediation Services		6,400			6,400
Comrie Community Centre	Annual Grant 16030 Comrie Community Centre				250	250
Comrie in Colour	Annual Administration Grant 2016/17				150	150
Comrie Rural Hall	Annual Grant 16031 Comrie Rural Hall				250	250
Cornerstone Community Care	SLA 2016/17			62,990		62,990
	<b>Cornerstone Community Care Subtotal</b>			<b>62,990</b>		<b>62,990</b>
Coupar Angus Pride of Place	Annual Administration Grant 2016/17				150	150
Coupar Angus Pride of Place	CECF*				12,000	12,000

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
	<b>Coupar Angus Pride of Place Subtotal</b>				<b>12,150</b>	<b>12,150</b>
Crieff in Leaf	Annual Administration Grant 2016/17				150	150
Crieff in Leaf	CECF*				2,808	2,808
	<b>Crieff in Leaf Subtotal</b>				<b>2,958</b>	<b>2,958</b>
Crook and Drum Growing Together	Annual Administration Grant 16202 2016/17				150	150
Crook Of Devon Institute	Annual Grant 16032 Crook of Devon Village Hall				250	250
Crossreach	SLA 2016/17			10,098		10,098
Crossroads	SLA 2016/17			338,136		338,136
Crossroads	SLA 2016/17 Dementia Care			25,309		25,309
	<b>Crossroads Subtotal</b>			<b>363,445</b>		<b>363,445</b>
Crossroads Care Attendant Scheme	Care of Individuals 2016/17		16,702			16,702
Cruse Bereavement Care Scotland	SLA 2016/17 (FAP & HB)			15,376		15,376
Dalguise & District Public Hall	Annual Grant Dalguise & District Public Hall				250	250
Duchess Anne Hall	Annual Grant 16034 Duchess Anne Hall				250	250
Dunkeld & Birnam In Bloom	Annual Administration Grant 2016/17				150	150
Dunning in Bloom	Annual Grant 2016/17 Dunning in Bloom				150	150
East Haven Together	People & Comm - East Haven				328	328
East Haven Together	Core Budget TBAP				488	488

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
	<b>East Haven Together Subtotal</b>				<b>816</b>	<b>816</b>
Elspeth A Coutts	Urban/swifts Budget				114	114
Enable Scotland	Individual Support Packages		12,888			12,888
Enable Scotland	Perth Children's Services SLA		29,297			29,297
	<b>Enable Scotland Subtotal</b>		<b>42,185</b>			<b>42,185</b>
Errol Community Association	Annual Grant 16047 Errol Village Hall				250	250
Ethnic Minorities Law Centre	Budget Motion 2016/17			20,000		20,000
Findo Gask Hall	Annual Grant 16035 Findo Gask Hall				250	250
Forgandenny Village Hall	Annual Grant 16036 Forgandenny Village Hall				250	250
Fowlis Wester Village Hall	Annual Grant 16038 Fowlis Wester Village Hall				250	250
Friends of Stanley Primary School	Grant ref 15132 Trim Trail				4,883	4,883
Gateway Enterprises - Strathmore	SLA 2016/17			113,810		113,810
Georgetown Community Hall	Annual Grant 16039 Georgetown Community Hall				250	250
Gilmerton & Monzie	Annual Grant 16037 Gilmerton & Monzie Hall				250	250
Glenfarg & Duncricvie in Bloom	Annual Administration Grant 2016/17				150	150
Glenfarg & Duncricvie in Bloom	CECF*				10,000	10,000
	<b>Glenfarg &amp; Duncricvie in Bloom Subtotal</b>				<b>10,150</b>	<b>10,150</b>
Glenfarg Public Hall Association	Annual Grant 16041 Glenfarg Public Hall				250	250

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Glenfincastle Hall	Annual Grant 16042 Glenfincastle Hall				250	250
Grandtully & Strathtay Hall & Park Assoc	Annual Grant 16043 GSHPA Village Hall				250	250
Guildtown Community Association	Annual Administration Grant 2016/17				150	150
Guildtown Community Association	Annual Grant 16044 Guildtown Community Associate Village Hall				250	250
	<b>Guildtown Community Association Subtotal</b>				<b>400</b>	<b>400</b>
Headway Perth & Kinross	Section 10 2016/17			950		950
Helen Dickinson	Travelling Expenses				32	32
Home-Start Perth	Home-Start core funding 2016/17		10,000			10,000
Inchture Village Hall	Annual Grant 16045 Inchture Village Hall				250	250
	<b>Inchture Village Hall Subtotal</b>				<b>250</b>	<b>250</b>
Independent Advocacy Perth & Kinross	SLA 2016/17			55,909		55,909
Independent Advocacy Perth & Kinross	SLA 2016/17 .6 Vol Co-Ord (Recurring)			21,420		21,420
Independent Advocacy Perth & Kinross	SLA 2016/17 Carers			33,150		33,150
Independent Advocacy Perth & Kinross	SLA 2016/17 Prisoner Health Care N/R			8,920		8,920
Independent Advocacy Perth & Kinross	SLA 2016/17 Rohallion Unit			33,867		33,867
Independent Advocacy Perth & Kinross	SLA 2016/17 Strathmartine			27,730		27,730
Independent Advocacy Perth & Kinross	SLA 2016/17 Worker			19,045		19,045
Independent Advocacy Perth & Kinross	SLA 2016/17 Mental Health ACT			63,036		63,036

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
	<b>Independent Advocacy Perth &amp; Kinross Subtotal</b>			<b>263,077</b>		<b>263,077</b>
Kenmore in Bloom	Annual Administration Grant				300	300
Killiecrankie Memorial Hall	Annual Grant 16046 Killiecrankie Memorial Hall				250	250
Kinglands Hall	Annual Grant 16046 Kinglands Hall				250	250
Kinloch Memorial Hall	Annual Grant 16047 Kinloch Memorial Hall				250	250
Kinloch Rannoch Village Hall	Annual Grant 16050 Kinloch Rannoch Village Hall				250	250
Kinloch Wri Hall	Annual Grant 16051 Kinloch Wri Hall				250	250
Kinnesswood In Bloom	Annual Administration Grant 2016/17				150	150
Kinross in Bloom	Annual Administration Grant 2016/17				150	150
Kinross in Bloom	CECF*				1,759	1,759
	<b>Kinross in Bloom Subtotal</b>				<b>1,909</b>	<b>1,909</b>
Kinrossie Public Hall Committee	Annual Grant 16077 Kinrossie Public Hall				250	250
Kinross-Shire Day Centre	SLA 2016/17			87,979		87,979
Kinross-Shire Vol. Grp Rural Outreach S	SLA 2016/17 incl HB transfer			6,359		6,359
Kirkmichael Hall	Annual Grant 16052 Kirkmichael Village Hall				250	250
Kirkmichael In Bloom	Annual Administration Grant 16197				150	150
Kynachan Village Hall	Annual Grant 16053 Kynachan Village Hall				250	250
Logos Youth Project	Supporting a Range of Youth Initiatives		14,300			14,300

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Luncarty and Redgorton in Bloom	Grant 16201 Annual Administration Fee 2016/17				150	150
McLean Hall Fearnan	Annual Grant 16054 McLean Hall				250	250
MECOPP	Budget Motion 2016/17 Equalities			22,000		22,000
Meikleour Village Hall & Institute	Annual Grant 2016/17				250	250
Methven Community Centre	Annual Grant 16057 Methven Comm Centre				250	250
Mid Atholl Village Hall	Annual Grant 16058 Mid Atholl Village Hall				250	250
Millbridge Hall Management Committee	Annual Grant 16059 Millbridge Hall				250	250
Milnathort In Bloom	Annual Administration Grant 2016/17				150	150
Mindspace Limited	Level One Monies 2016/17			28,208		28,208
Mindspace Limited	SLA 2016/17 Co-ordinators Post			30,358		30,358
Mindspace Limited	SLA 2016/17 Core Funding			24,033		24,033
Mindspace Limited	SLA 2016/17 Counselling			43,443		43,443
Mindspace Limited	SLA 2016/17 HB Transfer			25,516		25,516
Mindspace Limited	SLA 2016/17 Perth City			29,746		29,746
	<b>Mindspace Limited Subtotal</b>			<b>181,304</b>		<b>181,304</b>
Molteno Hall	Annual Grant 16060 Molteno Hall				250	250
Monzievaird & Strowan Hall	Annual Grant 16061 Monzievaird & Strowan				250	250
Moubray Hall	Annual Grant 16062 Moubray Hall				250	250

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Moulin Hall	Annual Grant 16063 Moulin Hall				250	250
Move 2 Improve	Annual Administration Grant 2016/17				150	150
Muirton Community Nursery	SLA 2016/17		42,500			42,500
Murthly in Bloom	Annual Administration Grant 2016/17				150	150
Murthly Village Hall	Annual Grant 16064 Murthly Village Hall				250	250
Muthill In Bloom	Annual Administration Grant 2016/17				150	150
National Schizophrenia Fellowship (Scotl	Mental Health Carers Project 2016/17			40,596		40,596
NHS Tayside	Administrative Support		4,231			4,231
NHS Tayside	Speech & Language Therapy		336,500			336,500
	<b>NHS Tayside Subtotal</b>		<b>340,731</b>			<b>340,731</b>
Oakbank Community Centre	Annual Grant 16065 Oakbank Community Centre				250	250
Pamis	SLA 2016/17			8,957		8,957
Parent To Parent Tayside	Support and Advocacy		78,125			78,125
Perth & Kinross ADHD Support Group	Drop in sessions Parenting Strategy 2016		400			400
Perth Access Cars	SLA 2016/17			10,022		10,022
Perth and Kinross Countryside Trust	CECF*				3,300	3,300
Perth Autism Support	Perth Autism Support funding		420			420
Perth Citizens Advice Bureau	Budget Motion 2016/17			100,000		100,000

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Perth Citizens Advice Bureau	FAP Funding 2016/17			151,980		151,980
Perth Citizens Advice Bureau	SLA 2016/17			107,089		107,089
	<b>Perth Citizens Advice Bureau Subtotal</b>			<b>359,069</b>		<b>359,069</b>
Perth College	Service Level Agreement with local College		75,863			75,863
Perth Film Society	Grant 15205 2015/16 Season at Concert Hall				200	200
Perth Six Circle Project	SLA 2016/17			18,134		18,134
Perth Toy Library	SLA 2016/17		3,822			3,822
Perthshire Wildlife	2hr Inchtute Church scaffold/urban				75	75
Perthshire Wildlife	Coast & Estuaries Working Group				250	250
Perthshire Wildlife	Talk Guided Walk Muthill/Auchterarder				150	150
Perthshire Wildlife	Water & Wetland				35	35
	<b>Perthshire Wildlife Subtotal</b>				<b>510</b>	<b>510</b>
Perthshire Women's Aid	SLA 2016/17		108,000			108,000
Pitcairngreen Village Association	Annual Grant 2016/17				250	250
Pitlochry in Bloom	Annual Grant Payment				150	150
Pitlochry in Bloom	Edradour Path Improvement Project				7,094	7,094
	<b>Pitlochry in Bloom Subtotal</b>				<b>7,244</b>	<b>7,244</b>
Pitlochry Senr Citizens Good Negrbr Asoc	Section 10 2016/17			1,936		1,936

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
PKAVS	Budget Motion 2016/17 Min Com Hub			24,000		24,000
PKAVS	Grant income VAP		30,000			30,000
PKAVS	Level One Monies 2016/17			29,144		29,144
PKAVS	SLA 2016/17 Carers Cen HB tran, Creiff			165,943		165,943
PKAVS	SLA 2016/17 Core Funding			61,696		61,696
PKAVS	SLA 2016/17 MEAD			24,480		24,480
PKAVS	SLA 2016/17 Perth City			25,414		25,414
PKAVS	Young Carers Grant		42,500			42,500
	<b>PKAVS Subtotal</b>		<b>72,500</b>	<b>330,677</b>		<b>403,177</b>
Plus Perth & Kinross	SLA 2016/17			51,401		51,401
Portmoak Village Hall	Annual Grant Portmoak Village Hall 2016/17				250	250
Powmill in Bloom	Annual Grant 2016/17 Powmill in Bloom				150	150
Pride in Meigle	Annual Grant 2016/17 Pride in Meigle				150	150
Push (Perth & Kinross) Ltd	SLA 2016/17			30,866		30,866
Rannoch in Bloom	Annual Grant 2016/17 Rannoch in Bloom				150	150
Robert Douglas Memorial Institute	Annual Grant 16069 Robert Douglas Memorial Hall				250	250
Royal Voluntary Service	SLA 2016/17			66,596		66,596
Samaritans (Perth)	Section 10 2016/17			285		285

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Sandison Hall	Annual Grant Sandison Hall 2016/17				250	250
Scone in Bloom	Annual Administration Grant 2016/17				150	150
Scone New Church	Annual Grant Scone New Church 2016/17				250	250
Scone Remembers - c/o Dr Peter Olsen	Scone Woods WW1 Memorial Project				1,500	1,500
Scotlandwell In Bloom	Annual Administration Grant 2016/17				150	150
Scottish Care	Local Lead			23,100		23,100
Scottish Huntington's Association	SLA 2016/17			27,608		27,608
Seed the Path	Aly Muir			650		650
Seed the Path	Centre for Inclusive Living			750		750
Seed the Path	Community Café Social Activities			100		100
Seed the Path	Craigie & Moncrieffe Church			2,000		2,000
Seed the Path	Craigie Fish Lunches			2,000		2,000
Seed the Path	Crieff Parish Church			2,000		2,000
Seed the Path	Crieff Tuesday Club			2,000		2,000
Seed the Path	Ericht Allotment Association			2,000		2,000
Seed the Path	Fidget Blanket Project			100		100
Seed the Path	Gateway Mental Health Training Fund			1,000		1,000
Seed the Path	Homestart Volunteer Prep Course			1,600		1,600

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Seed the Path	Hope Park House			1,500		1,500
Seed the Path	PKAVS			1,350		1,350
Seed the Path	Safe Art Group			1,100		1,100
Seed the Path	South Perth Community Partnership			1,864		1,864
Seed the Path	Stanley Development Trust			16,571		16,571
	<b>Seed the Path Subtotal</b>			<b>36,585</b>		<b>36,585</b>
South Perth Green Spaces Group	Annual Administration Grant 16118 2016/17				150	150
Spittalfield Hall	Annual Grant Spittalfield Hall 2016/17				250	250
St Johnstone Football Club Ltd	Budget Motion 2016/17 Equalities			10,000		10,000
St Madoes and Kinfauns Parish Church	Madoch Centre Outside Play Space				4,068	4,068
St Madoes Community Centre	Annual Grant 16015 St Madoes Community Centre				250	250
St Martins Public Hall	Annual Grant 16072 St Martins Public Hall				250	250
Stanley & District Public Hall	Annual Grant Stanley & District Public Hall				250	250
Stanley Development Trust	CECF*				6,420	6,420
Stanley In Bloom	Annual Administration Grant 2016/17				150	150
Stormontfield Community Centre	Annual Grant Stormontfield Community Centre				250	250
Strathmore Centre for Youth Development	SCYD Moving On Prog 2016		2,400			2,400
Tabernacle Hall	Annual Grant Tabernacle Hall 2016/17				250	250

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Take A Pride In Errol	Annual Administration Grant 2016/17				150	150
Take a Pride in North Muirton	Annual Administration Grant 2016/17				150	150
Take a Pride in North Muirton	CECF*				323	323
	<b>Take a Pride in North Muirton Subtotal</b>				<b>473</b>	<b>473</b>
Tayside Council On Alcohol	SLA 2016/17			23,556		23,556
Tayside Council On Alcohol	SLA 2016/17 Core Funding & ADP			40,055		40,055
	<b>Tayside Council On Alcohol Subtotal</b>			<b>63,611</b>		<b>63,611</b>
The James Hutton Institute	20 years of Scottish Biodiversity				500	500
The Kelty Bridge & Maryburgh	Annual Administration Grant 2016/17				150	150
The University of Edinburgh	Partnership Agreement 2016/17		10,033			10,033
The University of Edinburgh	Partnership Agreement 2016/17 CALL Scotland		6,772			6,772
	<b>The University of Edinburgh Subtotal</b>		<b>16,805</b>			<b>16,805</b>
Tulloch Net	SLA 2016/17 Tulloch Net			5,000		5,000
Tulloch Primary School Parent Council	Annual Grant 15407 School Summer				700	700
Vision PK	SLA 2016/17			157,536		157,536
West Carse Public Hall	Annual Grant 16056 West Carse Public Hall				250	250
Who Cares ? Scotland	Independent Advocacy		26,750			26,750
Williamson Hall Management Committee	Annual Grant Williamson Hall Management 2016/17				250	250

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCS	TES	
		£	£	£	£	
Wolfhill Memorial Village Hall	Annual Grant Wolfhill Memorial Village Hall 2016/17				250	250
You Can Learn It Ltd	Consultation & Development You Can Learn		110			110
<b>Grand Total</b>			<b>1,107,640</b>	<b>2,769,767</b>	<b>89,732</b>	<b>3,967,138</b>

\*CECF - Community Environment Challenge Fund

## Arms Length External Organisations

Name of Organisation	Description	Service				Total £
		CDS	ECS	HCC	TES	
		£	£	£	£	
Horsecross Arts Ltd	Theatre and Arts	1,351	1,295,681	4,545	50,860	1,352,437
Live Active Leisure Ltd	Leisure Services	57,438	4,816,260	41,967	35,637	4,951,302
Culture Perth & Kinross	Library, Museums and Cultural Services	1,886	2,565,414	2,860	5,176	2,575,337
Tayside Contracts	Roads		141	1,426	12,117,799	12,119,366
Tayside Contracts	Catering	2,374	5,781,336	12,342	13,811	5,809,863
Tayside Contracts	Cleaning		2,854,319	143,535	178,608	3,176,462
Tayside Contracts	Street Lighting			62,686	279,911	342,597
Tayside Contracts	Liquid Fuel			48,997	157,630	206,628
Tayside Contracts	Rent			27,702		27,702
Tayside Contracts	Signage			100	4,518	4,618
Tayside Contracts	Other (e.g. training, materials, equipment)	1,767	3,905	3,229	374,614	383,515
	<b>Tayside Contracts Subtotal</b>	<b>4,141</b>	<b>8,639,701</b>	<b>300,016</b>	<b>13,126,892</b>	<b>22,070,751</b>
<b>ALEO Spend Total</b>		<b>64,816</b>	<b>17,317,056</b>	<b>349,389</b>	<b>13,218,565</b>	<b>30,949,826</b>

### Note to Table

In respect of the Council's use of Tayside Contracts to deliver services:

Roads expenditure relates to the Roads Maintenance Partnership established to deliver maintenance and repairs of our roads network.

Catering: principally describes the provision of school meals.

Cleaning: principally the school estate.

Streeting Partnership

Fuel – the use of Tayside Contracts depots to refuel Council vehicles.

Signage – purchases of signage from the in-house sign shop at Tayside Contracts

# PERTH AND KINROSS COUNCIL



Head of Legal and Governance Services  
31/3/2017

1/6/2017

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## SECTION 1: Background

### Definitions

In these Contract Rules the following words and expressions have the following meanings:

**Authorised Officer:** The officer designated to be responsible for the procurement process and the contract all in terms of clause 2.1 (Authority to Contract).

**Agent:** Any external individual or organisation acting on behalf of the Council.

**Best Value:** The legal duty to secure continuous improvement in the performance of the Council's functions.

**Bidder:** A contractor, supplier, or tenderer who responds to an invitation to quote (ITQ) or to tender (ITT).

**Collaboration (also known as collaborative procurement):** The process of achieving value for money for the Scottish public sector through partnership working between buying organisations.

**Contract:** A legally enforceable agreement between two or more parties.

**Contract Manager:** Officer charged with management of the relationship with a contractor.

**Contractor:** Anyone with whom the Council has a contract is a contractor (including providers of services).

**Council:** Perth & Kinross Council.

**ESPD:** European Single Procurement Document which is a qualifying document used for all tenders above the value of £50,000. The ESPD (Scotland) replaces the standard Pre-Qualification Questionnaire (sPQQ).

**EU:** The European Union.

**Framework Agreement:** an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. It is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).

**In-house Provision:** The provision by existing service/services within the Council of the Procurement Officer's requirements.

**Most Economically Advantageous Tender (MEAT):** The best value for money proposal based on the optimum combination of price and quality, not simply price alone.

**Official Journal of European Union (OJEU):** The Official Journal of the European Union, which publishes all public sector tenders breaching the EU thresholds.

**OJEU Tender:** A formal sealed bid procurement process that must comply with the requirements of the Scottish Regulations.

**Prior Information Notice:** A notice sent to the Official Journal.

**Procurement:** The acquiring by purchase, lease or other legal means, the goods, works and services used by the Council to discharge its functions in an effective, efficient and economic manner.

**Procurement Journey:** The Corporate Procurement Process.

**Procurement Toolkit:** A toolkit provided to give a step by step guide to navigate the Procurement Journey.

**Public Contracts Scotland:** This portal enables the Council to advertise all contracting opportunities.

**Scheme of Administration:** The approved scheme for the arrangement and discharge of functions by Perth and Kinross Council, its Committees and its Officials.

**Tayside Procurement Consortium (TPC):** A Central Procurement Team created by Angus, Dundee City, and Perth & Kinross Councils. The TPC Steering Group reviews all collaborative contracts.

**Tender:** An offer to supply goods or deliver services.

**Tenderer:** A contractor, supplier, or bidder who responds to an invitation to quote (ITQ) or to tender (ITT).

**Threshold:** The financial maximum or minimum which determines the relevant procurement route. Procurement procedures vary depending on the type and value of the contract. Financial thresholds can be found in the Procurement Toolkit.

**Value for Money:** The optimum combination of whole life costs and quality (or fitness for purpose) to meet the customer's requirements, and largely analogous with "most economically advantageous"

## Introduction and Legal Overview

1.2.1 All tendering and contract arrangements and procedures shall comply, with:

- (a) the statutory duty to secure Best Value.
- (b) The European Union Public Procurement regime and associated UK/Scottish legislation.

1.2.2 These Rules are subject to the exemptions specified in Section 5 and they do not apply to any situation where the Council decides to fund external organisations other than by means of a transparent procurement process. The funding of an external organisation shall be undertaken in accordance with the Council's policy, Following the Public Pound Code (attach hyperlink) and the Following the Public Pound Toolkit.

## SECTION 2: Authority to contract

### Authority to Contract

There must be statutory authority and Council authority before inviting a tender and entering into a contract. Each Service shall maintain a scheme of delegation of authority to enter into contracts within their Service.

The regulatory thresholds applicable to procurement are as follows:

	Goods and Services	Works Contracts
Contracts subsidised by a contracting authority	£164,176	£4,104,394
	€209,000	€5,225,000
Social and other specified services in schedule 3	£589,148	
	€750,000	

To contract on behalf of the Council in respect of those contracts above the regulatory thresholds, officers must:

- (a) register on the National Advertising Portal - Public Contracts Scotland, and
- (b) invite bids or quotations through the Portal.

2.1.2 Only those officers who have completed appropriate training, accredited by the Corporate Procurement Team may invite tenders and enter into contracts on behalf of the Council.

2.1.3 The following shall constitute authority to invite tenders and enter into contracts:-

- (a) The cost of the services, supplies or works is part of the approved budget and can be met from the approved budget.
- (b) The action is in accordance with the Scheme of Administration and Financial Regulations.

### **Emergencies**

An emergency or unforeseen circumstance may be authorised in line with the Scheme of Administration and authorisation shall be reported to the appropriate Committee as soon as possible thereafter.

## **SECTION 3: Compliance and Conduct**

### **Appointment of Authorised Officer**

- 3.1.1 Directors must appoint an Authorised Officer who will be responsible for the procurement process and for ensuring the contract is carried out in accordance with the Service's requirements.

### **Conduct and Conflicts of Interest**

- 3.2.1 Officers must comply with the [Employee Code of Conduct](#) and the [Conflict of Interest Procedure](#) contained therein in all tender, contract and procurement processes.
- 3.2.2 A breach of these Contract Rules or the Corporate Procurement Strategy may undermine the validity of the contract and allow an unsuccessful bidder/ tenderer to challenge an award of contract or to seek damages. A breach of these Rules or the Strategy may therefore lead to disciplinary action.

## **SECTION 4: Responsibilities of Directors, Heads of Services and Officers**

### **Responsibilities of all officers**

- 4.1.1 Every authorised officer must ensure that all invitations to tender and contracts entered in to comply with the:-
  - (a) [Scheme of Administration](#)
  - (b) [Council's Financial Regulations](#)
  - (c) [Corporate Procurement Strategy](#)
  - (d) Contract Rules
  - (e) [Procurement Toolkit](#)

4.1.2 Auditable records of procurement and contracting activities shall be maintained in accordance with Council's [approved retention schedule](#). Further guidance may be obtained from the Council's Records Manager.

## **4.2 Responsibilities of Directors and Heads of Service**

4.2.1 A report detailing all tenders over £5,000 in value accepted by each Service during the preceding 12 months is submitted annually to SP & R Committee. Each Head of Service shall verify and submit the information for their Service to the Corporate Procurement Team.

4.2.2 Each Head of Service shall provide verified information detailing its anticipated contracts over the next two financial years to the Corporate Procurement Team so that the Council can comply with its statutory duty to publish the contract delivery plan.

4.2.3 Each Head of Service shall ensure all relevant staff undertaking contracting activities have read, understood and are familiar with these Rules and the Procurement Toolkit or other guidance issued in respect of these Rules.

4.2.4 Each Head of Service shall take appropriate action immediately upon becoming aware of a breach of these Rules or non-compliance with the Procurement Toolkit.

## **4.3 Responsibilities of Authorised Officers**

4.3.1 The authorised officer is responsible for all contracts they have tendered, let and managed on behalf of the Council and must comply with the following duties:

4.3.2 General

- (a) Ensure compliance with these Rules and the [Procurement Toolkit](#);
- (b) Keep all commercial information confidential subject to any legal requirements;
- (c) Where appropriate a conduct assessments as may be required e.g. Equality and Human Rights Impact Assessment; Privacy Impact Assessment or Strategic Environmental Assessment.
- (d) Where a third party such as a consultant procures works, goods or services on the Council's behalf, the Authorised Officer must take steps to ensure that the third party acts in accordance with these Contract Rules.
- (e) Thresholds
  - In respect of small contracts for services, supplies or works below £5,000, tenders need not be invited. In respect of any contract where the costs of the services, supplies or works is above £5,000 but does not exceed £50,000

- For all contracts of £50,000 or above these Rules shall apply. All tenders of this value shall be submitted to the Corporate Procurement Team prior to issue.

When a contract is to be procured the estimated value of the contracts must be aggregated to decide whether the threshold is reached.

No officer shall disaggregate contracts to avoid the procurement process applicable to a higher threshold.

Best value must be demonstrated in all contracts.

For all of the above thresholds guidance as set out in the Procurement Toolkit shall be followed.

#### 4.3.3 Pre Contract (Development Phase)

- To prepare and approve where required by an appropriate Contract Strategy for each proposed purchase or contract;
- To check whether there is any existing Council or other collaborative framework that can be used to achieve Best Value for the Council before undergoing a further competitive tender process;
- To prepare, in consultation with the Corporate Procurement Team, appropriate contract and tender documents which clearly specify the scope, quality, quantity and terms and conditions of the works, goods or services;
- To ensure that appropriate contract security (such as a performance bond) is specified and obtained where required or considered prudent;
- To ensure that any evaluation panel is suitably informed to assess tenders;
- To limit risk associated with the use, adoption, purchase, commissioning, lease or subscription of any ICT (information and communication technologies) hardware, software or services software officers are required to consult with Corporate IT Manager.

#### 4.3.4 Tender Phase

- To ensure contracts are awarded and any appropriate contract security documents are signed before work, services or supply provision commences;
- To make appropriate arrangements for the opening of tenders and their secure retention so as to protect the integrity of the procurement process. Where tenders are received in paper form to ensure they are opened in the presence of an authorised officer together with a witness.
- To prepare a Tender Report as outlined in the [Procurement Toolkit](#); submit this to their Head of Service and thereafter approved Tender Reports shall be submitted the Corporate Procurement Manager

#### 4.3.5 Post–Award (Contract Management Phase)

- (a) To put in place arrangements for efficient contract and supplier management including the identification of a Contract Manager and management of benefits and performance, for the entire duration of the contract;
- (b) Completion of a contract award notice which must be undertaken within one month of contract award;
- (c) To ensure no supplier is requested by the Council to provide goods, services or works without first having a valid purchase order in place;
- (d) To enter all purchase order information onto the relevant Council financial system prior to the service or goods requested;
- (e) To retain a copy of the contract and keep proper records of all contracts and tenders, including minutes of tender evaluation panels and other meetings;
- (f) Take all appropriate measures to prevent, identify and remedy conflicts of interest and include measures to combat fraud through the life of the contract.

## **SECTION 5: Exemptions from Contract Rules**

### **Exemptions from Contract Rules**

#### 5.1.1 These Rules do not apply to:-

- (a) Contracts of employment;
- (b) The acquisition, disposal, lease or rental of land, existing buildings, other immovable property, any developer obligation pursuant to a legal agreement under section 75 of the Town & Country Planning (Scotland) Act 1997 or any other interest in land;
- (c) The arrangement of works, goods or services to be delivered through an In-House Service Provider or Arm's Length External Organisation (ALEO);
- (d) Any contract awarded to Tayside Contracts outwith a bidding process;

#### 5.1.2 These Rules may not apply to:-

- (a) Contracts which are exempt by virtue of the Public Contracts (Scotland) Regulations 2015 including:
  - (i) service contracts such as specific legal and financial services
  - (ii) contracts awarded on the basis of an exclusive right such as; Tayside Joint Evaluation Board.
  - (iii) contracts awarded between entities within the public sector.
- (b) An immediate need is created by a sudden, unforeseen, real and demonstrable emergency requiring immediate action;
- (c) A contract for the continuing use of an existing contractor/supplier in order to maintain continuity of supply or site experience, where the justification has been submitted to the Corporate Procurement Manager;

- (d) The purchase of goods or materials, the execution of works or supply of services for which the authorised officer can demonstrate that no genuine competition can be obtained;
- (e) Purchase of works, goods or services from a supplier under an acknowledged public sector agreement or a collaborative procurement agreement including Tayside Procurement Consortium
- (f) The purchase of social and specific support services but only where approved by the Chief Social Worker or Director of Education and required so the Council meets its statutory obligations;

### **Application for exemption**

5.2.1 If it is considered that any matter specified in 5.1.2 (a) to (f) applies, an application for an exemption should be made in writing to the Corporate Procurement Manager at the earliest practicable opportunity and provide the reason for the exemption.

5.2.2 Authorisation for an exemption from these Rules will be granted, where appropriate, by the Head of Legal and Governance Services in consultation with Corporate Procurement Manager.

## **SECTION 6: Contract Amendments**

### **Variations to an existing or proposed contract**

6.1.1 Variations in contract terms can be of minor or major significance. Such variations may relate to the Council's Standard Terms and Conditions or a contract procured via a Framework or otherwise, and may include assignments, changes to the contract sum etc. Any such variations will require to take account of whether they are consistent with a fair, reasonable and transparent procurement process.

6.1.2 If an authorised officer or contractor wishes to vary conditions of a contract, the Authorised Officer shall consult with Legal Services and notify the Corporate Procurement Manager detailing the proposed variations.

6.1.3 In the event of a contract variation being approved it may be necessary to update the Contract Register; this update should be made in writing using the [Contract Register Amendment Form](#) where appropriate.

### **Amendments to insurance requirements in contract**

6.2.1 If any proposed variations relate to insurance levels, then the Authorised Officer must also consult with the Council's Insurance Team, Legal Services and the Corporate Procurement Team

## **SECTION 7: Reporting of Breaches or suspected breaches**

- 7.1 Any breach or suspected breach of these Contract Rules and/or Corporate Procurement Strategy must be reported immediately to the Head of Service who thereafter should notify the Corporate Procurement Manager

## **SECTION 8: Legal Framework**

### **Relevant legislative provisions**

Every contract must comply with all relevant legislation. Some of the legislative provisions which commonly affect contract development are listed below. For the avoidance of doubt, this list is not exhaustive and authorised officers are expected to familiarise themselves with the legislation relevant to their own particular requirements.

#### **8.1.1 Health and Safety at Work Act and Regulations**

Authorised officers should ensure contracts are awarded in accordance with the Council's statutory health & safety duties which are described in detail in the [Corporate Occupational Health & Safety Policy](#).

#### **8.1.2 TUPE the "Transfer of Undertakings (Protection of Employment)**

The TUPE rules protect employees' rights when the organisation or service they work for transfers to a new employer. It is important to be aware of the implications of TUPE when contracting e.g. some bidders may qualify their tenders in respect of any liabilities arising under TUPE. Please refer to the following [TUPE Guidance](#) for further information.

#### **8.1.3 State Aid**

State aid arises where public funds are used resulting in a distortion in competition. The provision of state aid without approval from the European Commission is unlawful. If a contract is proposed in which State Aid may arise, officer(s) should seek guidance from the Corporate Procurement Manager and/or the Head of Legal Services.

#### **8.1.4 Bribery**

Should an Officer become aware of any potential contravention of the Bribery Act 2010, they should report their concerns to their Head of Service. The Head of Service shall notify the Chief Internal Auditor of their concerns and, if appropriate, the Monitoring Officer.

#### **8.1.5 Employment status of the contractor**

Officers should be aware of the legislative requirements set out by HMRC (Her Majesty's Revenue and Customs) in order to correctly assess the employment status of a contractor or worker engaged through the procurement toolkit. These requirements are often referred to as Intermediaries Regulations or IR35. Guidance on the IR35 process to follow can be found on Eric.



**PERTH & KINROSS COUNCIL**

**CODE OF GUIDANCE**

**FOR**

**FUNDING EXTERNAL ORGANISATIONS**

**&**

**“FOLLOWING THE PUBLIC POUND”**

**MAY 2017**

## 1 **INTRODUCTION & BACKGROUND**

1.1 Councils as public bodies are accountable for how they spend public money in the delivery of their services. They are also under a statutory duty to achieve Best Value in terms of the discharge of their functions and as such are being encouraged to consider innovative and alternative service delivery models. Irrespective of how Councils may design or deliver services, it is important that there is proper accountability and transparency as to how funds are being spent. This concept is known as “Following the Public Pound”.

1.2 Councils have the power to deliver services to discharge their functions in a variety of ways:

- **Direct provision** - where the services are delivered in-house through the Council’s own departments and employees
- **Contracted provision** – where the services are contracted from other public, private, third sector or voluntary suppliers
- **Arm’s Length External provision** – where a separate organisation is created to deliver the services on behalf of the Council and over which the Council has a degree of control or influence (e.g. ALEOs / Trusts)

1.3 In terms of:

- **Direct provision** - the Council accounts for their spend through the normal budget setting, monitoring and public reporting processes
- **Contracted provision** - Procurement legislation and the Council’s internal Contract Rules ([hyperlink for contract rules](#)) set out the basis for engaging and contracting with other bodies. That procurement and commissioning process provides the transparency and accountability as to how the funds are being spent.

1.4 Historically there has been less clarity and transparency around spend where services have been delivered on behalf of Council through Arm’s Length External Organisations (ALEOs). The use of ALEOs has become increasingly popular as a service delivery model as external organisations may be able to provide a better range or quality of service, or provide services that would otherwise not be provided. External organisations may also be able to attract funding from sources not so readily accessible to the Council, such as the private or voluntary sectors. Concerns as regards the lack of transparency and proper accountability for funds around the use of ALEOs prompted the Accounts Commission and COSLA to publish the “Code of Guidance on Funding External Bodies and Following the Public Pound” (“the original Code”) in 1996. This sets out the principles of best practice when establishing significant funding arrangements with companies, trusts and other bodies other than on a contractual basis

- 1.5 Since then the original Code has been given more formal status under the Local Government in Scotland Act 2003, in establishing the statutory duty on councils to ensure that they secure Best Value in the discharge of their functions.
- 1.6 The original Code reflects a self-regulatory approach and it is for Councils to interpret the Code and make their own arrangements as to how the general principles will be implemented locally.
- 1.7 This document constitutes the Perth & Kinross Council Code of Guidance for Funding External Organisations and “Following the Public Pound” (“the FPP Code”). It is based on the original Code as supplemented by the Controller of Audit’s report and Accounts Commission’s findings from March 2004 (“Following the Public Pound”) and the supplementary report by Audit Scotland entitled “Arm’s-length external organisations (ALEOs): are you getting it right?” from June 2011 (together the “FPP Framework”).
- 1.8 The FPP Framework cannot however be applied in isolation. As a public body, the Council is subject to a number of external rules and regulations governing how and with whom it spends its funds. In preparing this Code therefore, the following must be taken into account and adhered to:
- Procurement Reform (Scotland) Act 2014
  - Public Contract (Scotland) Regulations 2015 and supplementary guidance
  - Procurement (Scotland) Regulations 2016
  - State Aid rules set out in the Treaty on the Functioning of the European Union.

## 2 SCOPE OF THIS CODE OF GUIDANCE

### 2.1 In this Code:

**“Assistance-in-kind”** includes all staff time and all associated costs involved in enabling the outside organisation to carry out its core activities which are essential to its continued existence e.g. administrative support, professional services, advice, accommodation, rates remission, use of equipment, training, preparation of material for reporting to Council etc.

But does not include:

- staff time and associated costs involved in supporting and developing groups as part of Council’s duty to promote and support community action;
- staff time and associated costs in providing advice on setting up the funding and applications to Council
- staff time and associated costs incurred in the formal monitoring and review of funding arrangements by Council;

**“Best Value”** means balancing quality and cost considerations in improving performance. Achieving Best Value requires the Council to make arrangements to

secure continuous improvement in performance (while maintaining an appropriate balance between quality and cost) and in doing so to have regard to economy, efficiency, effectiveness, equal opportunities requirements and to the achievement of sustainable development;

“**Contract Rules**” means the rules and regulations put in place by the Council for advertising and awarding contracts as more particularly set out in section 81 of the Local Government (Scotland) Act 1973;

“**External organisation**” includes Arm’s Length External Organisations, companies, trusts, voluntary organisations and grant aided bodies;

“**Funding**” means money, grants, capital grants, guarantees, loans, common good fund, shares, assets and assistance-in-kind;

“**Public Services Contract**” has the meaning ascribed to it in the Public Contracts (Scotland) Regulations 2015;

“**Value for Money (VFM)** is defined as the optimum combination of whole life costs and quality (or fitness for purpose) to meet the customer's requirements, and can be taken to be largely analogous with "most economically advantageous".

- 2.2 The FPP Code applies in any situation where the Council decides to fund external organisations other than by means of a transparent procurement process in accordance with the Council’s Contract Rules ([attach hyperlink](#)) and Procurement Toolkit ([attach hyperlink](#))
- 2.3 Contracts with a value of less than £5,000 in total, whilst not requiring to be publicly procured, do need to demonstrate value for money. Similarly there are specific exceptions for larger contracts contained within the Contract Rules. As the FPP Code reflects general principles designed to provide transparency in respect of public spending, the FPP Code is applied in these situations also to provide assurance as to Best Value and VFM considerations.
- 2.4 Therefore the FPP Code is likely to apply:-
- (i) where the Council provides funding to an external organisation which is a separate legal entity from Council but over which the Council exerts a degree of control or influence by virtue of its constitution or the terms of its funding agreement (such as an ALEO/ Trust arrangement); or
  - (ii) In the event clauses 2.2 and 2.3 do not apply and the Council intends to directly award a contract for the supply of education or social care services to an independent supplier because no competition exists in the market; or
  - (iii) where the estimated costs of the services are below the EU threshold (all of which are set out in the Procurement Toolkit) and a review has been carried out

which has determined that Best Value can be obtained without going to tender;  
or

(iv) where the total value of the spend is less than £5,000); or

(v) where the Council provides some form of grant or assistance-in-kind (subject to compliance with any state aid rules).

2.5 This Code does not apply where the Council's Contract Rules or other rule of law requires a public procurement process to be followed.

2.6 Subject to 2.4(ii)-(iv) above, under no circumstances should this FPP Code be applied to a situation where the Council is procuring:-

- works or services pursuant to a public works contract;
- any form of professional or consultancy services; or
- the purchase of goods.

In these circumstances, the appropriate procurement route must be followed as set out in Contract Rules in conjunction with the Procurement Toolkit.

(more detailed guidance is contained within the FPP Practitioner Toolkit)

2.7 In reality most spend will be subject to the Council's Contract Rules and the Procurement Toolkit and these should always be checked, in the first instance, to see if they apply before considering the application of the FPP Code. If you are unsure you should always seek advice from the Council's Corporate Procurement Team.

2.8 The obligations as regards the governance of public funds do not end with the transfer of funding to the external body. All Council staff responsible for the award or payment of public funds to external organisations outside the Council's Contract Rules must follow the processes set out in this FPP Code.

2.9 Attached to this FPP Code is a toolkit to assist those individuals in identifying whether or not the FPP Code applies and how to put the appropriate checking, monitoring and reporting arrangements in place. It also details the specific roles and duties of staff in dealing with FPP arrangements.

2.10 Should Services require any further guidance in relation to funding external organisations, they should contact the Head of Legal and Governance Services.

### **3 PRINCIPLES OF "FOLLOWING THE PUBLIC POUND"**

3.1 As stated above, the original Code sets out basic principles governing FPP arrangements to ensure openness, transparency and adequate accountability. These can be summarised as follows:-

- **PURPOSE**: the Council must be clear about the reasons for their involvement in any external funding arrangement;
- **FINANCIAL REGIME**: the Council must specify clearly the extent of its financial commitment to the external body, including the nature of the financial relationship and the criteria for making and receiving payment;
- **MONITORING**: the Council ensure that there are appropriate and robust financial and performance monitoring and reporting arrangements are in place from the start of the relationship;
- **REPRESENTATION**: the Council should carefully consider its representation on the Board of any external organisation and ensure that Members and Officers understand their roles and responsibilities;
- **LIMITATIONS**: the Council must lay down a timetable for the achievement of its objectives, clearly specify any limits to funding and provisions for terminating the arrangement;
- **ACCOUNTABILITY**: provisions must be made for the Council and its external auditors to have access to the records of the funded body.

(more detailed guidance is contained within the FPP Practitioner Toolkit.)

## **4 APPLYING THE PRINCIPLES**

4.1 In practice therefore it is essential that before any FPP arrangement is entered into:-

- (i) you can clearly link what the external organisation will be providing to an objective, strategy or policy of the Council;
- (ii) a risk-based assessment is carried out of the external organisation prior to agreeing funding to ensure the organisation is able to achieve the Council's objectives and that there are no state aid implications arising out the decision to fund the external organisation;
- (iii) that an adequate level of checks is carried out on the external organisation before and during any funding, based on the amount of money they are receiving in total from the Council;
- (iv) a funding agreement will be reached between the Council and the external organisation prior to any funding being made available, setting out the terms and conditions of the payment;
- (v) a Monitoring Officer from the Council will be appointed to oversee the funding provided to each external organisation;
- (vi) the position as regards Elected Member or officer representation on any board or governing body of any external organisation is identified and that roles and responsibilities are fully understood.

(More detailed guidance is contained within the FPP Practitioner Toolkit)

4.2 It is the responsibility of each Director to ensure that expenditure is being correctly categorised under this Code (and is not subject to any procurement rules) and where

such expenditure meets the test under this Code, then there is clear accountability for all funds which are provided from their Service budgets.

## **5 ASSURANCE FRAMEWORK**

5.1 The requirement to provide assurance in respect of funding to external organisations does not end at the point of payment being made. Whilst a number of risks will have been identified and addressed prior to funding, a number of different risks will continue or emerge in the course of performance (e.g. non delivery or poor performance of the service, misuse of funds, reputational risk etc. Assurance will therefore be required in respect of the external organisation's ability to deliver high quality services. The level of assurance required must be reflective of the risks/potential risks that exist.

5.2 The purpose of a financial and operational risk assessment is to determine how any changes in income and expenditure will impact upon the external organisation's future viability and operational ability to deliver the necessary outcomes.

5.3 This FPP Code applies the principle of proportionality to the assessment of risk and assurance, recognising that different levels of scrutiny will be required depending on;

- the degree, nature and impact of the risks/potential risks identified
- the level of control/influence which the Council has over the external organisation
- the level of funding given.

5.4 The following matrix will be used to determine the level of risk assessment and assurance required.

<b>FINANCIAL RISK LEVEL</b>	<b>SCORE</b>
Less than £5,000	1
Greater than £5,000 but less than £50,000	2
Greater than £50,000	3
Substantially greater than £50,000 and included in Group Accounts for the Council	4

<b>NON- FINANCIAL RISK LEVEL (OPERATIONAL / REPUTATIONAL)</b>	<b>SCORE</b>
One off grant / subsidy to body for community benefit	1
External organisation - Council has no interest or control	2
External organisation - Council has substantial interest and control	3
External organisation - Council has substantial interest and control and the results of organisation are included in the Council's Group Accounts	4

5.5 To assess the level of assurance required select the relevant criteria from both the financial and non-financial risks and add the scores together.

<b>SCORE</b>	<b>ASSURANCE ASSESSMENT LEVEL</b>
1-2	LEVEL 1
3-4	LEVEL 2
5-6	LEVEL 3
7-8	LEVEL 4

(more detailed guidance as to the content of each level of risk assessment is contained within the FPP Practitioner Toolkit.)

5.6 Once the financial/ non-financial risks have been assessed and a decision to fund has been made the next stages of the assurance process are:

- to agree clear and transparent contractual arrangements
- to agree a schedule of payments
- to establish regular and robust approval, monitoring and reporting arrangements
- where appropriate, to determine the degree of the Council's representation and participation in the external organisation.

(more detailed guidance is contained within the FPP Practitioner Toolkit.)

## **6 CENTRAL REGISTER**

6.1 It is important that the Council is publicly accountable for how it is spending public funds.

6.2 Under the Council's Contract Rules, details of all contracts entered into as a result of regulated procurement must be entered into a Contract Register. Those arrangements which fall out with the scope of regulated procurement shall be recorded on a central FPP Register. Accordingly the following arrangements will require to be recorded on the FPP Register :

- where the total value of the spend in respect of the services is less than £5,000 (or such other minimum level as prescribed in the Council's Contract Rules); or
- where the Council provides some form of grant or assistance-in-kind (subject to compliance with any state aid rules); or
- where the Council intends to directly award a contract for the supply of education or social care services to an independent supplier because no competition exists in the market, the value of which is less than £50,000; or
- where the estimated costs of the services are below £50,000 and a review has been carried out which has determined that Best Value can be obtained without going to tender; or
- where the Council provides funding to an external organisation which is a separate legal entity from Council but over which the Council exerts a

degree of control or influence by virtue of its constitution or the terms of its funding agreement (such as an ALEO/ Trust arrangement).

6.3 Where the FPP Code has been applied because :

- (i) the Council intends to directly award a contract for the supply of education or social care services to an independent supplier because no competition exists in the market; or
- (ii) where the estimated costs of the services are below the EU or other relevant threshold and a review has been carried out which has determined that Best Value can be obtained without going to tender; and
- (iii) the **value is greater than £50,000**

The arrangement shall be recorded on the CONTRACT REGISTER as opposed to the FPP Register.

6.4 The FPP Register will be maintained by the Head of Legal & Governance Services. Service Management Teams are required to ensure that the Register is kept up to date with all relevant information.

Version	Summary of Changes	Approved	
V.1	Initial draft 30/04/14	DH	ITI
V1.2	Second draft issued 1/10/14	DH	ITI
V2	Third draft issued 21/11/14	DH	ITI
V3	Fourth draft issued 12/12/14	DH	ITI
V4	Fifth draft issued 17/12/14	DH	ITI
V5	Sixth draft issued 10/04/15		
V6	Seventh draft issued 29/05/15		
V7	Eighth draft issued 24/07/15		
V8	Ninth Draft issued 20/11/2015		
V9	Revisals made following comments from JC and MM. Issued to LS for comment 04/02/2016.		
V10	Further revisals made to reflect changes in Procurement legislation. Issued to and LS for comment 30/03/2016		
V11	Revisal made by LS		
V12	Revisals made by LC 02/06/2017		



**FUNDING EXTERNAL ORGANISATIONS AND  
“FOLLOWING THE PUBLIC POUND”**

**PRACTITIONER TOOLKIT**

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## **Section 1: INTRODUCTION**

1. This is the 'Following the Public Pound (FPP) Practitioners' Toolkit' which is referred to in the 'Perth & Kinross Council Code of Guidance for Funding External Organisations & "Following the Public Pound"' (the FPP Code).
2. This Toolkit is intended to assist Council Officers who are involved in decision-making, arranging and monitoring funding agreements under the FPP Code.
3. This Toolkit has been set out in a series of checklists to help the user complete each step of the process towards awarding, providing and monitoring funding to an external organisation.
4. By working through the checklists below, Council officers should be able to determine what steps are to be carried out prior to any funding and throughout the funding agreement.
5. This Toolkit should be read alongside the FPP Code. Further explanation and a glossary of terms used in this Toolkit are available in the FPP Code.
6. Further information or advice in relation to Following the Public Pound may be sought by referring to the FPP Code or by contacting the Head of Legal & Governance Services.

## **Section 2: SUMMARY OF THE STAGES OF FPP FUNDING**

The various stages involved in the awarding, providing and monitoring of funding under the FPP Code can be broadly summarised as follows:

- Application for funding received from external organisation / identified need for external organisation to deliver a service on behalf of the Council
- Determine the level of funding – this will indicate the information, documentation and agreement type required
- The Monitoring Officer undertakes a financial and non-financial risk assessment
- A decision is taken under the Scheme of Delegation or by Committee to approve the funding
- The funding agreement is put in place by the Monitoring Officer
- The Monitoring Officer advises the Head of Legal & Governance Services of the agreement for the purpose of updating the Central Register
- The external organisation provides its reports and documentation as required under the funding agreement
- The Monitoring Officer provides annual information to the Head of Service, Service Management Team or Committee as appropriate
- The Monitoring Officer continues to oversee the funding agreement
- Funding may be extended beyond a single financial year, subject to annual and ongoing financial and non-financial checks and aggregation rules/thresholds.

**These stages can vary and the Checklists set out in the remainder of this Toolkit should be followed in all cases.**

## **Section 3: PRIOR TO FUNDING**

Before any decision is made that the Council will provide funding to an external organisation, you must be able to justify the funding in accordance with the Council's strategic objectives and demonstrate that the funding should be made under FPP rules, rather than through procurement of the service.

Complete the checklists below to ensure that the funding should be made through FPP.

### **3.1 CHECKLIST 1: Is the funding necessary?**

1. Is the purpose of the funding clearly linked to the achievement of the Council's objectives or the implementation of a Council Strategy or Policy?
2. Are there clear benefits to delivering this service through an external body, as opposed to direct provision by the Council?
3. Do you have an approved budget for the funding?
4. Have you checked if any other Council Service is already directly delivering or procuring the same or similar service?

**If the answer to any of the above is "NO" then further consideration needs to be given to the proposal before proceeding.**

### **3.2 CHECKLIST 2: Should this be publicly procured?**

1. Is the value of the proposed arrangement over £5,000?
2. Does the proposed arrangement fall within the definition of "public services contract" under the procurement regulations?
3. Is the proposed arrangement for the delivery of what might constitute "public works" under the procurement regulations?
4. Are there a number of suppliers in the market who could provide the service?
5. Is the value of the proposed arrangement greater than the current EU procurement threshold?
6. Are there State Aid implications? (see State Aid Checklist in Part B)

**If the answer to any of the above is “yes” or “don’t know” then seek advice from the Council’s Corporate Procurement Manager or Head of Legal & Democratic Services before proceeding any further.**

### **3.3 CHECKLIST 3: Does the FPP Code apply?**

1. Is the value of the proposed arrangement under £5,000 and has not been recorded on the Council’s contract register?
2. If the contract is for the provision of education or social services, and the value of the proposed arrangement is greater than £5,000, can you demonstrate that no market competition exists in respect of the proposed supplier?
3. If the value of the proposed arrangement is above £5,000, but below EU threshold limits, and has not been recorded on the Council’s Contract Register can you demonstrate that Best Value can be achieved??
4. Is the proposed funding to take the form of a grant, loan or assistance in kind?
5. Is the proposed funding being made to an Arm’s Length External Organisation (ALEO)? (An ALEO is a company, trust or other external organisation which is a separate legal entity from the Council, but over which the Council exercises a degree of control or influence, e.g. through Board/Trustee Membership, shareholding or the terms and nature of the funding agreement)

**If the answer to any of the above is YES, then the FPP Code applies.**

**If the answer to all of the above is NO or you are unsure, please seek advice from the Corporate Procurement Manager or the Head of Legal & Governance Services before proceeding any further.**

## **Section 4: STATE AID**

Any Service proposing to fund an external organisation through a grant or direct award without competition must comply with the rules relating to State Aid. Services should apply the following tests when determining whether the State Aid rules are applicable.

### **4.1 Checklist 1: Do the State Aid rules apply?**

1. Is the external organisation an 'undertaking'?

**An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic (commercial/competitive) activity and where there is a market in comparable goods or services**

2. If so, is the external organisation engaged in economic activity?

**This is defined as offering goods and/or services on a given market and which could, at least in principle, be carried out by a private operator for remuneration in order to make profits**

**If the answer to these two questions is YES, then the checklist below must then be applied to determine the possible presence of State Aid.**

### **4.2 Checklist 2: Does the funding amount to State Aid?**

1. Has there been an intervention in the market using public money?
2. Does the funding give the external organisation an advantage, for example when dealing with specific companies or industry sectors, or to companies located in a specific region?
3. Could competition within the market for these goods or services be distorted as a result of this funding?
4. Is the funding likely to affect the trade of goods or services between EU Member States?

**If the answer to all these questions is YES, then it is likely that the funding amounts to State Aid.**

**Where it is determined State Aid may apply, you must contact the Head of Legal & Governance Services before any funding can be given, as there are certain exemptions and *de minimis* rules that apply. Clearance may be required from the Scottish Government State Aid Unit before the funding agreement can be entered into.**

If you are unsure as to whether State Aid applies, seek advice from the Corporate Procurement Manager or the Head of Legal & Governance Services before proceeding further.

## **Section 5: RISK ASSESSMENT OF EXTERNAL ORGANISATION**

Once the decision has been made to fund an external organisation and you have established that the FPP Code applies, a risk assessment must be carried out to determine the level of financial and non-financial checks required.

The level of financial and non-financial checks will be based on the Assurance Assessment Level, which is arrived at by using the checklists below. This takes into account the level of funding to the external organisation and the extent of the Council's interest in or control over the external organisation. This will minimise the risk to the Council and ensure that the requirements on smaller organisations are not too onerous.

### **5.1 CHECKLIST 1: What is the financial risk level?**

1. Is the Council funding to the external organisation substantially greater than £50,000 and included in Group Accounts for the Council?  
**(If so, score 4 points and proceed to Checklist 2)**
2. Is the Council funding to the organisation £50,000 or more?  
**(If so, score 3 points and proceed to Checklist 2)**
3. Is the Council funding to the organisation less than £50,000 but more than £5,000?  
**(If so, score 2 points and proceed to Checklist 2)**
4. Is the Council funding to the organisation £5,000 or less?  
**(If so, score 1 point and proceed to Checklist 2)**

### **5.2 CHECKLIST 2: What is the non-financial risk level (i.e. operational / reputational)?**

1. Is the funding to an external organisation in which the Council has substantial interest and control and the results of the organisation included in the Council's Group Accounts?  
**(If so, add 4 points to the previous score and proceed to Checklist 3)**

2. Is the funding to an external organisation in which the Council has a substantial interest and control?  
**(If so, add 3 points to the previous score and proceed to Checklist 3)**
3. Is the funding to an external organisation in which the Council has no interest or control?  
**(If so, add 2 points to the previous score and proceed to Checklist 3)**
4. Is the funding a one-off grant / subsidy to an external organisation for a community benefit?  
**(If so, add 1 point to the previous score and proceed to Checklist 3)**

### **5.3 CHECKLIST 3: What is the assurance assessment level?**

1. What was the total score from Checklists 1 and 2?

<b>SCORE</b>	<b>ASSURANCE ASSESSMENT LEVEL</b>
1-2	LEVEL 1 – go to Checklist 4
3-4	LEVEL 2 – go to Checklist 5
5-6	LEVEL 3 – go to Checklist 6
7-8	LEVEL 4 – go to Checklist 7

### **5.4 CHECKLIST 4: Assurance Assessment Level 1**

1. Do you have the following documentation from the external organisation?
  - An annual income and expenditure account and statement of cash balance, which has been approved by a person independent of the day to day running of the organisation
2. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all of the information set out in this Checklist, go to Part D**

### **5.5 CHECKLIST 5: Assurance Assessment Level 2**

1. Do you have the following documentation from the external organisation?

- Financial Statements for the preceding three financial years (unless the organisation is less than three years old)
2. Does the organisation have a management board to oversee the direction, service delivery and financial stability of the organisation?
  3. Is the organisation a registered charity, and if so have they complied with guidance from OSCR?
  4. Is the organisation a registered company, and if so have they complied with their requirements under the Companies Acts?
  5. Does the organisation have a clear statement of purpose and organisational objectives?
  6. Is the organisation able to provide evidence or other support to demonstrate achievement of its objectives and purpose?
  7. Are there any known reasons that would result in a risk to the Council's reputation through association with an external body if financial or service delivery problems emerge?
  8. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all the information set out in this Checklist, and you are satisfied that the external organisation is a suitable organisation to receive the proposed Council funding, go to Part D**

## **5.6 CHECKLIST 6: Assurance Assessment Level 3**

1. Do you have the following documentation from the external organisation?
  - Financial Statements for the preceding three financial years (unless the organisation is less than three years old)
  - Objectives – a statement of the external organisation's strategic objectives

**The items listed above are the minimum requirements of the Council and will be required for all funding arrangements at this Assurance Assessment Level**

2. Have you asked the external organisation for the following documentation (which the Council has the right to ask for)?
  - Copies of (non-confidential) Minutes of the Board of Directors or Trustees meetings

- Details of the organisation's financial and non-financial transactions, policies and procedures

**The items listed above exceed the minimum requirements, however the Council has the right to ask for or inspect these items to satisfy itself as to the suitability of the external organisation to receive Council funding**

3. Does the organisation have a management board to oversee the direction, service delivery and financial stability of the organisation?
4. Is the organisation a registered charity, and if so have they complied with guidance from OSCR?
5. Is the organisation a registered company, and if so have they complied with their requirements under the Companies Acts?
6. Does the organisation have a clear statement of purpose and organisational objectives?
7. Is the organisation able to provide evidence or other support to demonstrate achievement of its objectives and purpose?
8. Are there any known reasons that would result in a risk to the Council's reputation through association with an external body if financial or service delivery problems emerge?
9. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all the information set out in this Checklist, and you are satisfied that the external organisation is a suitable organisation to receive the proposed Council funding, go to Part D**

## **5.7 CHECKLIST 7: Assurance Assessment Level 4**

1. Do you have the following documentation from the external organisation?
  - Financial Plan – a detailed one year plan and summary three year plan
  - Financial Statements – for an external organisation seeking funding for the first time, annual accounts for the preceding three financial years (unless the organisation is less than three years old). For an organisation already in receipt of Council funding, an annual set of accounts, audited or approved
  - Objectives – a statement of the external organisation's strategic objectives

**The items listed above are the minimum requirements of the Council and will be required for all funding arrangements at this Assurance Assessment Level**

2. Have you asked the external organisation for the following documentation (which the Council has the right to ask for)?
  - Details of the performance of the organisation against the organisation's financial plan
  - Copies of (non-confidential) Minutes of the Board of Directors or Trustees meetings
  - Details of the organisation's financial and non-financial transactions, policies and procedures

**The items listed above exceed the minimum requirements, however the Council has the right to ask for or inspect these items to satisfy itself as to the suitability of the external organisation to receive Council funding**

3. Does the organisation have a management board to oversee the direction, service delivery and financial stability of the organisation?
4. Is the organisation a registered charity, and if so have they complied with guidance from OSCR?
5. Is the organisation a registered company, and if so have they complied with their requirements under the Companies Acts?
6. Does the organisation have a clear statement of purpose and organisational objectives?
7. Is the organisation able to provide evidence or other support to demonstrate achievement of its objectives and purpose?
8. Are there any known reasons that would result in a risk to the Council's reputation through association with an external body if financial or service delivery problems emerge?
9. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all the information set out in this Checklist, and you are satisfied that the external organisation is a suitable organisation to receive the proposed Council funding, go to Part D**

## **5.8 Checklist 8: Credit Check**

1. Have you completed the required checks above and are still not satisfied as to the suitability of the external organisation to receive Council funding?

**Where specific issues exist or additional information may be helpful to the assessment of the organisation, a credit check may be appropriate and should be discussed with the appropriate Line Manager and be reported to the Service's Senior Management Team. Credit check services can be obtained through the Finance Division.**

**If you remain unsatisfied as to the suitability of the external organisation to receive Council funding, funding should not be provided under the FPP Code.**

## **Section 6: ESTABLISHING A FUNDING AGREEMENT**

Once you have completed the risk assessment and carried out all checks according to the Assurance Assessment Level, you can proceed to setting up the funding agreement with the external organisation.

The funding agreement will comprise a schedule of payments, setting out how the funds will be paid over the course of the funding arrangement, and a Service Level Agreement, setting out how the funding agreement is to be carried out and what will be expected in return for the funding.

Consideration may be given to the Council being represented by Council Members or Officers within the external organisation.

Use the checklists below to reach a suitable funding agreement.

### **6.1 CHECKLIST 1: Schedule of payments**

1. Is the annual funding in excess of £5,000?

**If so, payments should be made in no fewer than four instalments per financial year, and preferably made monthly to minimise the Council's exposure in the event of the organisation encountering financial difficulties.**

2. Have all financial checks been completed to the satisfaction of the Council?
3. Has all the required information been submitted by the external organisation?
4. Have you tailored the payments to meet the cash flow requirements of the external organisation?
5. Has the external organisation been consulted in relation to the schedule of payments and are they in agreement?

**If the answer to questions 2-5 is YES, then complete the Schedule of Payments form and proceed to Checklist 2**

## 6.2 CHECKLIST 2: Service Level Agreement

1. Which form of Service Level Agreement should be used?

- Is the Council funding to the external organisation greater than £5,000?

**If so, the Service Level Agreement should be used. Proceed to Part 2 of Checklist 2**

- Is the Council funding to the organisation £5,000 or less?

**If so, a written funding letter may be used, setting out clearly the amount of funding, the period for which it is applicable and any conditions or objectives attached to the funding. Proceed to Checklist 3**

2. Does the Service Level Agreement include the following?

- The purpose of the funding and the expectation of use
- The Council policy / strategy that the funding is linked to
- The level of funding approved by the Council and schedule of payments
- The period over which the funding applies
- Financial reporting requirements
- Monitoring and reporting requirements
- A statement on the consequences of failure to provide reporting information to the Council, e.g. the discontinuation of further funding
- A statement on the ability of the Council to deduct any debts due to the Council prior to making any further awards
- A statement on access to the accounting records of the organisation that requires to be given to Council staff, including internal and external audit staff
- Details of Council representation of Councillors and Officers
- The need for the Council to be acknowledged for its support on all publicity material relating to the project / service
- Procedures for cancelling the Funding Agreement

**You must ensure that the Service Level Agreement includes all of the above. If you require assistance including all this information in the Service Level Agreement, please contact the Head of Legal and Governance Services**

## 6.3 CHECKLIST 3: Council representation / participation within the external organisation

1. Does the Council have clear reasons why it wants representation within the external organisation?

2. Has the Council been transparent in its decision-making about which Council Members or Officers will be involved and why?

3. Has the Council provided advice and guidance to the Council Member and/or Officer involved which covers:
- Their responsibilities to the Council and to the external organisation?
  - The potential for conflicts of interest and the need to have regard to the national Code of Conduct for Councillors at all times?
  - The need to recognise their duties towards the external organisation differ from their duties to the Council?
  - The limitations on what they may disclose to the Council where there is a conflict of interest?

**If the answer to any of the questions above is NO, you should give further consideration to the Council's involvement with the external organisation before proceeding**

4. Has the Head of Democratic Services (for Council Members) or the Legal & Governance Services (for Council Officers) been advised of the appointment to the external organisation?

## **Section 7: MONITORING THE ARRANGEMENT**

Once the funding arrangement is in place, it must be monitored on an ongoing basis. The level of monitoring will be determined by the Assurance Assessment Level which was reached in Part B.

Checklist 1 sets out the monitoring requirements for all funding agreements. Checklists 2 and 3 set out the additional monitoring requirements which apply to funding agreements with Assurance Assessment Levels 3 and 4 respectively.

### **7.1 Checklist 1: Monitoring required in all cases**

1. Has a Council Monitoring Officer been appointed to oversee this funding agreement?
2. Is the Monitoring Officer familiar with the FPP Code and this Toolkit?
3. Does the Monitoring Officer understand their responsibilities in relation to the funding agreement?
4. Has the Head of Legal & Governance Services been made aware of any changes to the funding agreement for the purpose of maintaining the Central Register?
5. Has the Monitoring Officer submitted an annual report to the relevant Senior Management Team or approving Committee?

### **7.2 Checklist 2: Assurance Assessment Level 3**

1. Has the Monitoring Officer completed the following checks?
  - Every year – check that sufficient cash exists to enable the organisation to meet its financial obligations for at least the next 12 months
  - Every year – check that any other material sources of external funding are secure and assess any risks relevant to the ability of the organisation to continue as a going concern

**Where the external organisation is unable to demonstrate its operational or financial capability, future discussions should be held with the organisation to review its financial plans.**

**Funding will only be approved where an organisation can demonstrate it has the ability to continue to meet the objectives for Council funding as well as its financial obligations.**

### **7.3 Checklist 3: Assurance Assessment Level 4**

1. Has the Monitoring Officer completed the following checks?

- Every two years - ensure the organisation has adequate policies and procedures in place to govern the way their finances are handled
- Every year – check that projections in the financial plan are realistic and achievable
- Every year – check that sufficient cash exists to enable the organisation to meet its financial obligations for at least the next 12 months
- Every year – check that any other material sources of external funding are secure and assess any risks relevant to the ability of the organisation to continue as a going concern
- Ongoing – check the six monthly Management Accounts to ensure that there is sufficient cash to meet the organisation’s outgoings for the following year

**Where the external organisation is unable to demonstrate its operational or financial capability, future discussions should be held with the organisation to review its financial plans.**

**Funding will only be approved where an organisation can demonstrate it has the ability to continue to meet the objectives for Council funding as well as its financial obligations.**

## **7.4 Checklist 4: Group Accounts Concept**

1. Has the Council entered into a financial arrangement with an external organisation which has resulted in that organisation being treated as a ‘subsidiary’ (in terms of the Group Accounts concept under the Code of Practice on Local Authority Accounting)?

**If so, the following documentation is required by the Council as part of its monitoring of the funding agreement**

- Draft financial statements provided in a timescale to be agreed with the Head of Finance, to enable the proper and timely production of the Council’s draft financial statements each year
- Audited financial statements and a summary of any audit adjustment in a timescale to be agreed, to enable the proper and timely production of the Council’s audited financial statements each year
- An annual assurance statement on the system of internal controls, including financial controls, is to be sent to the Head of Finance for review and to inform the production of the Council’s Annual Governance statement
- Internal Audit should consider the audit of subsidiary organisations in the annual audit planning process. Internal Audit will report their findings to the Audit Committee