

24. 11. 2011

8. DELEGATIONS INFORMATION REPORT



General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Corporate Finance Manager
Author:	Funds and Financial Policies Manager

PURPOSE OF REPORT

1. To address questions posed by Councillors in relation to the Financial Delegations report left to lie on the table by the Council on 27 October 2011. Councillors questions are set out by subject below, with staff response following each question.

ADDITIONAL INFORMATION

Rationale for the proposed increase in operating expenditure delegations

Councillor Carter: “Can you please provide the rationale for the proposed increase in the OPEX delegation from \$500,000 to \$5 Million?”

Councillor Livingstone: “Eliminating the distinction between OPEX and CAPEX is not reflective of sound financial practice. This runs against good, clear accounting of public money. It runs against the fundamentals of openness as required by the Local Government Act. Councillors accepting this proposition would be putting themselves in a very vulnerable position. I strongly urge staff to retract this proposal and my colleagues to reject it.”

2. Our research across the sector indicates that other metropolitan Councils don't draw a distinction between operating and capital expenditure in their delegations frameworks. That is, it is generally accepted that similar levels of delegation should be established regardless of whether a dollar spent is on operational items (such as maintenance or professional fees) or capital assets. Further, this research shows that Councils rely on exercising their governance role over operating and capital budgets via their approval of Council Annual Plans rather than via approval of specific contracts. This includes approval of operating budgets to the group of activity level as well as capital budgets to a project level.
3. At Christchurch City Council, this standard approval process is reinforced in three ways. Firstly, during the Long-Term Plan process, the Council analyses budgets down to activity level. Secondly, by a performance management and reporting process that was recently recognised as world class through its induction to the Harvard Business School Balanced Scorecard Hall of Fame. The reporting process that forms part of this recognition results in comprehensive quarterly performance reporting to Council covering performance against all levels of service, activity budgets and project budgets. And finally, assurance on internal controls is provided through an Internal Audit programme, which is reported to the Audit & Risk Management Subcommittee.
4. Staff have recommended a delegations financial threshold of \$5 million, which is well below other metropolitan councils. The only other metropolitan Council with a dollar threshold is Auckland City, whose threshold is \$7.5 million. The delegations for the other metropolitan councils are unlimited and rely on the respective council's approval of Annual Plans and Long Term Plans. Notwithstanding this, staff consider that given feedback from councillors it is still appropriate to make recommendations to Council regarding the highest value contracts. A limit of \$5 million would ensure that the largest contracts entered into each year are brought to Council for approval.
5. Requiring some contracts to come to Council for approval transfers accountability from staff to the Council and gives the responsibility to councillors to ensure the requirements of section 77 of the Local Government Act 2002 (LGA) are met with regards to decision making. This section requires Council to seek to identify all reasonably practicable options for the achievement of the objective of a decision to assess those options by considering amongst other things, benefits and costs and the impact of each option.

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6. In setting a common delegation amount for both operating and capital expenditure the Council would not undermine good financial management or best practice accounting. The Council continues to be required by the LGA and financial reporting standards to account for operating and capital expenditure separately. It would therefore continue to adopt separate budgets specifically for operating and capital expenditure, and staff would continue to report on those items separately at a management level, to the Council through monthly updates and the quarterly performance reports, and to the public through the Annual Report.

Simplicity, Transparency and Accountability

Councillor Livingstone: "I question the word 'simplified' in paragraph 25. This is not the same as 'transparent'. 'Simplified' is not exacting enough. This is public money and all monies need to be able to be clearly seen. Why was 'simplified' used in this context?"

7. As a matter of course it is not prudent for all contract terms and values to be made publically available. Complete transparency in relation to contracts and payments would inhibit the ability of Council to negotiate the best possible prices and terms. This is recognised by section 7 of the Local Government Official Information and Meetings Act 1987 (LGOIMA) which allows information to be withheld to:
- (h) *enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or*
 - (i) *enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or*
 - (j) *prevent the disclosure or use of official information for improper gain or improper advantage.*
8. The Financial Delegations report to the Council meeting dated 27 October 2011 proposes a simplified delegations structure. This simplification would improve transparency and accountability by ensuring that Councillors, staff and the public can clearly understand the dollar limit delegated to the Chief Executive. Under current delegations it can be difficult to determine whether a contract relates to the delegation for:
- materials, works and services (\$500,000)
 - capital works or for maintenance (\$5 million)
 - stock or materials (\$500,000),
 - plant (within annual plan limits), or
 - insurance (within annual plan limits).
9. The proposed delegations framework sets a single clearly understandable limit that cannot be confused by contract definitions. It therefore makes Council's delegations to staff more transparent and makes it easier to hold staff to account for delegations.
10. Adoption of the proposed framework for delegations would remove the details of financial delegations to staff below the Chief Executive from Council resolutions. They would therefore no longer be available through Council minutes or via the online Delegations Register. However, the information would still be available to interested members of the press and public through the LGOIMA.
11. In addition, as noted in paragraph 3 above, Council receives comprehensive financial reporting as part of the performance reports that are provided to Council on a quarterly basis.

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Volumes of approvals

Mayor Parker: "I'd appreciate some bigger numbers comparing our current delegations with impacts if delegations increase - a few useful increments between where we are at now, and where the proposed delegation in the report sits. This will give us a useful spread and comparison as well."

Councillor Livingstone: "amounts across the spectrum would be good; right through from 0\$ to \$15000 to \$25000 to \$50000".

Councillor Carter: "Can you please detail the effects of reducing the OPEX delegations to \$100,000".

12. The table below, based on a review of the Council's purchase order system, sets out the number of contract approval reports the Council would receive should it resolve to set the delegation to the Chief Executive at each dollar value shown. For example, a flat \$50,000 operating and capital expenditure delegation would result in approximately 496 reports each year. A reduction of the operating expenditure delegation from the current \$500,000 to \$100,000 would require the Council to make a decision about an additional 49 contracts per year.

Contracts by Value – Annual Quantity				
Contract Value	Operating Expenditure	Capital Expenditure	Total	Cumulative
less than \$15,000			16,272	18,826
\$15,001 - \$25,000			895	2,554
\$25,001 - \$50,000			1,163	1,659
\$50,000 - \$100,000	306	33	339	496
\$100,001 - \$250,000	36	43	79	157
\$250,001 - \$500,000	13	26	39	78
\$500,001 - \$1,000,000	5	17	22	39
\$1,000,001 - \$2,000,000	1	6	7	17
\$2,000,001 - \$5,000,000	2	5	7	10
\$5,000,001 - \$10,000,000	0	1	1	3
greater than \$10,000,000	1	1	2	2

Notes:

- These figures:
 - are average per annum calculated from the period 1 July 2009 to September 2011
 - exclude individual payments approved as part of larger contracts
 - exclude earthquake-related transactions
- The volume of transactions below \$50,000 in value make it difficult to analyse them into operating costs and capital expenditure.
- The Financial Delegations report to the Council meeting dated 27 October 2011, paragraph 18, noted that since 1 July 2009 staff have sought approval from the Council for 14 contracts that are above existing delegations. That number excluded 6 land purchases above delegation levels, which must be reported to the Council regardless of value, giving a total of 20 reports over a two year period or 10 per annum. In addition to this, the insurance contract was entered into under a staff delegation and staff reported separately on appointment of consultants to the Central City Plan Project. The table above shows that on average 11 reports per annum would be expected to go to the Council at the existing delegation levels of \$500,000 for operating expenditure and \$5 million capital expenditure. This indicates that the number of reports provided to Council for contracts that are above delegations is consistent with this review of the Council's purchase order system.

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13. In determining the appropriate level of financial delegations the Council must determine the appropriate balance between the breadth and depth of its governance role and the responsibilities of management. It also needs to consider the time and cost of preparing additional Council reports and the time required for Council to consider any additional reports. The cost in staff time will vary based on the number of reports and it is appropriate that the effort and cost of preparing such information is directed towards the most high-value contracts. Decreasing the level of delegations would also result in a delay to the commencement of work under a contract while formal Council approval is sought.

Breaches of delegations

Councillor Carter: "Please provide the number of times that delegations have been breached since you have been the Chief Executive of the City Council and details of such breaches?"

Councillor Carter: "In the instances above where delegations have been breached can you please clarify if the increase from \$500,000 to \$5 Million would have prevented delegations being breached."

14. The procurement module within Council's financial management and information system has embedded authorisation limits. With the exception of General Managers and the Corporate Finance Manager the maximum amount that may be authorised by a member of staff mirrors the financial delegation issued by the Council. This effectively eliminates the possibility of most delegation breaches. General Managers and the Corporate Finance Manager have no upper limit loaded into SAP so that they can give effect to Council resolutions that exceed their individual delegations.
15. The information set out at paragraph 11 above shows that the number of reports received by the Council over the last two years equates to the number that would be expected given a review of payments. Staff are not aware of any breaches of delegations apart from those mentioned below and have not been made aware of any breaches by either Audit New Zealand or Internal Audit.
16. Staff reported to Council on 29 June 2011 on the appointment of consultants to the Central City Plan Project including one contract that exceeded the operating expenditure delegation of \$500,000. At that meeting, the Council passed a resolution to reaffirm both the process followed and the appointment of consultants to the Central City Plan project. The Council's insurance contract with Civic Assurance was entered into under a staff delegation passed by Council on 28 August 2003 that "the Chief Executive and the Director Strategic Investment jointly be granted delegated authority to enter into arrangements for the placement of all the Council's insurance policies, subject to the exercise of such delegated power being reported back to the Council in each case". This delegation was exercised by the General Manager Corporate Services, without reference to the CEO because the CEO was a director on the Board of Civic Assurance and may have been conflicted. This was subsequently discussed with the chair of the Audit & Risk Management Subcommittee and reported to the Subcommittee on 14 August 2009.

Central City Plan

Councillor Carter: "In Appendix 1 summarizing the current financial delegations it says that the approval is in the annual plan for the OPEX delegations – can you please explain how this fits in with the central city planned project as this work was not in the Annual plan."

Councillor Livingstone: "Review of Contracts. We could have been more specific. I took this to be a review of the Central City Plan contracts. Is staff planning to review the contracts themselves and if not, why not?"

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17. As reported to the Council on 29 June 2011 the Canterbury Earthquake Recovery Act 2011 requires Council to lead the development of a recovery plan for the CBD and dictates that a draft recovery plan for the CBD must be developed within nine months of enactment. To achieve this and due to the complexity and scale of the work involved, suitable experienced consultants were required to be engaged immediately to assist with the development of a "Central City Plan".
18. The expenditure required to produce a Central City Plan was not provided for in the 2010/11 Annual Plan, however, the Annual Plan and LTCCP both contain funding for Central City Revitalisation. The Central City Plan project was approved by both Council and through the central city plan workshops. For the 2010/11 year, the budget for the activity "City & Community Long-Term Policy & Planning" was used. As reported in the Council performance report for the year ended 30 June 2011, this budget was overspent by \$1.625 million. Council approval for the 2011/12 budget was given during the 2011/12 Annual Plan process and the expenditure and process adopted by staff was approved by Council at its meeting of 29 June 2011.
19. In respect of Councillor Livingston's question on the review of contracts, Council's resolution of 25 August 2011 referred to a review of the "Contract and Financial delegations" in general, not a specific review of the central city contracts.

Sub-delegations

Councillor Livingstone: "Is there an ambiguity between 5 (iii) re sub-delegations, where it describes staff as not being able to sub-delegate their authority and 11 (Legal Considerations), where 'an officer may sub-delegate one or more of his or her powers, except the power to delegate under that section'?"

20. Clause 32B of the LGA provides that once delegated by the Council, a power may only be sub-delegated once. While this clause sets a maximum number of times that a power may be delegated it does not prevent the Council from adopting a policy that prevents sub-delegation.

P-Cards and delegations

Councillor Johanson: "I would like information around the practices/policies relating to credit card spending by staff and what limits are and what controls are over what is spent."

21. The Council provides P-Cards, or Council credit cards, to some staff who regularly make low value purchases. These cards have a transaction limit of \$1,000 plus GST and a monthly limit of \$5,000, or for General Managers and Unit Managers \$10,000 per month with no transaction limit.
22. Each month P-Card holders must provide tax invoices or receipts for all transactions and verify that transactions are for valid Council purposes. Receipts are then reviewed by the holder's manager and, if appropriate, approved. Failure to provide and verify receipts in a timely manner by a P-Card holder results in the withdrawal of that card.
23. All P-Card expenditure is subject to Council delegations and Council approved budgets. On receipt of their P-Card staff are required to sign a declaration that they understand that if they misuse the Card they may be dismissed and face legal proceedings.
24. The P-Card Policy is attached as Appendix 1 noting that expenditure approval is required by the P-Card holder's immediate manager. In the case of the CEO, P-Card expenditure is approved by the Chair of the Audit & Risk Management Subcommittee.

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Ministry of Economic Development Procurement Advisory Note

Councillor Livingstone: “The 2008 document from the Auditor-General’s office has been referred to in Appendix 4 and under paragraph 23 but why hasn’t the Ministry of Economic Development’s ‘Procurement Advisory note – Canterbury Earthquake – ‘Emergency Procurement’, not been referred to?”

25. The Ministry of Economic Development (MED) Procurement Advisory Note Canterbury Earthquake – Emergency Procurement was issued by MED on 2 March 2011. This note permitted Government agencies to forgo routine procurement procedures if following them would prevent the timely delivery of goods or services following the February earthquake. Effectively this allowed agencies to forego best practice in relation to procurement during the earthquake response period.
26. This Procurement Advisory Note has now lapsed.

Revocation of current delegations

Councillor Livingstone: “What is the rationale for revoking the financial delegation resolutions as set out in Appendix 3?”

27. Staff recommendation a) in the Financial Delegations report to the Council meeting dated 27 October 2011 includes the recommendation that existing financial delegations, as set out in Appendix 2 to that report, are revoked.
28. The delegations framework proposed in that paper is that the Council delegates authority by resolution to the Chief Executive, the Chief Executive delegates authority to staff, and no staff may sub-delegate their authority. To give effect to this framework it is necessary for all existing delegations to be revoked. Without that revocation the Chief Executive cannot delegate to staff because his delegations cannot change or limit those delegations issued by the Council.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) receive the information in this report.