



THE UNIVERSITY of EDINBURGH

**Central Management Group Meeting
Raeburn Room, Old College
14 April 2015, 2.30pm**

AGENDA

- 1 Minute** **A**
To approve the Minute of the previous meeting held on 4 March 2015.
- 2 Matters Arising** **Verbal**
To raise any matters arising.
- 3 Principal's Communications** **Verbal**
To receive an update by the Senior Vice-Principal Professor Jeffery.

SUBSTANTIVE ITEMS

- 4 SRUC** **Verbal**
To receive an update by the Director of Corporate Services.
- 5 The Alan Turing Institute** **Verbal**
To receive an update by the Director of Corporate Services.
- 6 Delegated Authorisation Schedule** **B**
To consider proposals by Chief Internal Auditor.
- 7 Procurement Consultation Response** **C**
To consider and approve the response to the consultation.
- 8 Fossil Fuels Review Group** **D**
To consider the report by the Review Group presented by Senior Vice-Principal Professor Jeffery.
- 9 Equality Papers**
To note the following submissions:
 - Athena Swann Institutional Silver application **E**
 - Equality Outcomes and Mainstreaming Progress Reports **F**

ROUTINE ITEMS

- 10 Financial Issues** **G**
To consider and note the updates by Director of Finance.

If you require this agenda or any of the papers in an alternative format e.g. large print please contact Kirstie Graham on 0131 650 2097 or email Kirstie.Graham@ed.ac.uk

- 11 Any Other Business** **Verbal**
To consider any other matters by CMG members.

ITEMS FOR FORMAL APPROVAL/NOTING (Please note these items are not normally discussed.)

- 12 Rents Guarantor Scheme** **H**
To approve.
- 13 Laigh year regulations** **I**
To approve.
- 14 Proposals for Chair Establishment and Changes** **J**
To approve.
- 15 Health and Safety Quarterly Report: Quarter 2 – December 2014 to February 2015** **K**
To note.
- 16 Date of next meeting**
Tuesday, 19 May 2015 at 2.30pm in the Raeburn Room, Old College.



CENTRAL MANAGEMENT GROUP

4 March 2015

Minute

Present: Senior Vice-Principal Professor C Jeffery
Vice-Principal Professor D Meill
Vice-Principal Professor C Breward
Vice-Principal Professor S Rigby
Vice-Principal Professor J Smith
Vice-Principal Professor S Welburn
University Secretary, Ms S Smith
Mr H Edmiston, Director of Corporate Services
Mrs T Slaven, Deputy Secretary, Strategic Planning
Mr P McNaull, Director of Finance
Mr G Jebb, Director of Estates
Mr G McLachlan, Chief Information Officer

In attendance: Assistant Principal Professor A Trew, on behalf of Vice-Principal Professor Yellowlees
Dr C Elliot, on behalf of Vice-Principal Professor Sir John Savill
Professor C Clarke, Head of School of Health in Social Science
Ms L Chalmers, Director of Legal Services
Dr I Conn, Director of Communications and Marketing
Mr D Gorman, Director of Social Responsibility and Sustainability
Mr B MacGregor, Director of User Services Division
Mr D Kyles, Chief Internal Auditor
Mr D Gillespie, Head of HR, on behalf of Mrs Z Lewandowski, Director of HR
Mrs K Graham, Deputy Head of Court Services

Apologies: The Principal
Vice-Principal Professor M Bownes
Vice Principal Professor R Kenway
Vice-Principal Professor A Morris
Vice-Principal Professor J Seckl
Vice-Principal Professor J Haywood
Vice-Principal Professor J Norman

1 Minute

Paper A

The Minute of the meeting held on 20 January 2015 was approved.

2 Principal's Communications

Senior Vice-Principal Professor Jeffery on behalf of the Principal reported on the following: the expected announcement on REG

funding; the Labour Party policy on tuition fees; the Principal's meeting with the new Cabinet Secretary for Education and Lifelong Learning; the recent visit to India by University delegates.

SUBSTANTIVE ITEMS

3 Draft Planning Round Submissions

Paper B

CMG considered a first overview of the draft plans and welcomed the revised presentation format that facilitated a shared understanding of the cross University implications of individual plans.

The uncertain financial environment was noted, with limited time to smooth the effect of any changes in REG funding for 2015-16. On that basis, there was support for the recommendation that the target surplus for 15/16 should be in the lower half of the financial strategy range (3-5%) minus any immediate cut in SFC funding.

It was noted that the changed financial environment was not limited to next year and budget holders should ensure that years two and three of their plans increase efficiencies and grow income.

During discussion it was agreed there were opportunities for efficiency improvements and income growth but these required to be resourced appropriately to be sustainable. It was noted that the budget holders had taken varying approaches to managing within a flat-cash budget, with some building a deficit or utilising reserves. It was agreed there needed to be a consistent approach for drawing down reserves based on a clear rationale for how this would lead to longer term benefits. It was noted that it was often difficult to attribute the benefits of investment and support was required to enable budget holders to develop positive, realistic expectations of income that can be generated.

Following wide ranging discussion, CMG concluded that the University required growth in the long term, even if actions to achieve it narrowed the surplus in the short term. Growth and investment aspirations linked to strategy needed to be resourced and strategic investment was required for a sustainable reduction in process costs. Budget holders required a commonality of approach to using reserves and a clear steer for this. CMG endorsed the approach to budget setting for EUSA, ESCA and EUSU including the proposed budget increases.

It was noted that changes as a result of FRS102 would, in future, require restatement of the financial strategy targets in terms of operating cashflow. The principle would however remain unchanged.

ROUTINE ITEMS

4 Financial Issues

**Paper C1
Paper C2**

CMG noted the reports including the endowment report which illustrated the benefit of co-ordinated fundraising. The implications of the implementation of FRS102 in interpreting the accounts were noted along with the implications of reporting USS on the balance sheet and the requirement for increased disclosure of senior management remuneration and interests.

The net forecast position was noted, with a changing trend of a reduced surplus position and the changing profile of staff costs.

5 Russell Group Comparative Financial Information

Paper D

CMG noted the report and in particular the University's high net assets and low gearing comparative to other institutions. It was noted the report would also be considered by PRC and it was requested that an analytical section be added to clarify the implications of the University's comparative position.

6 Internal Audit Status Report

Paper E

CMG noted the report, the progress on delivery of the 2014/15 audit plan and the progress on closure of overdue audit issues. The report had also been considered by Audit and Risk Committee, where the overdue closure of audit issues was also discussed. It was agreed there needed to be awareness of outstanding issues at a senior level in order to encourage accountability for implementing internal audit recommendations within the agreed timescale.

7 Any Other Business

The University Secretary reported that CMG's terms of reference and membership had now been operational for over 9 months and it was planned to undertake a review to identify any areas for enhancement.

The Director of Finance reported there had been further information about procurement thresholds and it was important all colleagues were aware of the potential impact of new procurement legislation.

ITEMS FOR FORMAL APPROVAL/NOTING (Please note these items are not normally discussed.)

8 NHS Surcharges for Migrants

Paper F

CMG approved an interest free loan to non-EEA migrants to cover NHS surcharges as set out in the paper.

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|-----------|---|----------------|
| 9 | Social Responsibility and Sustainability Report | Paper G |
| | CMG approved the publication of the Social Responsibility and Sustainability Report 2013-14 and noted that discussions were ongoing to align this reporting with the Annual Review. | |
| 10 | Recruitment and Admissions Strategy Group | Paper H |
| | CMG approved the revised terms of reference as set out in the paper. | |
| 11 | Report from Space Enhancement and Management Group | Paper I |
| | CMG noted the report from the Space Enhancement and Management Group (SEMG) and requested clarification on amendment of the Space Enhancement and Management Policy. | |
| | Post-Meeting note: the amendment was updating the Policy by replacing the SEMG remit with the remit approved by CMG on 12 November 2014. | |
| 12 | Fee Proposals | Paper J |
| | The proposed fees as set out in the paper were approved. CMG requested Fees Strategy Group explore a differential approach to fee setting which included subject demand level and the relationship between the overseas and domestic student cohort. | |
| 13 | Proposals for Chair Establishment and Changes | Paper K |
| | CMG approved the establishment, re-naming and removal of Chairs in the College of Science and Engineering as set out in the paper. | |
| 14 | Principal's Strategy Group | Paper L |
| | The report was noted. | |
| 15 | IT Security Policy | Paper M |
| | CMG noted the report and welcomed the fresh oversight of IT security. The IT Security Policy had also been considered at Audit and Risk Committee where it had been agreed it would be timely for the newly appointed Chief Information Officer to review IT security issues. | |
| 16 | Report from Equality and Diversity Monitoring Research Committee | Paper N |
| | The report was noted. | |

17 Report from Health and Safety Committee

Paper O

The report was noted.

18 Date of next meeting

Wednesday, 14 April 2015 at 2.30pm in the Raeburn Room, Old College.



CENTRAL MANAGEMENT GROUP

14 April 2015

Delegated Authority Schedule

Description of paper

1. The paper contains the proposed Delegated Authority Schedule (DAS) which has been revised and updated to reflect the current structures and needs of the University focused on key areas of delegation.

Action requested

2. The proposed DAS is present to CMG as a consultation document for input and feedback.

Recommendation

3. The CMG is asked to review the proposed DAS and provide any comments.

Paragraphs 4 – 7 have been removed as exempt from release due to FOI.

Risk Management

8. The DAS is a key financial, contractual and reputational control mechanism.

Equality & Diversity

9. There are no equality or diversity issues associated with this paper.

Next steps/implications

10. Once feedback has been obtained the proposed DAS will be presented to the relevant standing Committees ahead of presentation to Court in June 2015.

Consultation

11. No other Committees have reviewed this paper.

Further information

12. Author and Presenter

David Kyles
Chief Internal Auditor
9 April 2015

Freedom of Information

13. This paper is closed as it is a discussion document which has not been approved by Court



CENTRAL MANAGEMENT GROUP

14 April 2015

C

**Draft University Response to ‘Public Consultation
on Changes to Scotland’s Procurement Rules’**

Description of paper

1. This paper informs CMG on a proposed approach to the Scottish Government “*Public Consultation on Changes to the Public Procurement Rules*”,
<http://www.gov.scot/Publications/2015/02/4903>

Action requested

2. The Central Management Group is asked to

- **note** the Consultation context and the interest from internal colleagues,
- **note** the key changes and issues arising in ***Discussion*** section below,
- **approve** the proposal that a formal Response is submitted by 30 April 2015,
- and
- **delegate** approval and publication of the University Response to the Deputy Secretary and University Director of Procurement to meet closing date of 30 April 2015.

Recommendation

3. The Central Management Group is recommended to delegate the University Response to the Deputy Secretary (Planning & Governance) and Director of Procurement.

Background and context

4. Public procurement is the purchase of goods, works or services by the public sector or publicly funded bodies. Such procurements are highly regulated by EU and Scots law. The University of Edinburgh and its wholly owned subsidiaries are required to comply with public procurement law.

5. The Scottish Government is consulting only on where it has options to legislate in new Procurement Regulations, within three new EU Procurement Directives and the Procurement Reform (Scotland) Act 2014.

6. Scotland will be changing its Rules no later than **18 April 2016** - please note the UK law has already changed. A legal brief to the University Secretary and the Director of Corporate Services (sent after January’s CMG) refers to changes to rules being consulted on in Scotland, and is summarised within this paper.

Discussion

7. All options are likely to affect the University plans and conduct of its spending at:

- **£50,000** for goods or services (the latter aggregated over 48 months)
- each major **£2 million** project of capital works, and various other aspects
- the law changes are likely to be starting within the next Financial Year.

8. The Scottish Government has not offered a draft law paper, but is seeking views in the form of some 63 specific questions on its legal options, in a 108 page public Consultation briefing paper. Draft responses have been prepared and discussed.

9. It is clear in legal brief of the Consultation, that whatever options are chosen:
- significant changes lie ahead as to how the University procures its goods, services or building related work; and
 - a significant increase in the scrutiny by the public, funders, businesses and the government of the University’s procurement activities and therefore risk of challenges or funding claw backs,

but also:

- more certainty in the interpretation of the rules
- flexible procedures which encourage innovation, public procurement the service of society (economic, social & green), facilitation of access to do business with small and medium enterprises (SMEs)
- tackling favouritism & corruption, and discourages ‘bad’ behaviour; and
- increases in efficiency through electronic communications.

10. The main changes that are being consulted upon from a legal perspective are:

Transparency Publication of:	<ul style="list-style-type: none"> - Annual Procurement Strategy : <i>how the University intends to carry out all its regulated procurements in next year</i> - Annual Report: <i>demonstrating compliance with its procurement strategy and listing regulated procurements it expects to conduct in the next year.</i> - Contracts Register: for all contracts over thresholds
Proliferation of rules	<ul style="list-style-type: none"> - Many existing rules now extended to Scottish threshold¹ - New thresholds introduced² - More rules, for example: <ol style="list-style-type: none"> 1. on exclusion of bidders eg. bidders convicted of criminal offences, tax evasion, economic and financial standing, etc. 2. Sustainable procurement duty³ and community benefits requirements - New more flexible procedures⁴
e-Communications	<p>All communications about procurement to become electronic (2017/18)</p> <ul style="list-style-type: none"> - Introduction of the European Single Procurement Document⁵ - Introduction of E-certis⁶
Enforcement and monitoring	<ul style="list-style-type: none"> - Proposal to introduce a tribunal / ombudsman to deal with procurement challenges instead of current court system

¹ £50k for goods and services, £2million for works – compared to EU thresholds £172k for goods and services, £4.32 million for works. Services are calculated over 48months if recurring and works on whole project costs.

² Eg. any contract above £4 million: obligation to consider whether to impose community benefit requirements in the contract and if so to monitor and report on contractor performance.

³ The sustainable procurement duty contained in the act requires the University to think about how it can:

- (i) improve the economic, social, and environmental wellbeing of the authority's area,
- (ii) facilitate the involvement of small and medium enterprises, third sector bodies; supported businesses in the process;
- (iii) and seek to apply fair and ethical workplace practices
- (iv) promote innovation.

⁴ Introduction of competitive procedure with negotiation and Innovation Partnership

⁵ Allows businesses to declare that they meet the selection criteria set for a contract

⁶ Information about types of certificates and documents business might be asked to provide

Consultation

11. The Director of Procurement and procurement solicitor have consulted openly, cross campus, or in key individual sessions (see **Consultation** below) and shared brief/presentation

<http://www.docs.csg.ed.ac.uk/Procurement/News/ProcurementRoadshowMarch15.pdf>

12. For most of the 63 options/questions that Scottish Government are consulting upon, we found colleagues generally agreed that the most flexible options should be chosen.

13. The internal meetings have raised concerns regarding some common themes: undue process for lower values (shortly to be considered as legally 'regulated' contracts) and the resource impacts, including the need for training and systems, risk of undue impact on primarily research-related acquisitions.

14. The University will in its final Response consider strongly disagreeing with a few specific points, where the benefits of the proposed option are less clear than the possible unintended consequences, namely:

- a **new enforcement body** [Q59 to 62] to add a Tribunal system or an Ombudsman or empower the civil service Single Point of Enquiry, *with undefined new powers for law enforcement, compared to current methods (which require court action). However the faster and judicial tribunal is preferable to the other options, if such a change has to be made at all,*
- the lack of clarity on the status of various **Statutory Guidance** to be proposed, which may have significant impact on the University,
- new **statutory duties** (sustainability duty and community benefits) (Q2) referring to requiring an impact assessment on "the authority's '**area**'", which in the case of the University and its global impact is an uncertain criterion, and
- the addition (Q63) of an option on 'open government' policy and civic society 'open contracting', which appears to go well beyond FOISA duties.

15. This reinforces the University's evidence given publicly as response to consultation on the 2014 Procurement Reform Bill.

Resource implications

16. The Consultation raises questions on a number of options which will all have implications for *earlier planning* for our acquisitions, and for *collaborating* more efficiently and more effectively in all our buying at lower than current thresholds.

17. Resources to explore the local options and complete next steps will be needed.

18. The Procurement team will require to offer professional resources, training or advice to any budget holder authorised to engage the University in contracts >£50k, or aggregating to that level over four years of estimated expenditure.

19. In addition to this, earlier estimate of the impact on servicing low value contracts, as required by the proposed new Rules, is around 3 FTE procurement specialists.

20. A new enforcement body (if we get supplier challenges), will be resource intensive.

Risk Management

21. [Delegated Authorisation Schedule](#) is being updated to assist in change required.

22. [University's Risk Appetite](#) for emerging procurement law non-compliance is currently low. This may need re-assessed in terms of current law reform and University's response to these in terms of compliance, processes and governance.

23. A Scottish procurement 'ombudsman' or procurement tribunal might increase risks of challenge.

Equality & Diversity

24. [Equality Impact Assessment \(EIA\)](#) is delegated and included in acquisition plans.

Next steps/implications

25. Procurement/governance senior contacts established and initially briefed (May).
 eProcurement: moving online orders to one platform for compliance (Oct).
 Finance, HR, Procurement specialists review risks re people strategy (Sept).
 A consistent approach to procuring goods, services, works is delegated (Aug).

Consultation

26. An Open **Consultation Roadshow** was well supported and contacts followed up: <http://www.ed.ac.uk/schools-departments/procurement/news/consultation-roadshow> where Feedback Summary shows attendance, responses, requests for training.

27. **All Colleges/Support Groups and subsidiary companies** were invited to participate and others consulted for special knowledge/advice were:

1. Stakeholder	2. Contact	3. Agenda discussed (informal)
4. CSD	5. Hugh Edmiston	6. Reserved contracts for health, social and cultural services 7. "Light Touch" Regime
8. Finance	9. Elizabeth Welch	10. Use of turnover as a selection criteria 11. Tax 12. Bankrupt or insolvent businesses
13. Security	14. Adam Conn	15. Criminal Convictions
16. SRS	17. Dave Gorman	18. Tax 19. Other grounds for exclusion 20. Statutory guidance inclusions for selection of tenderers and award of contracts
21. University Secretary 22. Group	23. Tracey Slaven	24. Conflict of interest 25. Tax 26. Monitoring and enforcement body
27. HR	28. Zoe Lewandowski	29. Statutory guidance inclusions for selection of tenderers and award of contracts
30. Estates	31. Jane Johnston, Graham Bell, 32. Geoff Turnbull	33. Work plan - Construction review report 34. General transparency & reporting obligations 35. Procedures changing 36. Monitoring and enforcement body – court /tribunal /ombudsman

(Additional ISG and USG meetings to take place)

Further information

28. Authors

*Sabrina Jenquin, procurement Solicitor
Karen Bowman, Director of Procurement
8th April 2015*

Presenter

Director of Procurement

Freedom of Information

29. This paper is open.

Respondent Information Form**Public Procurement: A Consultation on Changes to the Public Procurement Rules in Scotland**

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation**Organisation Name**

The University of Edinburgh

Title Mr Ms Mrs Miss Dr **Please tick as appropriate**

Surname

Bowman

Forename

Karen

2. Postal Address

Charles Stewart House 9-16 Chambers Street

Edinburgh

Postcode EH1 1HT

Phone 0131 650 2508

Email

Karen.bowman@ed.ac.uk

3. Type of Respondent**Please tick as appropriate**Executive Agencies and NDPBs Local authority NHS Other statutory organisation Representative body for private sector organisations Representative body for third sector/equality organisations Representative body for community organisations Representative body for professionals Private sector organisation Third sector/equality organisation Community group Academic Individual

4. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate

Yes No

Commented [BK1]: To be confirmed by CMG

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes No

Questions

Q1 What are your views about what should be included in this Statutory Guidance? Please explain your answer.

Procurement Strategy

For the avoidance of doubt, it would be useful if the Statutory Guidance contained a non-exhaustive list and an indication of the compulsory matters which would need to be addressed in the Procurement Strategy and other new obligations covered in the Consultation, flowing from this, in order to comply with the proposed legislation in a way which is relevant to our organisation, taking cognisance that we are **not** a central or local government body.

The Statutory Guidance for publicly funded bodies should allow sufficient flexibility in the content, data and level of detail to enable contracting authorities to create appropriate strategies tailored to their organisation's overall strategic goals and the suitable for communication to their stakeholders and suppliers.

The University of Edinburgh has a strong tradition of having in place and adhering to a Procurement Strategy which reflects and contributes to the University's Strategic Goals, Enablers and Themes. This contains details on how the University intends to carry out regulated procurements, the considerations which it takes into account, such as sustainability, including support for the Scottish sustainable procurement action plan, and the enablers required to achieve these goals.

The University has noted that following themes will need to be contained in the Procurement Strategy for compliance under the proposed legislation:

1. How regulated procurements are being undertaken in compliance with EU principles
2. How regulated procurements are being undertaken in compliance with the sustainable procurement duty
3. How regulated procurements contribute to carrying out of a public body's functions and the achievement of its purposes
4. How regulated procurements deliver value for money
5. How the authority intends to carry out lower value regulated procurements
6. How procurement involving provision of food intends to
 - a. Improve health, wellbeing and education of communities in the authority's area
 - b. Promote the highest standards of animal welfare
7. How the contracting authority intends to achieve prompt payment in the supply chain
8. General policy on community benefit requirements
9. General policy on supplier engagement

10. General policy on payment of a living wage to persons involved in producing, providing or constructing the subject matter of regulated procurements
11. General policy on H&S promoting compliance with Health and Safety at Work Act 1974
12. General Policy on procurement of fair and ethically traded goods

At a practical level, it would be helpful if each theme could be further explained in supporting guidance, e.g. in the Procurement Journey and tailored to each sector in training materials with examples regarding their application which is relevant to our organisation, taking cognisance that we are not a central or local government body and have our own governance.

Taking the example of point 6 and 2 above, it would be helpful if the Statutory Guidance or supporting practical guidance could explain & give examples of:

- How an authority which is not a local authority, or health board for example would define its **'area'**?
- In the case of the University, as already noted during the discussion of the procurement reform bill, this would be a very difficult exercise. The University has a physical presence (through buildings/offices) in Edinburgh, Midlothian, Beijing, Sao Paolo, New York and Mumbai. It attracts students and researchers from all over the world and its impact is measured on a global basis.
- How therefore should the University's procurement strategy address this to usefully consider the Statutory Guidance regarding its **"area"**?

Another example:

- What is the definition being used for food? Does it include liquid food, drinks?
- How would it define the highest standards of animal welfare?
- The University also queries why food is covered so prominently in the statutory strategy / annual report content and not other areas such as IT which has environmental and social impacts in its local and global supply chain, and waste and circular economy considerations, for example?

Looking at point 8-12 above, the University notes that these policies will be further detailed in separate guidance dealing with the specific theme and that these will inform the content required in the Procurement Strategy.

Also we would recommend that in order to make the procurement strategy document **relevant and useful**, it should not require significant detailed instructions on confirming that we are applying agreed policy.

Ideally, the University hopes that the Scottish Government would lead on the creation of a fairly simple strategy template for everyone to use, ensuring consistency of a basic format and clear and consistent message to suppliers.

Annual Report

The University notes the new requirement to publish an annual report on:

1. how its procurement activity has complied with its procurement strategy; and
2. expected future regulated procurements.

Clarity is required over which financial year is applicable, the organisation's financial year, the fiscal year, or the calendar year (for reports used by EU).

The publication of expected future regulated procurements, will be covered by the Procurement Strategy, which already contains detailed provisions on **how** the University intends to conduct future procurements.

The University fails to fully comprehend the full scope of the second requirement to publish expected future 'regulated' procurements, and its relevance, as resources required have not been considered fully, it seems.

The University does not operate a model in which it can reasonably be expected to know, for example in advance of or at the start of an academic or calendar year in order to exactly report, what research or other academic activities it will undertake which will involve specific purchases, as implied here, and although there is a clause relating to research contracts within the Act which refers, the procurement strategy and annual report provisions need to be appropriate to the sector's business model and not applied wholesale.

Forcing this listing as a statutory duty could be counterproductive and undermine the Scottish Government aspiration for its global education market, and aim for all publicly funded bodies to be innovative and is against the University's strategic goals.

As noted and amended in the discussion of the Procurement Reform Bill, **research** procurement is not, and cannot, be considered in the same light as a government department or a local authority purchase of goods or services.

- If it is now intended that the University has to publish all actual procurement plans which it intends to conduct in the year ahead (which may be subject to funding or internal approvals and commercial confidentiality and research collaboration agreements), then this would be an extremely difficult exercise to complete and apart from excluding any relevant research contracts, which in itself is an unnecessary effort, it could be seen to be a bureaucracy which is putting at risk our international research competitiveness, and any listed projects which do not materialise or where plans change could mislead the markets.

It needs to be recognised that the University's Procurement Strategy is driven by desired results to meet the University Strategic Plan goals (excellence in

education, research and innovation), with its underpinning strategic enablers and themes.

These goals are achieved within a dynamic, innovative and highly competitive international higher education culture in which new research and other collaborative or innovative externally funded and commercially sensitive projects arise at all times and in which funding requirements (including confidentiality, commercialisation, and publication timescales) need to be complied with and therefore this requirement should be removed from universities.

Some other procurement proposals for example joint ventures, mergers and acquisitions, charitable activities, security – relevant activities or patentable or copyright inventions, and engagement with small and medium enterprises such as spin out or start-up companies, Scottish Enterprise sponsored activity and other knowledge exchange with lower value or above EU implications may not be suitable for external publication in advance either.

The University would therefore request that this second item would be removed from any requirement and guidance with regards to the Annual Report for our universities, so that the difficulty of separating the research and educational and innovation functions of the University and non-strategic buying e.g. from framework agreements would be avoided and so that it would not be obliged in publishing plans which are not appropriate to share.

Q2 What are your views about what should be included in this Statutory Guidance? Please explain your answer.

The sustainable procurement duty contained in the Act requires the contracting authority to think about how it can:

- (i) improve the economic, social, and environmental wellbeing of the authority's area,
- (ii) facilitate the involvement of small and medium enterprises, third sector bodies; supported businesses in the process; and
- (iii) promote innovation.

The Consultation document states that the sustainable procurement duty in the Act could be defined in terms of how procurement can help to achieve the Scottish Government's purpose to 'focus government and public services on creating a more successful country, with opportunities for all to flourish, through increasing sustainable economic growth'.

As noted already the University Strategic Plan includes its Outcome Agreement, but it has a number of other key stakeholders, funders and an international dimension, which gives it a wider perspective than stated here.

The University notes that the sustainable procurement duty applies to regulated procurements above the £50,000 (goods and services) and £2

million (works) threshold. It also notes that this sustainability duty applies to EU regulated procurements.¹

A similar idea is contained in the EU Directives. Public procurement is being described as 'one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth'² and the new EU public procurement rules have been revised and modernised in order to 'increase the efficiency of public spending, facilitating in particular the participation of small and medium-sized enterprises (SMEs) in public procurement, and to enable procurers to make better use of public procurement in support of common societal goals'.

Whilst the University welcomes the focus by Scotland and Europe on sustainability, and has a long-standing social responsibility and sustainability strategy, legal clarity is required with regards to the distinction between the two regulators with regards to the 'territory' on which the benefits of such sustainable actions within procurement would be felt.

See our comment in answer to question 1.

The University would welcome clear and unambiguous guidance on how to comply with the sustainable procurement duty, as currently contained in the Procurement Reform Act, and which requires considerations of improving the economic, social and environmental wellbeing **of the authority's area** whilst still conforming with the general principles of **equal treatment and non-discrimination** required under both TFEU, EU Procurement Directives and the Procurement Reform Act.

The guidance should explain how contracting authorities would deal with the focus on the **authority's area** that is geographical, when dealing with a procurement **with cross-border interests**.

- The guidance should also provide clear guidance with regards to **what constitutes 'the authority's area'**.
- In the case of the University, as already noted during the discussion of the Procurement Reform Bill, this would be a very difficult exercise. The University has a physical presence (through buildings/offices) in Edinburgh, Midlothian, Beijing, Sao Paolo, New York and Mumbai. It attracts students and researchers from all over the world and its impact is measured on a global basis.
- How therefore should the University's procurement strategy address this to usefully consider the Statutory Guidance regarding its "area"?

A more appropriate Statutory Guidance would indicate clearly that where a contracting authority was not defined by an area of Scotland, it would need

¹ Section 8(5) Procurement Reform (Scotland) Act 2014 states that Subsection (1) [of section 8] does not apply in relation to an EU-regulated procurement so we deduct from this that Subsection (2) Sustainable Procurement Duty does apply to EU-regulated procurements.

² Recital 2 Directive 2014/24/EU on public procurement.

to consider its sustainable procurement duty and other relevant obligations in terms of its Strategic Plan and any agreed Outcome Agreement, only.

The University would welcome guidance, examples and further details of what is expected in terms of compliance with this duty – what is mandatory and what is optional - and perhaps a practical approach is that this is contained within the Procurement Journey guidance for individual contracts.

In terms of National Agreements both within sectors and across Scotland, or where we collaborate with UK contracting authorities, who would be in charge in monitoring compliance with this duty and what are the obligations on the University with regard to evidence?

Q3 What are your views about what should be included in this Statutory Guidance? Please explain your answer.

The University of Edinburgh welcomes Statutory Guidance on the inclusion of community benefits requirements in contracts above a certain threshold e.g. £4 million as an option. The points contained in the consultation document (page 17) which are proposed to be addressed in the Statutory Guidance would greatly assist contracting authorities with this obligation and encourage use of community benefits clauses but should have discretion to apply this where appropriate and proportionate, even in contracts above the required threshold, and should not place an undue burden on contracting authorities or the contractors, especially SMEs in terms of monitoring/reports.

The University would especially welcome examples and practical guidance of wording / questions / methods of potentially scoring sample responses to ensure consistency and fair [open] scoring across the public sector, tailored to the needs of our Strategic Plans and in particular a legally robust guidance on how we include Community Benefit Clauses into procurements but remain consistent with the principle of not being allowed to favour businesses based on nationality or geography.

Again where research procurement is involved, this requirement may be difficult to achieve in an international and competitive environment where other collaborators the international research community are not able or willing to enforce or track this level of detail.

Q4 We believe that a statutory obligation on public bodies to include relevant clauses in their contracts is the best way to ensure that contractors comply with all relevant laws and collective agreements. This should also ensure that public bodies are able to end contracts where a contractor does not meet these requirements. Do you agree or disagree with this position? Please explain your answer.

Agree Disagree

The University of Edinburgh agrees that the best way for contracting authorities to ensure compliance by its suppliers of all applicable obligations

in the fields of environmental, social and labour law established by European Union law, national law, collective agreements or by international environmental, social and labour laws, is through the contractual terms and conditions which govern and are appropriate to the services, goods or works to be performed by the supplier for the contracting authority.

This approach achieves the sought after result whilst ensuring the economic and operational independence of suppliers in public contracts.

One area of interest is in terms of terminating contracts where a contractor does not meet these requirements - how would this be monitored / and can information be shared with other public bodies who have contracts with that contractor? How would such terms be applied for example to framework agreements let by Central purchasing bodies that individual contracting authorities rely on? Would the Scottish Government lead on providing a method of sharing this knowledge without breaching commercial confidentiality?

Another point to highlight is the fact that the University frequently uses National Terms and Conditions both from sector, Scotland and UK framework agreements and therefore it would be advisable that compliance with environmental, employment and social laws in such terms would be consistent throughout the United Kingdom. This would also benefit suppliers and in particular SMEs who bid for contracts in the different countries of the UK. And it is unclear as to whether these requirements are non-discriminatory under the EU Directives, although by reference to the latest position in international law this should be acceptable.

Q5 Is there still a case for reserving contracts for supported businesses in Scotland?

Yes No

Yes, the University of Edinburgh agrees and is keen to reserve contracts for supported businesses, where appropriate. However there is no clear source of 'approved' supported businesses apart from the few providers who are currently on the national framework agreement, and it would be preferable that, for example businesses registering on the Public Contracts Scotland portal could have their status as supported businesses confirmed, for the avoidance of doubt. This speaks to the new definition of supported businesses in question 6 below.

Q6 Do you think that the definition of a "disadvantaged person" in this context should be "the unemployed, members of disadvantaged minorities or otherwise socially marginalised groups"?

Yes No

If not, what do you think the definition should be and why?

The University agrees that a clear definition is needed and that this version may be adequate. However we would like practical examples, again in the Procurement Journey or the sustainability prioritisation tool, for example, which help identify the relevant employment groups and keep consistency in the application of supported business procurement, for the avoidance of doubt. A group which may also need to be covered in this definition is for example 'prison labour' or people formerly in custody who are employed who could be considered as 'socially marginalised' and 'disadvantaged' in a number of ways, as described by the Scottish Prison Service or associated research into this particular field, and there may be others from social research in Scotland or elsewhere. As suggested in the response to question 5 an official register of these would be beneficial.

Q7 Our view is that we are not aware of any arguments that currently support reserving contracts for mutual and other non-public sector bodies in Scotland, and we believe this is less of an issue in Scotland. Do you think there are any advantages or disadvantages to applying this provision to the procurement activities of public bodies in Scotland? Please explain your answer.

Advantages Disadvantages

Procurement activity should allow for competition to ascertain best value, be fair, transparent, etc.

The University of Edinburgh believes that allowing contracts to be reserved for mutual could potentially be a disadvantage in that it restricts competition.

The University would also fail to see the advantage of setting up a mutual if the contract which can be reserved for it would be restricted to 3 years, without renewal. One example is the UMAL (a UK universities mutual assurance company) or various other collaborative shared services in the education sector, which may have been set up on a mutual or co-operative basis.

If excluding this provision makes it clear that the ownership is the determining factor of whether this is supply contract or not, and where that is not clear, a competition should be run unless otherwise exempted then this provision should be excluded.

But as there does not appear to have been adequate research into when or if these kind of organisations are already in existence, then it may be a wiser precaution to include this provision and support it with policy and practical guidance as to what and when it can be used. Another possible case in our sector could be the setting up of a new co-operative such as the students housing co-operative in Edinburgh, where in fact being a 'reserved' provider under this provision limits the opportunity to supply housing to but one cohort of students rather than enter into a longer term arrangement, with unnecessary bid costs for the innovative proposal, for example.

Q8 Should the rules about labels which apply to contracts that are EU regulated procurements also apply to lower value regulated procurement contracts covered by the Act? Please explain your answer.

Yes No

The University agrees that this should be consistently applied across all regulated procurements. It would be difficult to have separate rulings on labelling (or alternative labelling) based purely on a threshold spend. This is more about proportionality and availability of information for the application of technical specifications and the relevance of aspects such as whole life costing, in a manner proportionate to the subject matter of the contract and not only the value, and aiming to apply this as consistently as possible i.e. the relevant environmental and social or other appropriate and proportionate labelling and accreditation schemes, or equivalent rather than spend levels. The work we are leading with our sector centre and our students on supply chain code of conduct database could be a useful exemplar for this aspect.

Q9 Do you think we should align the rules on technical specifications for all regulated procurements, including those lower value procurements regulated by the Act? Please explain your answer.

Yes No

The University agrees it is logical that all regulated procurements both above and below the EU threshold follow the same process/procedures, to simplify the process for bidders and to enhance transparency and fairness. However any process and documentation is to be proportionate particularly for SMEs.

Q10 We believe that contracts should not be awarded on the basis of price or cost alone? Do you agree or disagree? Please explain why.

Agree Disagree

The University of Edinburgh agrees with the proposal but clarifies that call off purchases from Framework Agreements or purchasing within Dynamic Purchasing Systems may be done (in effect) on a cost only basis. This doesn't change the position however that ultimately the contract has been awarded on both cost and previously set quality criteria, as this would have been taken account of at the point of establishing the framework agreement.

This position reflects current working practices: for example if at the establishment of a Framework Agreement /DPS you set a minimum threshold of quality or service to allow entry to the agreement or participation in the DPS, by virtue of doing this, you are able to evaluate that a specific bid meets this quality, before starting the process of evaluating on price, then obviously, you are not evaluating on price alone!

For this reason, we do not believe this option (choosing on the cost alone) is appropriate and should be excluded.

Q11 We believe that public bodies should retain discretion to split requirements into smaller lots and to award more than one lot to the same bidder. Do you agree or disagree with this? Please explain your answer.

Agree Disagree

The University agrees that on a case-by-case basis, the reasoning and decision making over whether to split a specific requirement into lots will need to be done at a local level, based upon the procurement strategy and delivery plans for that project. This will normally be done in conjunction with the stakeholder consultation and early market engagement.

It would be difficult to see how a one size fits all approach i.e. mandating the splitting into lots would be in the benefit of the public body or beneficial for the supply market in every case.

As for awarding multiple lots, this again needs to be decided at a local level, and there should not be artificial restrictions placed on public bodies or suppliers (who may be able to offer significant efficiencies by combining lots in their bid, both for themselves, their supply chain and their public sector client).

The best supplier(s) for meeting the needs and delivering best value for money for the quality and service required should be chosen. The advantages of choosing the best combination of lots as an obviously local decision, will allow the best delivery of service outcomes and economic impact.

The contract procurement strategy would in effect justify why lots are or are not desirable in each case and allow both buyers and bidders to calculate opportunity cost, administration cost, risk in bidding for or awarding individual or multiple lots.

Q12 To avoid creating unnecessary confusion, we believe that public bodies should have the discretion to decide whether to request additional information about sub-contractors. What are your views about this?

The University agrees that this would be welcomed as a number of large supplier or service provider organisations now no longer have the staff and or equipment always available in-house which means more and more of the overall scope of works, in particular, are being sub contracted and we need to be able to seek information as and when required.

Q13 The Directives also make clear that public bodies are responsible for obtaining any information about sub-contractors from the main contractor. There is an option to transfer this obligation (to deliver the information) to the main contractor. We do not plan to transfer that obligation to the main contractor. What are your views about this?

Yes University agrees with regards to the plan to not transfer that obligation to the Main Contractor.

Our views are that if this role and responsibility was transferred then we may have difficulty in obtaining drawings, O&M manuals, equipment warranty certificates etc. especially after a Main Contractor has successfully completed the project commissioning/ handover stage.

Our views are that without the right to request additional information remaining as an item for action between the Client and Main Contractor in the specific circumstances of a major project, (and the existence of individual commercial relationships which cannot be legislated for within public procurement law), we may have difficulty in managing construction and other major, for example high-technology or major service change, projects.

Q14 We believe that we should not apply similar provisions on sub-contracting to contracts covered by the Act, as we do not think this would be proportionate. Do you agree or disagree with this?

Agree Disagree

The University of Edinburgh agrees that we should not add additional obligations to the sub EU threshold contracts, unless absolutely necessary.

However if this specific provision is simply that that public bodies have a discretion i.e. can choose to ask businesses which parts of the contract they plan to subcontract and to whom, then that is a right which should be retained.

It is of the same interest for example to £1.99 million works contract as much as it is to £2 million project.

And similarly for services contracts, it may be relevant for the public body to know whether the services supply arrangements being proposed are indeed being provided by direct employees, 'umbrella' agency company or through subcontractors in some cases, even at lower than EU threshold values.

Q15 We believe that similar payment terms for sub-contractors, as for main contractors, is a good thing and there are some measures underway, or in place, to address this. We also believe that direct payments to sub-contractors could be complicated and could mean public bodies assuming some responsibilities that should arguably remain with the main contractor. In light of this, we believe that public bodies should be able to make direct payments to sub-contractors only where the contract allows this to happen and parties agree. Do you agree or disagree?

Agree Disagree

The University of Edinburgh agrees.

However even when a public body chooses this route and includes the appropriate terms in its contracts, it must be acknowledged that this would place an additional time resource burden on the contracting authority with regards to approving when the work is due for payment, and processing all sub-contractors applicable payment transfers . It would also have an impact on the contractual performance and service level agreements with the Main Contractor, which unacceptable.

We would like to see the Client's payment terms and conditions being applied to the Main Contractor and their associated sub-contractors.

Q16 Do you think that the same rules on selection criteria should apply to lower value regulated contracts as to higher value EU regulated public contracts? In particular, should the same rules apply on:

- The use of turnover as a selection criterion?
- The right of a public body to assume that a business does not have the professional ability needed for the performance of a specific contract, if that business has a conflict of interest which might mean that it is less able to deliver the contract?

Please explain your answer.

Yes No

Use of turnover as a selection criterion:

The University agree agrees that a business's turnover is not the best or the only way of judging whether a business can deliver a contract. Turnover is not an indicator of future performance, economic viability or quality of the services, goods or works on offer but it has been recognised and used as but one of the tools available to contracting authorities to assess a company's economic and financial standing. The University regrets the European legislator's decision to restrict the contracting authorities' discretion with regards to the level of turnover required, even though it notes the exception provided for duly justified cases such as relating to the special risks attached to the nature of the works, services or supplies.

A contracting authority should have sufficiently wide discretion in how it assesses a bidder's economic and financial standing in accordance with the general principle of proportionality and equal treatment.

Some contracts may be low in monetary value but crucial to the core of a contracting authority's activities. An example could be the provision of low cost software solutions which drive the core activities of a contracting authority (eg. within finance or HR). The actual contract value may be low but the reliance of the organisation very high and it may therefore be a strategic choice of a contracting authority to ensure that the company is sufficiently

economically able to draw on funding and financially stable to ensure a successful completion of the contract for the contract duration.

Another example for which a contracting authority may want higher levels of turnover is in markets with traditionally are slightly unstable or in which mergers and take-overs are quite common (eg. robotics). Another example could be an SME which has to release funds to tool up for manufacturing a special item. Obviously a bank reference is a better option, or a study of their financial status in relation to market competitors, and not turnover alone.

The University would therefore encourage the Scottish Government to retain this flexibility for contracting authorities and not to impose the same restriction on the level of minimum turnover that a contracting authority can impose on bidders for lower value regulated contracts as this may disadvantage SMEs.

Conflict of interest.

The suggested approach of dealing with conflicts of interest seems sensible to the University of Edinburgh. Industry bodies should make it very clear to their members how to behave in these potential conflicts bidding to supply the public funded sector, and governance bodies should also be given the opportunity to access simple guidance and consistent advice about the benefits of separating advisers from 'suppliers' of subsequent services or goods or works.

Q17 Do you agree or disagree that public bodies should retain the flexibility to decide for themselves the basis upon which groups of businesses will be able to meet tests of economic and financial standing and technical and professional ability that will be necessary to perform a particular contract or should there be national standards? Please explain your answer.

Agree Disagree

The University of Edinburgh agrees with the proposition to give contracting authorities the flexibility to decide which groups of businesses will be accepted to meet tests of economic and financial standing and technical and professional ability that will be necessary to perform a contract.

Q18 Should the list of criminal convictions which may result in exclusion from bidding be the same for all regulated contracts, regardless of value? Please explain your answer.

Yes No

Consistency between the rules for higher and lower value contracts would facilitate compliance with this exclusion requirement.

The University of Edinburgh would welcome further streamlining of the efforts already undertaken by Police Scotland with regards to accessing information

on such convictions. Police Scotland currently may operate a confidential information sharing protocol with different contracting authorities but there is no real consistency or transparency as to how this is organised for all contracting authorities in Scotland.

The University of Edinburgh agrees with the proposition to give public bodies flexibility to decide which groups of businesses will be accepted to meet tests of economic and financial standing and technical and professional ability that will be necessary to perform a contract, including any historical criminal convictions. The risk of different approaches to assessing criminal behaviour, economic or technical and professional skills as inappropriate should not simply depend on the contract and market involved, but be consistent.

Further guidance from the Scottish Government would be welcomed regarding the practicalities of such information sharing and other legal obligations which contracting authorities have to comply with such as FOI, Data Protection and Confidentiality.

Also for consistency, the University would welcome the retention of the current exception which allows contracting authorities to disregard these specific exclusion grounds if they are satisfied that there are overriding requirements in the general interest which would justify doing so.

Q19 Should public bodies be required to exclude a business from bidding for lower value regulated contracts if it, or someone who holds a senior position in it, has been convicted of any of the offences on the list?

Yes No

The University agrees that the financial value of the contract is unimportant. This is a matter of principle, public money should not go to organisations who have criminal links.

Exclusions should only apply until the conviction is spent (rehabilitation of offenders legislation, self- cleansing etc.)

The key challenge is ensuring that the information is available to a contracting authority in considering this matter, is up-to-date and easily accessible, for example, a similar database to that used in the securities industry now could be helpful and may be a suitable enhancement to the Public Contracts Scotland portal. This could be offered for supplier registration, and the other relevant bodies such as Police Scotland, HMRC, Borders Agency, SEPA, HSE and others could be asked to allow or use a common supplier identity to enable public procurement authorities to access to their databases. Of course this would not help for businesses operating illegally outside of Scotland /UK's legislative environment.

Also for consistency, the University would welcome the retention of the current exception which allows contracting authorities to disregard these

specific exclusion grounds if they are satisfied that there are overriding requirements in the general interest which would justify doing so.

Q20 Should public bodies retain the discretion to decide whether or not to exclude a business from bidding for a contract where the body can demonstrate by appropriate means, short of a court, tribunal or administrative decision, that the business has breached its obligations to do with paying tax or social security contributions?

Yes No

The University agrees that for consistency, Scottish Government should provide a definition / guidance of what this may include and what 'appropriate means' are.

We are not in a position to assess when and where companies have evaded tax or Social Security unless HMRC or Police can provide evidence of such breaches or a company can self-certify that none arise. How far can or should a publicly funded body make efforts apply resources and have the ability to investigate and verify these declarations? The principle of innocence until proven guilty may be undermined. There is also the issue of defining 'tax evasion' which in itself has been subject to legal debates, and has an international dimension, which the University could not resource to pursue.

Q21 Should public bodies be given the discretion not to exclude a business which has breached its obligations to do with paying tax or social security contributions, and where this has been established by a court, tribunal or administrative decision, if it would be disproportionate to do so?

Yes No

The University agrees with the current procurement regulations' approach which gives the option to public bodies to exclude suppliers for non-payment of taxes or social security contributions - see Regs 23(4)(f & g).

The University believes that making this a mandatory exclusion would not sit well with the principle of proportionality which has to be adhered to in every single procurement. And again may be not in the general interest or appropriate to the situation e.g. non-payment of a very small amount of tax versus a high turnover company paying significant taxes annually and bidding competitively against a large contract value.

Q22 Should public bodies also have the discretion to exclude a business from bidding for lower value regulated contracts if it has breached its obligations in relation to the payment of tax?

Yes No

The University believes that having a discretion to handle this on a case-by-case basis is even more appropriate at lower values, whereas making this a mandatory exclusion would not sit well with the principle of proportionality which has to be adhered to in every single procurement. And again it may be not in the general interest or appropriate to the situation e.g. non-payment of a very small amount of tax by an SME bidding for small (narrow profit margin) supply or service contract below EU threshold.

Q23 Should public bodies retain the discretion to decide whether or not to exclude a business which is bankrupt, or is in insolvency proceedings from bidding? Please explain your answer – in particular, if you think that public bodies should have discretion in these situations, do you think that discretion should apply in every circumstance?

Yes No

The University agrees that on many occasions excluding a supplier which is bankrupt or in insolvency proceedings or similar from bidding for a contract is a measure aimed at protecting the contracting authority from poor or non-delivery of the contractual obligations by the supplier. It is therefore very difficult to imagine circumstances in which a contracting authority would not exclude a supplier in that position, however there are specialist suppliers or community benefit considerations where, with the appropriate guarantees, or during restructuring, continuing to work with a company may be very relevant.

The Public Contract (Scotland) Regulations 2012 give the contracting authorities a choice as to whether to exclude or not on these grounds. Whilst that discretion may only very rarely be used in practice, it is appropriate to allow the contracting authorities to exercise their discretion as appropriate to the circumstances and markets, always noting that the contracting authority is required to comply with the general principle of proportionality and would be wise to retain evidence as to why there are specific circumstances which the contracting authority would like to take into account in a specific case.

Similarly, an obligation could not be imposed on contracting authorities not to exclude companies in that position if certain other conditions are met. Contracting authorities have obligation towards its funders, the public and in the case of the University, its students and staff. It is therefore essential that the University retains the right to exclude bankrupt or insolvent suppliers if such is required for the operations of the University, whether in its research, teaching, innovation or other activities or conversely work with such a company where it is relevant and necessary and appropriate.

Q24 Should the same rules apply to EU regulated contracts and to lower value regulated contracts? Please explain your answer.

Yes No

The University agrees that for consistency, an obligation could not be imposed on contracting authorities as to whether or not to exclude companies in that position, for either EU regulated contracts or lower value regulated contracts if relevant, for example if certain other conditions are met. Contracting authorities have obligation towards its funders, the public and in the case of the University, its students and staff. It is therefore essential that the University retains the right to exclude bankrupt or insolvent suppliers if such is required for the operations of the University, whether in its research, teaching, innovation or other activities or conversely work with such a company where it is relevant and necessary and appropriate. As lower value contracts may be of particular interest to SMEs, consistency is important here.

Q25 Should a public body be allowed not to exclude a business with disqualifying criminal convictions, or which has breached its obligations to pay tax or social security, in exceptional circumstances? Please explain your answer.

Yes X No

The University would welcome the proposal to retain the discretion for lower value regulated contracts, in a similar manner to that currently contained in the Public Contracts (Scotland) Regulation 2012, which allows contracting authorities to disregard these specific exclusion grounds if they are satisfied that there are overriding requirements in the general interest which would justify doing so. However we are aware that it would only be appropriate to deal with such a company if there were a strong case for doing so, rather than use a competitor who was not disqualified, and that on a case-by-case basis this decision would need to be considered in the light of any reputational risk and equalities duty impacts. This may be an area which would benefit from practical and policy guidance to ensure an element of consistency in interpretation of this discretion, particularly with regard to impact on SMEs.

The key challenge is ensuring that any background information is readily available to a contracting authority in considering this matter, is up-to-date and easily accessible, and a similar database to that used in the securities industry now could be helpful and may be a suitable enhancement to the Public Contracts Scotland portal, used for supplier registration, and that other relevant bodies such as Police Scotland, HMRC, Borders Agency, SEPA, HSE and others could be asked to allow or use a common supplier identity to permit public procurement authorities to access to their databases. Of course this would not help for businesses operating illegally outside of Scotland /UK legislative environment.

Q26 Should the same rules apply to EU regulated contracts and to lower value regulated contracts? Please explain your answer.

Yes X No

The University would welcome the proposal to retain the discretion for lower value regulated contracts, in a similar manner to that currently contained in the Public Contracts (Scotland) Regulation 2012, which allows contracting authorities to disregard these specific exclusion grounds if they are satisfied that there are overriding requirements in the general interest which would justify doing so. However we are aware that it would only be appropriate to deal with such a company if there were a strong case for doing so, rather than a competitor who was not disqualified, and that on a case-by-case basis this decision would need to be considered in the light of any reputational risk and equalities duty impacts. This may be an area which would benefit from practical and policy guidance to ensure an element of consistency in interpretation of this discretion, particularly with regard to impact on SMEs.

The key challenge is ensuring that the information is available to a contracting authority in considering this matter, is up-to-date and easily accessible, for consistency, Scottish Government should provide a definition / guidance for what this may include and what appropriate means are. We are not in a position to assess when and where companies have evaded tax or Social Security unless HMRC or Police can provide evidence of such breaches or a company can self-certify that none arise.

How far can or should a publicly funded body make efforts apply resources and have the ability to investigate and verify these declarations. The principle of innocence until proven guilty may be undermined. There is also the issue of defining 'tax evasion' which in itself has been subject to legal debates, and has an international dimension, which the University could not resource to pursue.

As mentioned in answers above, a similar database to that used in the securities industry now could be helpful and may be a suitable enhancement to the Public Contracts Scotland portal, for supplier registration, and other relevant bodies such as Police Scotland, HMRC, Borders Agency, SEPA, HSE and others could be asked to allow or use a common supplier identity to permit public procurement authorities to access to their databases. Of course this would not help for businesses operating illegally outside of Scotland /UK legislative environment.

Q27 Should the law allow public bodies the discretion to decide whether or not to exclude bidders in situations where there is evidence of a breach of environmental, social and labour law obligations, grave professional misconduct, distortion of competition, a conflict of interest, a significant failure to perform in an earlier contract, or a security risk (in the case of defence and security concessions)? Please explain your answer.

Yes No

The University agrees that it is absolutely crucial that a contracting authority retains the right to assess these exclusion grounds in the light of the specific circumstances on each contract, rather than introduce blanket obligations.

Taking the example of banking services: scandals in recent years have brought to light instances of grave misconducts in the banking sector involving nearly all the major banks. It is undisputed that a contracting authority requires banking services and therefore may need to use one of these major banks affected by these cases of misconduct. A contracting authority could therefore look at the past behaviours of such a bank but also assess the remedial actions undertaken by a bank to remedy such misconduct or behaviours and take these into account. Such assessment is circumstantial and only the contracting authority would be best placed to make such an assessment with regard to its impact on its own reputational and financial risk. Discretion should be allowed for ensuring that contact authorities can consider misbehaviour such as grave professional misconduct, conflict of interest and poor performance in an earlier contract whether in its own authority or elsewhere as appropriate.

Q28 Should the same rules apply to EU regulated contracts and to lower value regulated contracts? Please explain your answer.

Yes No

The University agrees that for consistency, an obligation could not be imposed on contracting authorities to exclude or not to exclude companies in these positions, for either EU regulated contracts or lower value regulated contracts where relevant, for example if certain other conditions are met.

Contracting authorities have obligation towards its funders, the public and in the case of the University, its students and staff. It is therefore essential that the University retains the right to exclude poorly behaving or badly performing suppliers if this is required to minimise risk to the reputation or for the operations of the University, whether in its research, teaching, innovation or other activities.

This may be a particular consideration with regard to our student experience, or funded research. And as described in answer to other questions, on occasion conversely, we may need to work with such a company where it is relevant and necessary and appropriate to influence their improvements in service and quality, at our discretion. As lower value contracts may be of particular interest to SMEs, consistency is important here, so that poor performance is not rewarded but that discretion remains available to influence markets and improve standards through our procurement and engagement.

Q29 Do you agree or disagree with our proposed maximum periods of exclusion? Please explain your answer.

Agree Disagree

The University of Edinburgh agrees with the Scottish Government's proposal of proposing the maximum periods of exclusion allowable under EU law. In fact, the University regrets the fact that the EU has imposed such maximum periods, especially in terms of exclusion for criminal convictions.

The University welcomes the fact that a supplier can perform what is referred to as "self-cleansing". It is therefore disappointing that a supplier who would opt not to take such steps to 'self-cleansing', could again bid for public contracts and no longer be excluded, just by letting a period of 5 years lapse, as this may be disproportionately low depending on the impact of their previous behaviour.

Nothing would be available to demonstrate to the contracting authority or the public that the said supplier has changed its ways or tried to improve itself. It also needs recognised that securing a new conviction may take more than 5 years since the first court judgement, if the economic operator has not improved its ways. This position is regrettable and therefore the University welcomes the maximum periods as allowed under EU law.

Q30 Should the same rules apply to EU regulated contracts and to lower value regulated contracts? Please explain your answer.

Yes No

The University agrees that for consistency, an obligation could not be imposed on contracting authorities to exclude or not to exclude companies for different periods, when bidding for either EU regulated contracts or lower value regulated contracts or both, where relevant. Contracting authorities have obligation towards its funders, the public and in the case of the University, its students and staff. It is therefore essential that the University retains the right to exclude criminal behaviour, poor professional or commercial behaviour or badly performing suppliers if this is required to minimise risk to the reputation or for the operations of the University, whether in its research, teaching, innovation or other activities. This may be a particular consideration with regard to our student experience, or funded research. And as described in answer to other questions on this topic, as lower value contracts may be of particular interest to SMEs, consistency is important here, so that criminal convictions and bad performance is not rewarded but there is a need to maintain the maximum exclusion period allowed by law.

Q31 Should public bodies be required to check that sub-contractors do not fail any of the exclusion criteria?

Yes No

The University does not agree that it should be the public bodies' responsibility as a duty to check and that the Main Contractor legal responsibility for nominating sub-contractors and establishing their bona fide position and suitability for the contract in question must remain with the

appointed Main Contractor. An additional consideration is that if this were transferred to the public bodies there could be requests for Extension of Programme/Time and associated additional Costs having to be paid because of any potential delay being incurred by the Main Contractor in starting or completing works or sections of the project, or changing sub-contractor by having to await clearance of sub-contractors from the Contracting Authority.

Also this could have a massive impact on resources required to support procurements primarily in construction and impact on project build programmes for major works.

Q32 What are your views about what should be included in this Statutory Guidance? Please explain your answer.

The University would welcome clarity regarding the nature and legal status of the guidance.

Section 29 of the Procurement Reform (Scotland) Act states that the Scottish Ministers may publish guidance about the selection of economic operators and the award of contracts in relation to a regulated procurement which may cover:

- the use of questionnaires in the assessment of the suitability of economic operators,

- the matters relating to:

- (i) the recruitment, remuneration (including payment of a living wage) and other terms of engagement of persons involved in producing, providing or constructing the subject matter of the regulated procurement, and
- (ii) employee representation including trade union recognition,

that are to be taken into account in assessing the suitability of an economic operator.

The Act states that contracting authorities **must** have regard to any guidance published under this section.

The University regrets that the guidance is thus presented not as guidance, but as a matter of fact an **obligation** on a contracting authority.

Each contract needs assessed on its own merits within the framework of decisions to be taken by a contracting authority, as permitted or imposed by the law; adding mandatory guidance (obligations) restricts contracting authorities' discretion in deciding on selection criteria appropriate, relevant and proportionate to the contract.

Comments and Questions earlier in this Consultation imply considerable discretion and therefore any Statutory Guidance needs to be very clear.

Proportionality

The matters which the Consultation and the Act propose to be included in the Guidance are extensive. These matters are contained in three main themes:

- Employment
- Environmental
- General conduct, including self-cleansing

The University notes that this Statutory Guidance will apply to all regulated procurements. Whilst the University appreciates and supports the sentiment behind the need for clear guidance, it feels that the impact on resources within the University to investigate, deliver, manage and ensure compliance at lower threshold procurements is disproportionate to the value to be gained by achievement of compliance of this guidance at lower value contracts.

A better approach and procurement best practice is early market engagement and stakeholder discussions which ensure the encouragement of high standards of people management, through industry bodies and contract terms.

The University is very concerned for the impact this may have on the ability of SMEs to apply effectively for low value public contracts.

For example, an SME may not always be in a position in which it can offer the full range of workplace options such as flexible working, career breaks or flexi-time to its employees the same way a large company could, especially if it is a micro-business with very few employees.

This could impact on our start-up and spin out companies if they were to be in a position to be bidders for public contracts in future.

The University would therefore encourage the Scottish Ministers to tread very carefully when imposing a whole range of additional exclusion grounds for lower value contracts as this may have a negative impact on both contracting authorities and suppliers, especially SMEs, as it may discourage competition rather than increase opportunities which was one of the main aims of the Act.

Compliance with EU Law, including case law

Living Wage – whilst the University supports the promotion of positive remuneration measures for workers involved in the delivery of public contracts, the issue of compatibility of the ‘living wage’ with the existing legal framework remains in doubt.

Living wage on an EU scale is a complex matter which has been the subject of much political and academic debate.

The most followed interpretation of the *Ruffert*³ and *Bundesdruckerei v Stadt Dortmund*⁴ cases suggest that the mandatory imposition of living wage requirements in public procurement is incompatible with EU law.

The Scottish Government Consultation on the Procurement Reform Bill 2012 (Annex A) stated that ‘4. *Suppliers to the public sector are required to comply with any statutory duty relating to employment, including minimum wage legislation.*

³ Ruffert v Land Niedersachsen (C-346/06) [2008] E.C.R. I-1989

⁴ Bundesdruckerei GmbH v Stadt Dortmund (C-549/13) [2014]

However, case law of the Court of Justice of the European Union suggests that imposing additional requirements as a requirement of a public procurement process or public contract may represent a restriction on suppliers' freedom to provide services guaranteed by Article 56 of the Treaty on the Functioning of the European Union.

5. In response to a request for clarification from the Scottish Government, the European Commission has recently confirmed that any requirement on contractors to pay their employees a living wage set higher than the UK's National Minimum Wage is unlikely to be compatible with the Treaty. In practice, this means that public bodies cannot address living wage in the award criteria for a public contract or the contract performance clauses. It is therefore not possible to use the Bill to mandate payment of the living wage through procurement activity.

6. If public bodies wish to encourage contractors to pay their employees a living wage through procurement processes, this is still possible. However, they cannot treat suppliers who say that they will pay employees engaged in the delivery of the contract a living wage any more favourably than those suppliers that say that they will not; public bodies also have no means of enforcing payment of a living wage..'

Although different interpretations meant that there still is a high level of legal uncertainty around living wage requirements in public procurement, following ECJ case law, there seems to be some level of consensus with regards to its incompatibility with EU law.

The University therefore expresses caution with regards to the imposition by this in Statutory Guidance as a restrictive or mandatory principle or to the payment terms which should be applied when considering a business's suitability to deliver a public contract.

As noted in the previous consultation on the Reform Bill, a challenge to SMEs would be keeping different pay rates for staff working on public or private contracts and we commended that a better approach would be to press the UK government for an amendment to the legal Minimum Wage so that it reflects the appropriate remuneration needed to reflect living wage aspirations.

Q33 We expect to apply only limited rules to contracts for social and other specific services to the person. These will require compliance with the basic Treaty Principles and publication of contract opportunity and award notices as described in this section. Do you agree or disagree that these rules will be sufficient for an effective light-touch regime? Please explain your answer.

Agree Disagree

Yes, University agrees that this would be appropriate and proportionate. There should be clarity about the kind of services now covered by both the transposition of the EU Directives Annex XIV and the Act, for example a new EU threshold relevant to this is €750,000, and statutory guidance needs to explain how this relates to the proposed £50,000 regulated procurement rules, unique to Scotland, for these kinds of services.

This is of particular interest to the University in relation to its student experience, its educational and professional education provision and its link to health and social research or specialist services procurement and her regular and ongoing collaborations with other public bodies.

Q34 We believe that contracts should not be awarded on the basis of price or cost alone? Do you agree or disagree with this position? Please explain why.

Agree Disagree

The University agrees that this position reflects current working practice. The University of Edinburgh agrees with the proposal and has explained in response to Question 10 above, the need to clarify that call off purchases from Framework Agreements or purchasing within Dynamic Purchasing Systems may be done on a cost only basis. This doesn't change the position however that ultimately the individual contract has been awarded on both cost and previously set quality criteria at the establishment of the framework agreement or DPS.

This position reflects current working practice for example if at the establishment of a Framework Agreement /DPS you set a minimum threshold of quality or service, by virtue of doing this, you are able to evaluate that a specific bid meets this quality, before starting the process of evaluating on price, then obviously, you are not evaluating on price alone!

For this reason, we do not believe this option (choosing on the cost alone) is appropriate.

Q35 What are your views about what should be included in this Statutory Guidance? Please explain your answer

The proposed approach, if already agreed by key sectors, such as the 2010 Procurement of Care and Support Services Guidance⁵, says

4.1 It is not possible, within the scope of this guidance, to consider the legal requirements in detail; these must be considered on a case by case basis. Staff involved in the procurement of care and support services are advised to seek legal input at the outset of a procurement exercise to ensure that they fully understand and comply with all applicable laws.

4.2 Although the various legal requirements applying to the procurement of care and support services might appear to conflict, it is possible to make decisions which deliver the intended outcomes and comply with all the applicable legal requirements.

This would be of particular interest to the University in relation to its student experience, its educational and professional education provision and its link to health and social research or services procurement and collaboration with other public bodies. Note our earlier comments on the nature and scope of Statutory Guidance should be considered carefully for these personal services.

⁵ <http://www.gov.scot/Publications/2010/09/21100130/5>

Q36 Should provision be made for the use of a Prior Information Notice by non-central authorities (where they choose) as the call for competition in restricted procedures and competitive procedure with negotiation? Please explain your answer.

Agree Disagree

Whilst the University of Edinburgh very much welcomes this proposal it needs noted that the Procurement Journey and Public Contracts Scotland portal and supporting eTender systems and documents in use for public authorities and for suppliers registering for calls and expressions of interest will need updated consistently in order to allow for this.

Currently the Public Contracts Scotland – Tender solution is unable to handle expressions of interest based upon PIN Notices, a change which will require addressed in advance of the law, in order not to add to the bureaucracy for contracting authorities to manage this. Clear advice and guidance should be available in the Procurement Journey for all parties, including interested suppliers concerned. It is worth noting that the time reduction which was a benefit from starting with PIN notices are being negated with the useful proposed reductions in timescales by other means in the new EU Directives.

Q37 Do you agree or disagree that this provision should also apply to lower value regulated contracts, that is, those that are below European regulated thresholds and are regulated by the Act? Please explain your answer.

Agree Disagree

The University has no strong view, if we are correct in assuming that the Statutory Guidance for advertising [content of published Notices] for lower value regulated contracts is not over complex, and is more akin to mini-tenders or quickquotes than the requirements of full EU Notices.

For sub EU threshold procurements which do not have mandatory minimum timescales or the complex legal information requirements as at EU level projects, there is little real benefit in adopting this methodology at lower expenditure levels.

Having said that if the Scottish Government is minded to adopt a complex Notice for regulated procurements, more similar to the EU advert Notice, then this approach would be a beneficial one for SMEs who may be more likely to respond to simple PIN request and faster procedure than it would be to respond to a complex regulated procurement Notice proforma.

Q38 Do you agree or disagree that public bodies should be permitted to award a contract without competition in the circumstances permitted by the Directives? Please explain why.

Agree Disagree

The University agrees that the current reasons as stated in the Directives are adequate and reasonable in setting out the justifications which are acceptable to carry out a direct award. If this was removed, organisations would be forced to carry out tenders which have no realistic chance of generating competition, increasing costs for both the buying organisation and the supply base, and add time and costs to public bodies and suppliers as a result.

Procurement services are already at risk of being seen as overly bureaucratic and process driven rather than pragmatic and adding value to the Outcomes or the Strategic Plan of public bodies it is here to serve. Adding more complexity or tendering where there are no opportunities, runs risks of damaging markets or discouraging innovative suppliers, including SMEs, which wish to supply public bodies by not procuring in the most efficient and effective and proportionate manner.

Q39 Do you agree or disagree that public bodies should also be permitted to award lower value regulated contracts in similar situations? Please explain why.

Agree Disagree

The University agrees that the current reasons as stated in the Directives are adequate and reasonable in setting out the justifications which are acceptable to carry out a direct award. If this was removed, organisations would be forced to carry out tenders which have no realistic chance of generating competition, increasing costs for both the buying organisation and the supply base, and add time and costs to public bodies and suppliers as a result.

Procurement services are already at risk of being seen as overly bureaucratic and process driven rather than pragmatic and adding value to the Outcomes or the Strategic Plan of public bodies it is here to serve. Adding more complexity or tendering where there are no opportunities, runs risks of damaging markets or discouraging innovative suppliers, including SMEs, which wish to supply public bodies by not procuring in the most efficient and effective and proportionate manner.

The process for lower value regulated procurements should be kept to an absolute minimum to maintain probity encourage competition and enable innovation and not be an end in itself.

Q40 Do you agree or disagree that all non-central authorities using the restricted procedure should be able to set the time limit for the receipt of tenders by agreement with candidates? Please explain why.

Agree Disagree

The University agrees with the Consultation document that the minimum time to tender without agreement of all bidders is 10 days. The concern would be that organisations could possibly abuse this rule, in that only larger suppliers who are set up and have the necessary resources to complete complex

tenders in short deadlines could actually complete the tenders in this shortened time period. We do not think there is an obligation to ensure adequate time for the complexity of the project. The practical guidance or supporting material in the Procurement Journey should make it clear that this should not be used as a backdoor way to eliminate bidders who need a reasonable time to bid, as this is most likely to disadvantage SMEs.

However for straightforward tenders and where the specifications and other criteria are very clear, this reduced timescale would be of benefit to bidders and contracting authorities alike.

Q41 When using the open procedure, should public bodies retain the flexibility to determine whether to evaluate bids before evaluating qualification and exclusion criteria? Please explain your answer.

Yes No

The University agrees with this proposal and again suggests guidance and supporting material within the Procurement journey to ensure that a contracting authority does this in a fair and transparent method. This new flexibility is a benefit, for example where there are a number of bids which do not meet the minimum technical or quality standard or are so significantly out on price comparison, that the company status is somewhat irrelevant.

One option which should be available in considering timescales and stages for completing a contract award process, is to apply the model where a "qualification envelope" and "technical envelope" and 'commercial envelope' may be evaluated by separate individuals / teams and systems such as Public Contracts Scotland – Tender and AWARD software must be tailored where they do not currently allow for this option to be applied.

Q42 Should public bodies be allowed to ask for supplementary or missing information and to ask a company to provide clarification of their bid?

Yes No

The University agrees that, as is currently the case, supplementary and clarification of provided information should be allowed. However the ability to ask for entirely missing information should be excluded.

The view is that this brings a danger of openness and due transparency being compromised and risks not treating all bidders equally. If a company is incapable of correctly submitting their tender response accurately and on time, when their competitors are able to do so, is it reasonable to allow them extra time? And does this reflect upon how capable they may be in delivering the contract itself and providing supporting documents, to allow the contracting authority to meet its obligations under Statutory Guidance, for example to demonstrate sustainable procurement duty, workplace or community benefits? It is recognised that a supplier's bid teams and delivery

teams may well be different individuals, but care is to be taken around fairness.

Q43 Do you agree or disagree that the rules in the Directives about modifying contracts should not apply to contracts under the Act? Please explain why.

Agree Disagree

The University agrees that although the rules in Article 72 promote transparency and fairness, the University thinks that that for lower value contracts these could become unnecessarily bureaucratic burdens for contracting authorities to follow as the cost and therefore % of changes permitted without re-tendering are disproportionate and again would have undesired consequences on SMEs.

Q44 We believe we should continue to progress the work plan from the Construction Review report, rather than requiring the use of BIM or similar in works contracts and design contests. Do you agree or disagree? Please explain your answer.

Agree Disagree

The University agrees and we believe believe that this will allow time for BIM or equivalent to mature, and in order to allow this requirement to be implemented efficiently and effectively, and we would encourage Scottish Government to continue to engage with procurement and estates specialists in the HE sector, who have considerable expertise to offer, with regards to the Construction Review.

Q45 Do you agree or disagree that we should establish an overall confidentiality and security framework which individual public bodies would use to inform their own approach to the security handling of electronic communication? Please explain your answer.

Agree Disagree

The University agrees that a framework should be established, if that is what the technical specialists recommend. It introduces consistency for both contracting authorities and suppliers. However, it must be a standard that is achievable by all that are required to comply and take account of the sector infrastructure and security policies such as apply in UK higher education.

Q46 Do you agree or disagree that we should maximise the time available to implement fully electronic procurement processes and defer the requirement for full electronic communication for the maximum permissible time?

Agree Disagree

We agree that there is a need to defer the requirement as it maximises the opportunity for contracting authorities and for suppliers to implement the changes effectively. The Scottish Government should also be asked to consider in its funding to public authorities a means to ensure we are able to budget for any costs directly but indirectly involved. However, delaying electronic communications as an approach that risks reducing the efficiency benefits which could be achieved, for example for SMEs dealing with many clients, as some will choose not to implement until the deadline and legal obligations apply. It would be helpful in policy guidance to know what the Scottish Government is doing in terms of EU wide standards so that international collaborations are not compromised if different standards emerge.

Q47 Do you agree or disagree that all communications about concession contracts in a procurement exercise should be by electronic means?

Agree Disagree

The University agrees that communications regarding ALL contracts should be made in a standard way, although for concessions contracts the document files size (and equally for major works) can impact on the systems available which can again disadvantage SMEs in bid processes.

Q48 Do you think that public bodies should retain the flexibility to decide when the use of electronic catalogues is appropriate? Please explain your answer.

Yes No

The University agrees and already has several million pounds per annum of procurements via contracts using eCatalogues. We note that there are many types of markets where procurements in this manner can be beneficial, but equally many where it is not, such as personalised services or complex requirements. Retaining flexibility will allow contracting authorities the opportunity to decide where catalogues are appropriate.

Q49 Do you agree or disagree that we should defer the requirement to provide the European Single Procurement Document in electronic form only until 18 April 2018? Please explain your answer.

Agree Disagree

The University agrees that organisations need time to prepare for these changes and the Scottish Government should consult and provide practical advice, and possibly systems, both to contracting authorities and perhaps most importantly to suppliers including SMEs which will allow all parties to effectively implement and manage these new documents and processes.

Q50 Do you agree or disagree that we should defer until 18 October 2018 the provision that says businesses should not have to submit supporting documents

where the public body awarding the contract holds these? Please explain your answer.

Agree Disagree

The University agrees that contracting authorities and businesses need time to prepare for these changes and consideration needs to be given as to how to effectively implement and manage them in a devolved procurement environment such as the University.

Q51 Do you agree or disagree that we should defer the obligation on public bodies to use e-Certis until October 2018?

Agree Disagree

The University agrees that contracting authorities and businesses need time to prepare for these changes and consideration needs to be given as to how to effectively implement and manage them within the procurement journey and other tools. Contracting authorities and procurement teams will also need time to understand what e-Certis actually covers and how to use it most effectively and if there are any exceptions to its applicability.

Q52 Do you agree or disagree that we adopt this option for utilities contracts? Please explain your answer.

Agree Disagree

The University agrees that utilities contracts should follow a similar path. All utilities procurement expenditure in Scotland is primarily placed via national framework contracts, so little additional admin is required to comply with this from public buyers, this question relates to utilities as procurers.

Q53 Do you think that dynamic purchasing systems should be available as a tool for purchasers in respect of regulated procurements?

Yes No

The University agrees that the changes to dynamic purchasing systems and better clarity on their establishment and management is beneficial. It is recommended that appropriate training and supplier development is needed for both to gain the benefits of DPS, as currently there is little or no take up of this option. But in order to determine when this is appropriate public bodies need to think about the time and resource impact on the contracting authority, compared to other procurement routes available to it are appropriate to the market concerned.

Q54 Do you think that the same rules which apply in Article 34 of the Public Procurement Directive should be extended to lower value regulated procurements under the Act?

Yes No

The University agrees that this could apply to lower thresholds and be an effective tool for example for dividing into lots, eCatalogues or for regular reviews of opportunities to supply which would benefit SMEs and public bodies. It is recommended that better training and supplier development is needed for organisations to gain the benefits of DPS as currently there is little or no take up of this option.

Q55 Do you agree or disagree that we should continue to allow public bodies in Scotland to use central purchasing bodies as described in this section?

Agree Disagree

The University agrees that central purchasing bodies are beneficial for certain kinds of framework agreements and shared services, as described elsewhere in our response.

Q56 Do you agree or disagree that we should not require the use of central purchasing bodies for particular types of procurement, thereby allowing public bodies to exercise discretion as to when, and which, central purchasing body to use?

Agree Disagree

The University agrees that public bodies should have discretion on when and what central purchasing body contracts to use or not. It is easily demonstrable that the use of central purchasing bodies' (CPB) contracts are increasing year on year, with the latest usage statistics, when this is non-mandated, and our sector in particular has established efficiency targets from shared services.

CPB's contracts by their very nature tend to be framework agreements for goods or services which are more generic and may not therefore always be the best fit for individual public bodies in a particular consortium. The public body is accountable for delivering value for money to meet its Strategic, engaging its stakeholders and suppliers. CPB's are further removed from the end users and beneficiaries of the contracts and not always respond to the rapidly changing environment that we work in. Additionally it is a challenge for CPB's to be adequately resourced to deliver the range and volume of procurement exercises that are required to be delivered to meet the increased demand by often very disparate public bodies. Therefore this should be discretionary.

Q57 Do you agree or disagree that we should not restrict access by Scottish public bodies to European centralised purchasing activities? Please explain your answer.

Agree Disagree

University agrees that public bodies should also have the ability to utilise whatever collaborative contract best suits their requirements rather than

being arbitrarily directed to local consortia. Whilst we acknowledge this may be contentious in regards to how to resource and when to permit individual public bodies to go about obtaining access to European centralised purchasing, it is likely to be a relatively small number of contracts that are of interest in this manner. For some of our international collaborations we need to have that flexibility.

Q58 Do you agree or disagree that the monitoring and enforcement body for Scotland should be the Scottish Ministers, acting through the existing Single Point of Enquiry? Please explain your answer.

Agree Disagree

The University agrees that a Single Point of Enquiry approach can be very beneficial (i) in clarifying the advice and guidance to SMEs and others who are questioning specific procurement procedures, (ii) or asking for clarifications on decisions made, and (iii) should be free of charge service to both the public bodies and business. However the role as described in the Consultation document is somewhat unclear and appears to be a mixture of advice and statutory powers which are as yet undefined.

The requirement for access to contract documents above certain values 1 million Euro for supply and service contracts and 10 million Euro for works does not fit with the other legal thresholds or may not match the current document retention and data protection advice.

We believe that should this be seen to be the preferred option for a monitoring authority, further detailed discussion within sectors and with the procurement strategic forums should take place, especially regarding the statutory powers, if any, that may be relevant and absolute need for the separation of political policy makers, legal duty compliance monitors and those will have a statutory role in deciding whether a breach of regulations has occurred or did not, and defining any appropriate remedial actions.

Q59 Do you agree or disagree that we should simply copy the provisions on applications to the court from the existing 2012 Regulations? Please explain your answer.

Agree Disagree

The University agrees that under the Public Contracts (Scotland) Regulations 2012, a contracting authority owes to economic operators a duty to comply with public procurement law. Non-compliance with public procurement law is a breach of this duty and actionable by bringing proceeding in the Sheriff Court or the Court of Session within 30 days of the date on which such economic operator first knew or ought to have known that the grounds for bringing the proceedings had arisen.

Before proceedings are brought, the relevant person must notify the contracting authority of the failure to comply with a duty under public procurement law and of their intention to bring proceedings.

This system has been in place since 2009 and is a well-established process which allows robust scrutiny of public procurement activities by highly qualified legal professionals, and a suitable level of evidence before any remedies or sanctions are applied.

Public procurement law in Scotland has benefitted from the expertise and precedence established by the Scottish Courts in dealing with such matters. The Courts have adopted a pragmatic approach in such proceedings which have allowed for a well-balanced judicial review of public procurement activities. The University strongly recommends this as the best approach

Q60 Do you think there is a need for a review body which sits beneath the national courts?

Yes No X

See response under Q59. The University strongly prefers the court-based approach as it would be of concern that adding another judicial body at lower level which would deal with public procurement legal remedies, could lead to confusion or multiple layers of appeal and long delays in decision making.

Currently, proceedings can be brought in the Scottish Courts and referred to the Court of Justice of the European Union. This allows for a consistent approach in the interpretation of EU and Scots law Procurement rules. Bodies beneath the national courts would lack this national and European reach and understanding which could lead to a local approach in their rulings, and could result in escalation to higher authorities. This would be detrimental to both the private and public sector in Scotland, the United Kingdom and Europe.

Q61 If so, do you think the review body should be established as a tribunal within the Scottish tribunals system?

Yes No X

See responses under Q 59 and 60. Additional layers of judiciary are not recommended for the reasons given above.

Q62 Or do you think it should take some other form, for example, a Scottish Procurement Ombudsman?

Yes No X

The University does not agree with this suggestion as the flexibility of the concept and remit of ombudsmen in the UK have allowed different ombudsmen to interpret the rules they are monitoring and the laws very

differently. This lack of clarity and coherence in interpretation of the law which ultimately is based on European law would be a concern for both the public and private sector, particularly if it differs within the UK and at different thresholds for regulated and EU regulated contracts in Scotland, alone.

Q63 What is your view of the Scottish Government's position to broadly endorse the principles of open contracting and commitment to work with civil society and wider stakeholder groups to improve transparency in its procurement practices as part of its continuing programme of procurement reform?

The University agrees that freedom of information, working with civil society and wider stakeholder groups, including in our case, staff and students on procurement best practice is an important and continuing requirement of procurement reform.

However the full disclosure proposals within the open contracting website may be contrary to, or go significantly beyond, the duties and obligations which are relevant to commercial confidentiality, innovation and research knowledge exchange, and could disadvantage small and medium enterprises, spin out companies and start-ups should all steps and stages of contract decisions be made entirely open to the public.

We do not therefore recommend that this Consultation incorporates any specific requirements of this principle beyond those already defined by law and suggest that this matter is taken forward as a policy and practice development consultation with the existing strategic forum groups and sector specialists, but are not incorporated into the transposition of the EU Directives or the Statutory Guidance and Procurement Journey for the Act at this time.



CENTRAL MANAGEMENT GROUP

14 April 2015

Report of the Fossil Fuels Review Group

Description of paper

1. This paper presents the report of the Fossil Fuels Review Group, established by CMG at its meeting of 8 October to review the request from EUSA to divest from fossil fuels.

Action requested

2. To consider the recommendations from the Fossil Fuels Review Group and to note associated plans to manage substantial staff and stakeholder interest.

Recommendation

3. To approve the recommendations from the Fossil Fuels Review Group.

Paragraphs 4 – 23 have been removed as exempt from release due to FOI.

Risk Management

24. The group's report seeks to balance the need to maintain the capital and returns for the University via the endowment fund, with the need to take action on climate change, and to consider all aspects of the reputation of the University in this debate. The group proposes a package of measures to achieve a balanced and proportionate response to the issue.

Equality & Diversity

25. No assessment required, as the consideration of equality and diversity issues are inherent in the nature of the consideration of socially responsible investment.

Next steps/implications

26. Subject to agreement, the report will be released to staff and stakeholders immediately following the CMG meeting. A period of consultation and engagement with the investment community and affected companies will follow.

Consultation

27. A consultation with staff and students on the PRI and the revised responsible investment policy was undertaken in 2014. Discussions have taken place with student groups and with staff within Geosciences.

Further information

28. Copies of the minutes and papers of the group will be available in due course.

Author

Dave Gorman
Director of Social Responsibility and
Sustainability
on behalf of the Fossil Fuels Review Group

Presenter

Professor Charlie Jeffrey Senior Vice-
Principal

Freedom of Information

29. Can this paper be included in open business? No



CENTRAL MANAGEMENT GROUP

14 April 2015

Athena SWAN Institutional Silver Submission – Draft Action Plan

Description of paper

1. This paper presents the draft Action Plan which forms part of the University's Athena SWAN (AS) Institutional Silver application, due for submission to the Equality Challenge Unit (ECU) by 30 April 2015. This plan sets out the details of all resource implications of the submission.
2. Further work to improve the quality of the application will be done over the coming weeks prior to submission.

Action requested

3. CMG is asked to endorse the Action Plan before it goes forward to the University Court for formal approval. CMG is particularly asked to review and approve actions with resource implications for their respective areas.

Recommendation

4. CMG is asked to approve the draft Action Plan and remit authority to the Vice-Principal People & Culture to approve further revisions in terms of quality and presentation prior to final submission on 30 April 2015.

Paragraphs 5 – 9 have been removed as exempt from release due to FOI.

Risk Management

10. Failing to achieve an Institutional AS Silver Award risks not meeting a target in the Strategic Plan 2012-16.
11. The University needs to maintain an Institutional AS Award at least at Bronze level. Failure to do so means that Schools will not be able to attain or retain Departmental AS awards (16 AS awards are currently held by Schools).

Equality & Diversity

12. In seeking to support the advancement of gender equality, this paper has positive implications for equality and diversity matters.

Next steps/implications

13. The full AS submission and Action Plan will go forward to University Court for formal approval prior to submission.

Consultation

14. The Advancing Gender Equality Working Group is the Self-Assessment Team for the AS Institutional Silver submission and has been central to the preparation of the Action Plan and accompanying submission document. We have also consulted with the University's AS Network and the Equality Management Committee.



Further information

15. *Author*

Dr Caroline Wallace, UHR
Prof Jane Norman, VP People & Culture
6 April 2015

Presenter

Vice-Principal Norman
People & Culture

Freedom of Information

16. In accordance with ECU guidance, we request that this paper is not published prior to the announcement of the result of the AS submission, expected in September. If successful, the final submission will be made publicly available on the University website.



CENTRAL MANAGEMENT GROUP

14 April 2015

Equality Mainstreaming and Equality Outcomes Draft Progress Reports

Description of paper

1. This paper includes the draft Equality Mainstreaming and Equality Outcomes progress reports, which were endorsed by the Equality Management Committee at its meeting held 20 March 2015, for noting.

Action requested

2. CMG is asked to note the reports for information before they are forwarded to University Court for formal approval. CMG members should also note any equality actions which are relevant to their particular area/remit, to be taken forward by them.

Recommendation

3. CMG is asked to note the reports and invited to feedback/provide any comments they may have on their content, by emailing equalitydiversity@ed.ac.uk no later than 20 April 15.

Paragraphs 3 – 7 have been removed as exempt from release due to FOI.

Risk Management

8. Failure to publish Equality Mainstreaming and Outcomes progress reports by 30 April 2015 would breach the University's statutory obligations, and could adversely affect the University reputationally.

Equality & Diversity

9. The reports which are the subject of this paper are concerned with advancing equality in the University, and addressing the University's statutory equality duty, therefore equality and diversity have been considered in drafting this paper and these reports.

Next steps/implications

10. The attached reports will go forward to the University Court for consideration and formal approval. Once approved they will be published as required on the University's Equality website no later than 30 April 2015.

Consultation

11. The reports have been consulted on and reviewed by the Equality Management Committee (EqMC) at their meetings held 22 December 2014 and 20 March 2015.

12. EqMC considered that the majority of the actions were progressing well, however, some were not directional enough, and some could not be measured. Action will be taken to address those concerns following publication of the reports on 30 April 2015.

13. EqMC further noted that there were quite a few longer term actions which were difficult to make measurable progress on in the short term.

14. These reports have also been shared for comment by the University central Equality and Diversity Committee, College Equality and Diversity Committees, and various other relevant stakeholders.

15. Taking into account the aforementioned issues, EqMC requested a timeline of equality priorities to focus on for the coming year, which was agreed at their meeting held 22 December 2015, which are as follows:

- **By April 2015** - Submit for Athena SWAN Institutional Silver Award.
- **By April 2015** - Submit for the Institutional Race Equality Charter Mark Award. Part of the submission process requires a specific race action plan to be included and this is currently under development.
- **By the new Academic Year** – To further develop the student aspect of the University's Dignity and Respect Policy, and links to the Student Code of Practice, including information on support mechanisms and who students should turn to for advice, if required. Consider including the Dignity & Respect Policy as part of the student induction process.
- **Throughout 2015** – Put in place visible provision and mechanisms to support disabled staff, including publication of the Staff Disability Policy and related guidance documents.
- **Throughout 2015** – Continue work already underway to look at addressing the Gender Pay Gap and to align with the University's Strategic Plan Targets.
- **Throughout 2015** - Improve the uptake of carrying out Equality Impact Assessments, by further developing mechanisms and communication methods to allow this to happen.
- **Throughout 2015** - Develop an equality infrastructure in Support Groups similar to those in Colleges.
- **By August 2015** - Further develop the equality website as a good practice hub on equality and diversity information and advice, and ongoing communicate more on equality activity.
- **By November 2015** - Look at processes to try and improve data gathering and increase disclosure of all protected characteristics both for staff and students. Improve monitoring processes and reporting of this data via the EDMARC report.

Further information

16. Further information if required can be sought by emailing equalitydiversity@ed.ac.uk

17. Author
Denise Boyle
University HR Services
3 April 15

Presenter
Vice-Principal Equality & Diversity,
Professor Jane Norman

Freedom of Information

18. These papers are in draft format and subject to further change prior to publication, and should not be published until approved by Court. They will be published on the Equality website by 30 April 2015.



CENTRAL MANAGEMENT GROUP

14 April 2015

Finance Director's Report

Description of paper

1. The paper summarises the finance aspects of recent activities on significant projects or initiatives.

Action requested

2. The Group is asked to note the content and comment or raise questions.

Recommendation

3. CMG colleagues can use this report to brief their teams on Finance matters.

Paragraphs 4 – 31 have been removed as exempt from release due to FOI.

Equality & Diversity

33. Specific issues of equality and diversity are not relevant to this paper as the content focusses primarily on financial strategy and/or financial project considerations.

Next Steps/implications

34. Requested feedback is outlined above.

Further Information

35. Author

Mr Phil McNaull
Director of Finance
31 March 2015

Presenter

Mr Phil McNaull
Director of Finance

Freedom of Information

36. This paper should not be included in open business as its disclosure could substantially prejudice the commercial interests of the University.



CENTRAL MANAGEMENT GROUP

14 April 2015

Rent Guarantor Scheme

Description of paper

1. The paper summarises the case for setting up a pilot Rent Guarantor Scheme which will be introduced from the start of the 2015-2016 academic session. The pilot will last for two years and will be limited to 100 students each year.

Action requested

2. CMG is asked to consider the proposed pilot scheme and approve the terms and conditions.

Recommendation

3. CMG is asked to approve this pilot scheme for 2015-2016 which will enable students to rent private accommodation that may not otherwise be available because a UK based rent guarantor is required.

Background and context

4. It has recently been highlighted by EUSA that some of our students are finding it increasingly difficult to rent from a landlord/agent when they are unable to provide details of a UK based guarantor. In some cases this inability is due to the fact that the student is from outside the UK as landlords/agents normally accept only UK-based rent guarantors. In other cases this may be because the student is estranged from their family or has another reason for receiving no family support.

5. Students who are unable to provide a UK guarantor are often asked to pay up to six months' rent in advance in addition to a refundable deposit when they sign their lease. Paying so much rent in advance like this can place our students in a very exposed position should anything go wrong with their tenancy. It is hoped that a University sponsored Rent Guarantor Scheme will help students to avoid this situation.

6. We have identified four other institutions which currently offer a rent guarantor scheme: Goldsmiths, LSE, UCL, and York.

Discussion

7. Proposal

It is proposed that during the pilot period the University will act as a rent guarantor for a maximum of 100 students each year, and will charge an annual fee of £30 to students who are accepted on to the scheme.

8. Eligibility

The scheme will be open to overseas and EU continuing students and in exceptional circumstances to UK students where no alternative UK guarantors are available e.g. care-leavers and students who are estranged from their family. The scheme will not be available to first year or final year students, or to part-time students.

9. Students will also need to satisfy the following conditions, which require students to:

- have no debts to the University
- have satisfactory academic standing
- remain fully enrolled for the duration of the agreement
- be able to demonstrate that they have the finances in place to maintain their rent payments during the tenancy
- be able to provide a satisfactory accommodation reference either from the University's Accommodation Services or the landlord with whom they rented from during the previous year.

10. *Terms and Conditions*

The guarantee will cover rent only and the University will limit the amount that it will agree to guarantee. For the 2015-2016 academic session, the limit will be £125 per week/£500 per calendar month.

11. The scheme will not involve the University signing the tenancy agreement which will continue to be between the student and the landlord.

12. Students will pay their rent directly to the landlord or agent in the normal way. If a student requires the University to pay their rent, they must promptly notify the Director of Scholarships and Student Administration in writing stating the reasons for the non-payment, so that arrangements can be made to pay the rent on the student's behalf. Landlords must also notify the Director of Scholarships and Student Administration in writing if the rent is two months in arrears.

13. In the event of a student defaulting on the payment of rent, he or she will be subject to the University's disciplinary procedures exactly as if he or she was a resident in a room in one of our University Halls of Residence. If the University has to pay a student's rent arrears, the University will invoice the student and the debt will be added to their University account.

14. *Application Procedure*

Students will be required to complete an application form and submit it along with supporting documents in order to be considered under this scheme. Students will be asked to submit:

- the tenancy agreement
- evidence of future funding to demonstrate that they have the funding in place to cover their rent for the coming year
- their last three months bank statements
- an accommodation reference either from the University's Accommodation Services (if they stayed in University accommodation during the previous year) or the landlord with whom they rented during the previous year.

15. Staff within Student Administration will assess all applications and during this pilot period the Director of Scholarships and Student Administration will make the final decision on whether or not to support each application.

16. When it has been agreed to support a student's application, a rent guarantee agreement will be drawn up which the University will require the student to sign confirming their responsibility for rent owed and paid by the University on their behalf.

17. We propose that the debt recovery should mirror the current processes carried out by Finance for tuition fee purposes, and recommend that Finance manage the debt recovery process for what we anticipate will be a low number of defaulters.

Resource implications

18. We expect only a minimal financial outlay to cover administration costs of Student Administration staff who will process and assess the applications. These costs will be met from within Student Administration's existing budget. The costs associated with any chasing of debt will depend on the number of defaulters. Any administration costs associated with this will be met from existing budgets.

Risk Management

19. There is a risk that some students on the scheme will default on payments to their landlord and the University will have to shoulder the debt incurred. From confidential conversations with other institutions we know that the percentage of students defaulting ranges from zero percent to 5%.

20. A default rate of 5% from a pilot scheme of 100 in which the maximum rent is £500 per month would lead to a notional maximum cost of £30,000 to the University (if all 5 students defaulted for the full 12 months of their tenancy.)

21. The risk and size of default during the pilot phase are however mitigated against by:

- A limit on the total number of participants
- Careful screening of all applications as outlined above
- Excluding from the pilot those students about whom we have little or no prior knowledge (eg year 1 students) as well as those who may be harder to recover debt from in future (final year students).

22. Where debt is incurred, the University Finance Department's normal debt recovery procedures will apply.

Equality & Diversity

23. No issues were identified that require highlighting in an equality and diversity context.

Next steps/implications

24. Student Administration will lead the promotion of this pilot scheme and will put in place the necessary application and assessment procedures to support implementation.

Consultation

25. A working group chaired by Gavin Douglas and comprising staff from Accommodation Services, Finance, Student Administration and EUSA have discussed and agreed the scheme.

Further information

26. Author

Robert Lawrie
Director of Scholarships and
Student Administration
27 March 2015

Presenter

Robert Lawrie

Freedom of Information

27. This paper can be included in open business.



CENTRAL MANAGEMENT GROUP

14 April 2015

Laigh Year Regulations: a proposal to update the calculation of Laigh Year payments

Description of paper

1. The Laigh Year Regulations specify how the stipend paid to Laigh Year office-bearers in both EUSA and EUSU is calculated. Changes to student funding mean that the calculation is no longer appropriate. This paper proposes to update and simplify the way in which Laigh Year payments are calculated.

Action requested

2. CMG is asked to consider and endorse the proposed changes to the Laigh Year Regulations.

Recommendation

3. CMG is asked to recommend approval of the amendment to Court and Senate with effect from 8 June 2015.

Paragraphs 4 – 13 have been removed as exempt from release due to FOI.

Risk Management

14. There is a risk that changes to personal taxation, Income Tax and National Insurance, could disproportionately advantage or disadvantage office-bearers as compared to postgraduate students potentially exposing the University to reputational risk.

15. It is proposed to mitigate this by reviewing changes to the tax regime at the time when the uplift to the payment is calculated annually, and if necessary adjusting payments accordingly.

Equality & Diversity

16. The revised wording allows for variation to the baseline payments for those in receipt of Disabled Students Support Allowance for necessary adjustments. Other than this there are no Equality and Diversity implications.

Paragraph 17 has been removed as exempt from release due to FOI.

Consultation

18. The paper has been discussed and agreed with EUSA, EUSU, the Deputy Secretary, Student Experience, the University Payroll Manager and with the Director of the Student Disability Service.

Further information

19. Further information is available as below.

Author

Jim McGeorge
USG Business Manager
7 April 2015

Presenter

Sarah Smith
University Secretary
14 April 2015

Freedom of Information

20. Closed - Its disclosure would substantially prejudice the effective conduct of public affairs



14 April 2015

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Proposal to establish new Chair in the School of Engineering

Description of paper

1. The School of Engineering within the College of Science and Engineering wishes to establish a new Chair of Materials Engineering.

Action requested

2. The Central Management Group is asked to approve the establishment of this new Chair.

Recommendation

3. That CMG approve the creation of the following Chair:

- Chair of Materials Engineering

Background and context

4. The process to create new substantive Chairs requires CMG approval. In taking this forward, Schools must seek the approval of the Head of College outlining in full the reasons for and the financial implications of such a request.

Discussion

5. The School of Engineering wishes to establish a new Chair, the Chair of Materials Engineering, in order to provide leadership in this area of research within the Institute for Materials and Processes and to contribute to teaching in Chemical and/or Mechanical Engineering within the School.

Resource implications

6. Funding for the Chair will be met by the School of Engineering's core budget and it is included in the 2014-2015 approved School budget.

Risk Management

7. There are no significant risks associated with the establishment of this Chair.

Equality & Diversity

8. Good practice in respect of equality and diversity will be followed in taking forward an appointment to this Chair.

Next steps/implications

9. If this proposal is approved a Resolution will be drafted to formally establish the Chair and recruitment progressed.

Consultation

10. Vice Principal Professor Lesley Yellowlees is content with the paper.

Further information

11. Further information can be supplied by Professor Hugh McCann, Head of the School of Engineering.

12. Author
Diane Morrow
CSE College HR
27 March 2015

Presenter
Vice-Principal Lesley Yellowlees
College of Science & Engineering

Freedom of Information

13. This paper can be included in open business.



Central Management Group

14 April 2015

Health and Safety Quarterly Report: Quarter 2: Dec 2014 – Feb 2015

Description of paper

1. This paper provides a summary of health and safety incidents that took place during the period 1 December 2014 to 28 February 2015, as well as relevant health and safety issues and developments, to provide information and assurance to the Central Management Group (CMG) on the management of health and safety matters.

Action requested

2. CMG is asked to note the contents of the report.

Recommendation

3. That CMG notes that there is an increase in the total number of accidents and incidents compared to the equivalent quarter last year; paragraphs 7-9 below suggest an explanation for this increase.

Paragraphs 4 – 29 have been removed as exempt from release due to FOI.

Risk management

30. The University has a low risk appetite for both compliance risks and for people risks. Monitoring of health and safety accidents, diseases and incidents ensures that risks to health are being managed and provides an early warning of more serious issues

Equality & Diversity

31. This reports raise no major equality and diversity implications.

Paragraph 32 has been removed as exempt from release due to FOI.

Consultation

33. This paper will also be presented to the next meeting of the Audit and Risk Committee.

Further information

34. <u>Author</u>	<u>Presenter</u>
Alastair Reid	Hugh Edmiston
Director of Health and Safety	Director of Corporate Services
Health and Safety	
31 March 2015	

Freedom of Information

35. This paper is closed as its disclosure would substantially prejudice the commercial interests of any person or organisation.