

Scotland Excel

To: Executive Sub-Committee

On: 15 March 2024

**Report by:
Chief Executive of Scotland Excel**

Project Proposal

1. Introduction

- 1.1 This report details an additional project proposed to the Executive Sub Committee on the use of reserves as a result of surpluses which will be generated by pension fund changes.

2. Background

- 2.1 Following actuarial review (the triennial valuation), Strathclyde Pension Fund advised that, as a result of higher than anticipated returns from investments, the fund is 147% funded against current and anticipated future commitments. At the December 2023 Joint Committee meeting, it was agreed to retain the anticipated operating surplus, ring-fenced within Reserves with any in-year draw down to be approved by the Executive Sub-Committee. The in-year impact for 2024/25 and 2025/26 will be an anticipated operating surplus of £460k and £459k respectively.

3. Project – Additional legal support

- 3.1 The purpose of this project is to fund an additional contracts solicitor within Renfrewshire Council's Legal and Democratic Services function to support Scotland Excel in the expansion of the collaborative contract portfolio.
- 3.2 Renfrewshire Council, as the lead authority for the Scotland Excel Joint Committee, provides legal support throughout the collaborative contract lifecycle. While this was originally covered within the terms of the established Service Level Agreement (SLA) between Scotland Excel and Renfrewshire Council, support requirements have continued to increase in line with the expansion of the contract portfolio and the introduction of higher value, higher risk contracts with greater complexity.
- 3.3 Some provision for additional legal support, over and above the SLA allocation, has been included in core budget activity over the past three years. This has aligned with emerging opportunities within construction, social care and ICT contracting activity. However, aligned with the increasing complexity of new contracts under development, the number of offers received to tender opportunities continues to increase which has resulted in the need to increase the capacity of legal support available. The additional resource will also support

the implementation of new and enhanced governance processes, which should in turn increase predictability within contract planning and delivery.

- 3.4 It is anticipated that the supplementary resource, as an addition to the established legal team, will support Scotland excel in a number of ways. This will include, but not be limited to:
 - 3.4.1 Work in conjunction with the Scotland Excel team as early as possible in the cycle to share and agree areas of risk and opportunity that should be considered as part of the formation of the contract and the evaluation methodology to be employed.
 - 3.4.2 Representation at legal advisory panel to decide and record approach pre-strategy and pre-tender ensuring all legal risks are identified, discussed and mitigated pre-publication.
 - 3.4.3 Support the procurement team in the development, and any subsequent clarifications to tender documentation providing guidance and input to ensure the suite of documentation is compliant and incorporates any risk mitigations agreed at the legal advisory panel.
 - 3.4.4 Support the procurement team to respond effectively to market feedback and subsequently provide advice on amendments required to ensure that all issues are responded to in the most effective manner.
 - 3.4.5 Collaborate on preparation of Executive Sub-committee papers, standstill statements and award schedules, prepare standstill and award letters, advise on any market feedback or emerging judicial interruption.
 - 3.4.6 Support the procurement team through ongoing contract management including but not limited to contract modifications, membership applications and improvement works.
 - 3.4.7 Provide advice and support with any arising complex matters e.g. National Inquiry, Boards, Minute of Variation associated with the National Care Home Contract (NCHC) and relevant amendments emerging from case law.
 - 3.4.8 Provide support to the procurement team with any challenges or legal issues arising, acting as the appropriate link between the procurement team and Renfrewshire Council's litigation solicitor. Provide support in establishing the need, as appropriate, to engage with externally commissioned legal counsel, managing this interface to ensure this is done in a timely and cost-effective manner.
 - 3.4.9 The funding requirement is for the addition of a Contracts Solicitor at Grade 11, with an estimated cost of £67,214 for year 1, and £70,574 for year 2. This is an estimate based on the mid-point of Grade 11, and includes all employers on-costs. The estimated for year 2 assumes a 5% salary award for 2025/26.

4. Recommendation

- 4.1 Members are invited to approve the project funding and drawdown from agreed reserves for 2024/25 of £67,214 and £70,574 for 2025/26.