

KIRKLEES COUNCIL

CONTRACT PROCEDURE  
RULES

**JUNE 2012**

## **CONTRACT PROCEDURE RULES**

### **DEFINITIONS**

<u>Assets</u>	All property of whatever nature of the Council, and interests therein and including (not by way of limitation) contractual rights, intellectual property rights, and Land Assets.
<u>“CPRs”</u>	These Contract Procedure Rules.
<u>Director</u>	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive. Except as indicated otherwise, a director may delegate authority to other persons to deliver their responsibilities.
<u>Disposal</u>	The disposal of an Assets whether permanently or for a fixed period.
<u>EU Procurement Rules</u>	The rules on procurement for Supplies above the EU threshold prescribed by the EU in Directives relating to works, supplies and services- as amended and supplemented by the European Court of Justice.
<u>EU Threshold/ (*)</u>	<p>The financial threshold from time to time at which the EU Procurement Rules are applicable to a Supply (currently works £4,348,350, supplies and services £173,934).</p> <p>In the text a * means the value will track the EU lower threshold; the value will be the EU lower threshold rounded down to the nearest £10,000.</p>
<u>FPRs</u>	The Financial Procedure Rules.
<u>Framework Agreement</u>	means an agreement or other arrangement between the Council and one or more Suppliers where the volumes to be delivered are not set out at the outset but which establishes the other terms (such as price) and standards under which the Supplier will accept and carry out orders for goods, works or services during the lifetime of the arrangement. ‘Framework’ and ‘Framework Suppliers’ shall be construed accordingly;

<u>Framework Contract</u>	means a contractually enforceable Framework Agreement or a contract that creates a contractually enforceable Framework Agreement.
<u>Grant</u>	A payment to a third party which is linked to outputs and outcomes which the council believes will be beneficial, but is not a contract for works, goods or services entered into by the council.
<u>Land Assets</u>	means the property of the Council that is freehold or leasehold property (including any buildings on it) , rights of possession of land, easements and/or other estates or interests in land.
<u>Official Council Order</u>	A standard corporate order form for a supply for a value of less than £80,000 approved by the Assistant Director Legal, Governance and Monitoring whether attached electronically or by paper to an order for Supplies.
<u>Procurement Strategy</u>	The Council's Corporate Procurement Strategy, and any associated Purchasing Policy and Codes of Practice
<u>Quotation:</u>	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
<u>SCMS</u>	The on line Supplier and Contract Management System used by the Council to operate E tenders and for the online management of suppliers and contracts and to advertise contracts.
<u>Service</u>	Any department, directorate or section responsible for delivering part of the Council's functions. It includes any subsidiary or semi-independent organisation which will expect the Council to contract on its behalf.
<u>Specification:</u>	A written document detailing the manner of provision of the Supply, (for example type, quantity, quality, time, location, occasions), and the risks and obligations placed on the Supplier.
<u>Special Purpose Vehicle</u>	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with others to provide specific Supplies to the Council.

Standing List

A list of Suppliers prepared in accordance with Contract Procedure Rules 4.4 to 4.8.

Supply

The purchase, lease, hire or other supply of any works, goods, or services, provided, or proposed to be provided, to or by the Council.

Supplier

Any person, partnership, company, or other organisation, which provides or offers to provide any Supply to the Council.

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See “EU threshold”

## **CONTRACT PROCEDURE RULES**

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## **CONTRACT PROCEDURE RULES (CPRs)**

### **INTRODUCTION**

These Contract Procedure Rules aim to promote the highest standard of probity, integrity, and impartiality in making a clear, understandable and fair selection of suppliers to the Council. Equally important is the delivery of best value through competitive procedures, and the avoidance of practices which may restrict, prevent or distort competition.

These processes cover the procurement of all Supplies (goods, works and services) and Disposal of Assets.

In implementing them, the overriding objectives are supported by the detailed rules, but these must be viewed with a degree of proportionality, recognising the value of and risk associated with the proposed action.

These procedure rules must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for particular Supplies.

EU Procurement Rules, which are often more onerous also apply to the procurement of all works, goods and many services exceeding the EU Threshold, and where there is a conflict between these Contract Procedure Rules and the European Directives, the European Directives prevail.

The Council's Financial Procedure Rules must also be complied with. Supplies must be obtained in a way that is compliant with the Council's Procurement Strategy and Purchasing Policy.

## **[1] COMPLIANCE AND CONDUCT OF OFFICERS AND MEMBERS**

- 1.1 All Council employees, and any person or organisation working on behalf of the Council in arranging or managing a Supply, must comply with these CPRs, unless there is a specific decision of the Council or Cabinet, following consideration of a detailed written report setting out why these standard processes are inappropriate.
- 1.2 Each Director must ensure;
- (a) Compliance with these CPRs, using training, instruction and internal control processes;
  - (b) That records be kept to justify all decisions taken;
  - (c) Appropriate supervision and performance management to ensure that decisions taken are subject to authorisation and quality control procedures.
- 1.3 Each Director may delegate actions to other officers, and should set a financial (or other) limit on the authority vested in individual officers to procure Supplies and keep appropriate records. Assistant Directors designated in these rules may also delegate authority to other officers and should establish the extent of authority vested to other individuals.
- 1.4 A contract may only be awarded where the Director has sufficient approved budget to meet the costs. For revenue contracts for services the Director must be satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost.
- 1.5 Subject to compliance with these CPRs and FPRs (and having appropriate delegated authority) a Director has authority to commence any procurement, subject to compliance with management processes designed to ensure that proposed projects meet the councils business needs, have appropriate arrangements for procurement and provide value for money.
- 1.6 A more prescriptive procurement regime must be followed where this is required by:
- EU Procurement Rules
  - UK domestic legislation
  - A grant funding organisation
- 1.7 Except where the Assistant Director Financial Management, Risk & Performance agrees otherwise, these CPRs apply in respect of any goods, works or services obtained by another organisation, where the Council is providing a loan, or making a Grant contribution of £80,000 or more.

- 1.8 Any officer or member of the Council and any person or organisation, when acting on the Council's behalf in relation to any contractual matter, directly or indirectly concerning the Council, must conduct themselves, such that the independence and integrity of these processes are maintained and seen to be maintained and there is compliance with the relevant officer or member Code of Conduct. Officers must take care in all dealings with suppliers and potential suppliers that they do not infringe any aspect of the Bribery Act 2010, and must seek advice from their Director if they have any doubts.
- 1.9 Failure to comply with these CPRs may result in disciplinary action against the officers concerned.
- 1.10 The Assistant Directors Physical Resources & Procurement, Legal, Governance & Monitoring and Financial Management, Risk & Performance may issue Guidance Notes to aid the interpretation of these CPRs. Any dispute concerning interpretation of these CPRs must be referred to the Assistant Director Financial Management, Risk & Performance who, in consultation with the Assistant Director Legal, Governance & Monitoring, may provide clarification and determination.
- 1.11 The Chief Executive may reassign the duties delegated in these procedure rules to the Assistant Directors Physical Resources & Procurement, Financial Management Risk & Performance and Legal, Governance & Monitoring, except that the post holders to whom these duties are assigned must hold general competencies in respect of:-
- public sector procurement; duties reassigned from Assistant Director Physical Resources & Procurement;
  - finance; duties reassigned from Assistant Director Financial Management, Risk & Performance;
  - law; duties reassigned from Assistant Director Legal, Governance & Monitoring;

And these duties cannot be assigned to the same person

## **[2 ] PRE CONTRACT PROCESS REQUIREMENTS**

- 2.1 The Director must ensure:-
- \* the procurement is justified by a business case and aligns with the Procurement Strategy.
  - \* the procurement is likely to be within budgetary provision.
  - \* the process can be adequately resourced.
  - \* a procurement risk assessment has been carried out.



- \* the appointment of an officer to carry out supervision of the resultant contract(s) in accordance with Financial Procedure Rule 21.8
- \* Where the Public Services (Social Value) Act 2012 applies, consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area and consider related consultation.

2.2 Before commencing any process to obtain any Supply having an estimated cost exceeding £80,000, the Director must consult with the Assistant Director Physical Resources & Procurement and (unless the Supply is to be obtained using an approved standard form of contract or process already agreed) the Assistant Director Legal, Governance & Monitoring .

2.3 The Director must provide to the Assistant Director Physical Resources & Procurement information necessary to enable the Council to comply with EU Procurement Rules. The Assistant Director Physical Resources & Procurement is responsible for ensuring the appropriate placing of notices in the Official Journal of the European Union (OJEU). Such notices may only be placed by officers authorised to do so by the Assistant Director Physical Resources & Procurement.

2.4 The Director must ensure that:-

- (1) Each Supplier is technically competent.
- (2) The Assistant Director Financial Management, Risk & Performance is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding £ 170,000\*.
- (3) There is compliance with any requirements or agreements regarding the use of in-house service suppliers, consortia and other suppliers whose usage is compulsory. (CPR 8)
- (4) A schedule of evaluation criteria, appropriately prioritised is prepared, including as appropriate initial cost, operating and end of life costs, technical merit, quality, environmental impact, equality, and any other relevant consideration. (These criteria must not include non-economically advantageous considerations). (see also 2.9)
- (5) All procurement activity for a Supply must comply with, as applicable, the Council's "Project Management Handbook" and "Framework for Successful Projects" and the "Information Security Policy".
- (6) Supplies of a similar type are procured together, and that orders are not split or aggregated for the purpose of avoiding the requirements

of these CPR, the EU Procurement Rules or any domestic legislation.

- 2.5 The Director must ensure the preparation of specifications, costs/pricing and other documentation. For all contracts that do not involve Land Assets (as to which see CPR 13) the Director must:
- Use standard documentation approved by the Assistant Director Legal, Governance & Monitoring (if this option is used the relevant Director is responsible for ensuring that the appropriate approved standard documents are used), or
  - Consult with the Assistant Director Legal, Governance & Monitoring who will prepare documentation appropriate for the contract, or
  - (if the value of the contract is below £80,000) Seek approval of the Assistant Director Physical Resources & Procurement pursuant to CPR 14.1(c) to use other arrangements and certify that the risks involved have been considered and are identified as low.
- 2.6 The Director must ensure that an estimate of the full cost of the Supply is prepared. The value should be estimated by reference to the gross value of the contract (including installation and supplier maintenance, and any income gained by all Suppliers involved in the agreement). Where the contract is for more than one year the contract value is determined by multiplying the expected annual value by the initial contract term (including any option period). If a term is not specified, 4 years must be used. Any grant funding must be included in calculating the contract value. VAT is excluded.
- 2.7 These CPRs apply equally to the outright purchase, contract hire, lease, rental or any other form of procurement. Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources or his delegate.
- 2.8 Pre tender consultation with Suppliers must not prejudice any potential Supplier, and no technical advice may be sought or accepted from any Supplier in relation to the preparation of any specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers.
- 2.9 In preparing a specification, the Director should consider how the procurement activity might meet the Councils wider policy and strategy but subject always to ensuring full compliance with EU and UK procurement legislation. Approaches to procurement must consider a whole life approach to commissioning, management and operation, and sustainability issues, as a part of design, specification and assessment.(see also 2.4(4))

- 2.10 The potential for collaboration with other public bodies must be considered when planning a procurement exercise.
- 2.11 When evaluating the suitability of contractors for inclusion on a specific contract or standing list of contractors, the director must use an appropriate form of qualification questionnaire that establishes competencies that are appropriate and necessary for delivery of the contract.

### **[3] VALUE OF SUPPLIES**

- 3.1 For Supplies involving an estimated value of below £200 any method of selection of a Supplier is permitted.
- 3.2 For Supplies involving an estimated value of between £200 and £20,000 any reasonable means to select the Supplier is permitted. Reasons must be kept to justify the decision taken.
- 3.3 For Supplies involving an estimated value above £20,000 one of the following processes will apply.
- ◆ Quotations - Supplier Selection (CPR 4)  
- Receipt and Evaluation (CPR 5)
  - ◆ Framework Suppliers (CPR 6)
  - ◆ Exemptions (CPR 7)
  - ◆ Internal, Consortia & Compulsory (CPR 8)
  - ◆ Negotiated Contracts (CPR 9)
- 3.4 The Cabinet will determine the procedures leading to the award of any contract which a Director believes cannot be satisfactorily placed in accordance with the processes described in these CPRs.
- 3.5 These CPRs also apply to the selection of any nominated or named sub contractor, product or manufacturer whose use by a Supplier is a requirement of a contract specification.
- 3.6 Reasonable Means to Select; this requires a methods of selection which reflects reasonable trade practice. At lower values it might include informal briefs, supplier written quotations or proposals, verbal or telephone quotes (which are then written down). The internet may be used as a means of obtaining comparative pricing for suitable supplies with an estimated value below £20,000. At higher values (where this applies in relation to works) it will require written specifications as regards the task, volumes, quantities, constraints.

#### **[4] QUOTATIONS: SUPPLIER SELECTION**

4.1 Quotations can be obtained:-

- a) By inviting Quotations from selected potential Suppliers (4.2 to 4.10)
- b) By open Quotation (4.9 & 4.10 (a))

4.2 Unless otherwise agreed with the Assistant Director Financial Management Risk & Performance in consultation with the Assistant Director Legal, Governance & Monitoring, a Director must invite at least the following number of Suppliers to submit a written Quotation:

<b>Estimated Value of Contract</b>	<b>Minimum Number</b>
£20,000 to £79,999	3
£80,000 up to EU Threshold or £170000*	4
Above EU Threshold or £170,000* (whichever is lower)	5

The Suppliers must have indicated that they are willing to submit a Quotation. The selection of any potential Supplier to submit a Quotation must be on the basis of a consistent, fair, justifiable and rational method, approved by the Assistant Director Physical Resources & Procurement.

If it is not possible to identify the number of willing prospective suppliers indicated above, the Director must retain a record of the efforts made and reasons why (if known) an appropriate number of suppliers could not be identified.

- 4.3 The selected potential Suppliers will be chosen to submit quotations as follows.

Estimated Value of contract		Standing list exists	Selection of supplier to Quote	Sections of CPRs that apply
Above the lower of the relevant EU Threshold and (or if no EU Threshold applies) Works; £4,350,000 Goods; £170,000 Services; £170,000		All cases	Advertise on SCMS and OJEU- and in other media if appropriate (OJEU first)	
<u>From</u>	<u>Up to</u>	Yes	From standing list	4.4 to 4.8
Works £100,000  Goods £20,000  Services £20,000	The lower of the relevant EU threshold and (or if no EU Threshold applies) Works - £4,349,999 Goods - £169,999 Services - £169,999	No	Advertise on SCMS & other selection	4.9 to 4.10
<u>Up to:</u>  Works £99,999  Goods £19,999  Services £19,999		All cases	Any reasonable means	3.6

### **Standing Lists: Creation and Usage**

- 4.4 The Assistant Director Physical Resources & Procurement will determine for which types of Supply Council-wide Standing Lists will be kept. The Assistant Director Physical Resources & Procurement will be responsible for creation and maintenance of lists which will be used Council-wide by any Director requiring Supplies of that type.

- 4.5 Standing Lists will be created by the selection of Suppliers to be included from those responding to advertisements placed on at least the SCMS web site and one appropriate printed newspaper or journal. Standing Lists will remain valid for five years from creation. During that period the list will remain open to the addition of further Suppliers meeting the appropriate admission requirements and will remain advertised on the Council's web site for that time. Lists must be renewed every 5 years.
- 4.6 Admission to the list should be on the basis of a rational, justifiable evaluation, of information submitted by prospective Suppliers relating to technical, financial and another relevant matters determined by the Assistant Director Physical Resources & Procurement . A written record of the evaluation of each prospective Supplier should be kept.
- 4.7 The Assistant Director Physical Resources & Procurement (in consultation with the Assistant Director Legal, Governance & Monitoring) may delete a Supplier from a Standing List only where there is appropriate written evidence justifying the action.
- 4.8 If there are insufficient Suppliers on a Standing List, or too few are willing to submit Quotations, (i.e. less than the numbers set out in 4.2) prospective suppliers for contracts exceeding £100,000 (works), £20,000 (goods and services) must be selected in accordance with CPR 4.9 to 4.10 as if a Standing List is not maintained.
- 4.9 If an open Standing List is not maintained and the estimated value exceeds £100,000 (works), £20,000 (goods and services) the Director must advertise for suppliers on the SCMS system and may also use any reasonable means to identify other appropriate Suppliers.
- 4.10 Considering both the identified and SCMS notified Suppliers, the Director will decide if:
- (a) all respondents are to be invited to submit a Quotation, or
  - (b) all respondents be subject to an equal systems of evaluation to select the most appropriate Suppliers to submit quotations
- 4.11 In some circumstances, the Assistant Director Physical Resources & Procurement may determine that it is not necessary for procurements of value below £80,000 to be advertised where it appears unlikely that there will be interest from suppliers based in other EU Member States.
- 4.12 For any procurement below £100,000 (works), £20,000 (goods and services), the Director may use any reasonable means to select potential Suppliers See 3.6

## **[5] QUOTATIONS: RECEIPT AND EVALUATION**

- 5.1 A written Specification detailing the Council's expectations and requirements, and the contract conditions must be prepared. The documentation must include a clear pricing document and details of what other information is to be returned as part of the Quotation. It must set out the criteria which the Council will use to evaluate the Quotations. Subject to legislative compliance, this may include factors which demonstrably aim to achieve the Council's policy.
- 5.2 Suppliers shall be given the choice of submitting Quotations electronically or in written, paper form. Where they have evidence that there will be no distortion of the market and that no supplier will be unreasonably disadvantaged and the EU Regulations not breached, the Assistant Directors Physical Resources & Procurement, Legal, Governance & Monitoring and Financial Management Risk & Performance may agree that in respect of a specific quotation or type of quotations only electronic quotes will be accepted.
- 5.3 All invitations must state clearly the date and time of return. Electronic quotations must be returned in accordance with the approved tendering system requirements. Paper quotations must be returned to:-

<b>Estimated Value</b>	<b>Returned to</b>
£20,000 to £79,999	Service
£80,000 and above	Assistant Director Physical Resources & Procurement

- 5.4 Paper quotations must be returned in a sealed envelope inscribed with the words: "Quotation for ....." and contain no other wording or marking to identify the sender.

### **Receipt and Opening of Quotations**

- 5.5 All of the paper quotations must be kept securely, unopened. If any quotation bears any name or identifying mark of the Supplier, this should be removed or obliterated.
- 5.6 All paper and electronic quotations received by the appointed time will be opened at the same time by:

<b>Estimated Value</b>	<b>Media</b>	<b>Representatives (at least)</b>
£20,000 to £80,000	Paper Only	Two service based officers
£20,000 to £80,000	Electronic Only Paper & Electronic	One Service representative One (PRP) Procurement officer
Above £80,000	Any	One Financial Management, Risk & Performance representative One (PRP) Procurement officer

5.7 The Director (quotations estimated under £80,000) or Assistant Director Physical Resources & Procurement (quotations estimated at £80,000 or over) will maintain a written record of the:-

1. Nature of the Supply
2. Name of each Supplier submitting a Quotation and the date/time of receipt
3. Name of Suppliers failing to submit prices/proposal
4. Prices from each Supplier
5. Names of the persons present at the opening
6. Date and time of opening of Quotations
7. Any reason for rejecting any Quotation

Each person present at the opening will initial each paper Quotation document, alongside the submitted price.

5.8 Notwithstanding 5.7, a full trail of electronic quotations received must be recorded or retained in a database approved by the Assistant Director Financial Management, Risk & Performance.

E-mail quotations are not permitted, except where approved by the Assistant Director Physical Resources & Procurement.

#### **Late Quotations**

5.9 Where there is evidence of reasonable efforts to submit a paper Quotation on time, it may be accepted when it is late, provided that the other Quotations have not been opened at the time of its delivery and the Supplier has gained no advantage as a consequence of the late submission. Any decision to accept a late quotation will be made by the Assistant Director Physical Resources & Procurement following approval by the Assistant Director Financial Management, Risk & Performance. The Assistant Director Physical Resources & Procurement can, after consultation with the Assistant Director Financial Management, Risk & Performance, agree to accept late electronic quotations where there is evidence of software failure leading to the inability to make an on time submission.



### **Qualified Quotations**

- 5.10 Suppliers must always be required to submit a compliant Quotation. Any variant Quotations which seek to change the Specification or other Contract documentation may be accepted by the Director, only after approval by the Assistant Director Financial Management, Risk & Performance.

### **Evaluation**

- 5.11 The Director will carry out an evaluation of the Quotations received against the pre-set evaluation criteria (CPR 5.1) and keep a written record of the analysis and outcome and will consider the overall financial (and service delivery) impacts on the Council as a whole.

### **Award**

- 5.12 If the amount of the Quotation proposed for acceptance is below £80,000, the Director may accept any Quotation even if it is not the lowest cost (or largest income) and issue an official Council Order (and or other appropriate documentation – see CPR 2.5) to the chosen Supplier. The Director must clearly justify (in writing) the reasons for selection of a Supplier who has not submitted the lowest cost Quotation.
- 5.13 For Quotations of £80,000 or above;
- a) If after evaluation it is proposed to select the lowest cost Supplier the Director will instruct the Assistant Director Legal, Governance & Monitoring to accept the Quotation and issue a contract.
  - b) If the proposal is to select a Supplier other than the one submitting the lowest cost Quotation, the Director must advise the Assistant Director Financial Management, Risk & Performance of the recommended Quotation, and the reasons for choice. When the Assistant Director Financial Management, Risk & Performance indicates satisfaction with the proposal to accept this Quotation, the Director may instruct the Assistant Director Legal, Governance & Monitoring to accept the Quotation and issue a contract.
  - c) The Director must ensure that, where required by EU regulations, appropriate notices of intention to award a contract to a particular supplier, or group of suppliers, are issued , and the necessary standstill period observed, prior to formal acceptance of the contract. The Assistant Director Legal, Governance & Monitoring must take reasonable steps to satisfy themselves of compliance with this process prior to formal acceptance of any quotation.

## **[6] FRAMEWORK SUPPLIERS**

- 6.1 The Assistant Director Physical Resources & Procurement may determine that Supplies of a particular type are to be obtained from Suppliers via a Framework Agreement, and the standards to be established in the Framework Agreement contracts. One or more Framework Suppliers may be selected for any type of Supply.
- 6.2 Framework Suppliers will be chosen by a competitive process in accordance with these rules, and be subject to advice from the Assistant Director Physical Resources & Procurement, Assistant Director Financial Management, Risk & Performance and the Assistant Director Legal, Governance & Monitoring
- 6.3 All Framework Agreements will be in the form of a Framework Contract detailing the method by which the Council will call off Supplies during the duration of the contract and stating that there will be under no obligation to order any Supplies of any type from a Supplier.
- 6.4 The Assistant Director Physical Resources & Procurement will ensure that the use of framework suppliers provides value for money, considering all procurement costs and alternative approaches.
- 6.5 The Assistant Director Physical Resources & Procurement will maintain a list of all Framework Supplier arrangements.

## **[7] EXCEPTIONS**

<There are substantial restrictions on the use of exceptions to competition where EU Procurement Rules apply>

- 7.1 The following are exempted from the competitive requirements:
  - a) Named products needed to be compatible with an existing installation, and available from only one Supplier.
  - b) Education or social care to meet an individual client need, requiring specialist provision, or necessary to accord with the Council's statutory obligations.
  - c) Grants awarded by the Council in accordance with an approved scheme.
  - d) The commissioning or purchase of a work of art or similar.
  - e) Unique or specialist Supplies available from only one Supplier.(this exception does not automatically justify the purchase of branded suppliers).

- f) Items purchased or sold by public auction (in accordance with arrangements agreed by the Assistant Director Financial Management, Risk & Performance).
- g) The selection of a Supplier whose usage is a condition of a grant funding approval.
- h) Where the Assistant Director Physical Resources & Procurement agrees that for the purposes of standardisation, or otherwise, the Council will obtain particular Supplies from named Suppliers, selected following a process compliant with these CPRs.
- i) Where the Assistant Director Physical Resources & Procurement does not believe that genuine competition can be obtained.
- j) Counsel, provided that the Assistant Director Legal, Governance & Monitoring takes steps to ensure that value for money is being obtained.
- k) A Supply required so urgently, (not due to any action, or inaction of the Council) as to prevent the compliance with these CPRs, with the prior agreement of the Assistant Director Financial Management, Risk & Performance
- l) The selection of a Supplier on the instruction of a third party, providing the whole of the funding is met by the third party.

7.2 The Director must make a written record of the justification for the selection of the Supplier. The Director must obtain the approval of the Assistant Director Physical Resources & Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £80,000.

## **[8] USE OF SUPPLY CONSORTIA, INTERNAL SUPPLIERS AND COMPULSORY USE OF OTHER SUPPLIERS**

8.1 Supplies may be obtained from a consortium of which the Council is a member and which are set up so that the Council call off from its contracts. The Director of Resources or his delegate may authorise membership of a UK government sponsored, local authority or other public body Supply consortium. The consortium must have followed clear written procurement policies and practices (e.g. its own contract procedure rules, or those of a named public body) and be compliant with relevant EU rules (as they apply to that public body and the Council).

8.2 When utilising a supply consortia, the Director must comply with the procurement rules that apply to that consortia (for example seeking quotes from all willing Suppliers on a consortium framework contract). The number

of participants in any mini competition must reflect the scheme requirements. The invitation, receipt, opening and assessment of mini competition quotes must operate in accordance with the requirements of section 5 above.

- 8.3 In respect of defined categories of goods, works and services the Assistant Director Physical Resources & Procurement may determine (following a competitive process) that the use of one (or more) Suppliers is compulsory.
- 8.4 Supplies must be obtained from other Council Services (which are capable of supplying them directly) without competition except where the Council has determined that Supplies of a particular kind will be subject to a competitive process. The Assistant Director Physical Resources & Procurement will maintain a list of approved, consortia and Council "trading services". The Assistant Director Physical Resources & Procurement may permit the use of another local authority as a supplier without competition (although subject to EU procurement rules).
- 8.5 Any decision to outsource an activity currently delivered by a Council Service exceeding £100,000 per annum in value must be approved by Cabinet. This does not apply to services provided in schools or to individual construction or design tasks awarded on an ad hoc basis.

## **[9] NEGOTIATED CONTRACTS**

< There are substantial restrictions on the use of negotiated contracts where EU Procurement Rules apply>

### **Occasions for Use**

- 9.1 There may be occasions where
- (a) The Director and Assistant Director Physical Resources & Procurement agree that the usual arrangements for Supply are inappropriate and a Supply may be negotiated with a particular Supplier.
  - (b) Following receipt of Quotations for the Supply the Director and the Assistant Director Physical Resources & Procurement agree that it is appropriate to seek to reduce the overall cost, or change other terms of the Supply by negotiation with one or more Suppliers which have submitted Quotations.
  - (c) It is appropriate for the Director and Assistant Director Physical Resources & Procurement to agree to the negotiation of a repeat, continuation or serial contract with an existing Supplier, by reference to the original Quotation for the Supply.

Note in the above, in order to achieve internal check, the Assistant Director Physical Resources & Procurement alone cannot reach such decisions. Where the Assistant Director Physical Resources & Procurement is acting in the capacity also as Director, there must be consultation with the Assistant Director Financial Management, Risk & Performance

### **Process**

- 9.2 Negotiations must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by (or included on a list of negotiators kept by) the Assistant Director Physical Resources & Procurement.

### **Legal Issues**

- 9.3 The Assistant Director Legal, Governance & Monitoring must be consulted in advance of any negotiation in respect of any contract estimated to exceed £80,000 (except those in relation to Land Assets where the Assistant Director Physical Resources and Procurement should be consulted, irrespective of value).

### **Award**

- 9.4 When the terms for a negotiated Supply have been provisionally agreed the Director may accept it if the value is below £80,000 and issue an Official Council Order and or appropriate documentation to the Supplier. Above this amount, the Director must advise the Assistant Director Financial Management, Risk & Performance of the proposed terms of the negotiated Supply including its cost and the reason for choice. When the Assistant Director Financial Management, Risk & Performance indicates that he is satisfied with the arrangement, the Director may then instruct the Assistant Director Legal, Governance & Monitoring to accept the arrangement and issue a contract.

### **Recording**

- 9.5 The Director must keep a written record of the reasons for using a negotiated procedure, the methodology and outcomes of the negotiation.

## **[10] E-AUCTIONS**

- 10.1 The use of or participation in internet and e-auctions (including “Dynamic Purchasing Systems”,) is permitted, with the written agreement of the Assistant Director Financial Management, Risk & Performance , and subject to supervision by the Assistant Director Physical Resources & Procurement

## **[11] REPORTING.**

- 11.1 Directors must keep detailed written records of all stages and all actions taken in reaching conclusions leading to the selection of a particular Supplier or Disposal of an Asset.
- 11.2 Each Director must provide to the Assistant Director of Physical Resources and Procurement, when requested:-
- (a) Details of all contracts awarded for Supplies of £80,000 or above following a competitive process including the name of the Supplier, and amount of the Quotation and if the chosen supplier was not the cheapest, then the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.
  - (b) Details of all contracts awarded for Supplies of £80,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.
  - (c) Details of all contracts awarded for supplies of £20,000 or above which a Director considered to be exempt from the competitive requirements by virtue of CPR 7.1, including the reason for the exemption.

## **[12] CONTRACTS FOR DISPOSAL**

- 12.1 The procedure for the Disposal of Assets (other than Land Assets, in which case see CPR 13) is;
- (a) Assets valued at below £200 may be disposed of by any means.
  - (b) Assets valued at between £200 and up to £20,000 must be disposed of by a method chosen by the Director and a written justification of the choice retained.
  - (c) Assets valued above £20,000 must be disposed of following public notice either by open quotation process, closed quotation process involving at least 3 prospective purchasers or public auction. The use of the council web site is permissible for this purpose.
- 12.2 Leased assets (other than Land Assets) must be disposed of only in accordance with the instruction of the lessor.
- 12.3 Written records must be maintained of all actions taken regarding the disposal of Assets pursuant to this CPR 12.

### **[13] LAND ASSETS**

- 13.1 Procurement of Land Assets will generally be by the means described in this rule. The Assistant Director Physical Resources & Procurement must be consulted in respect of all Land Assets transactions of any value except where the Assistant Director Legal Governance & Monitoring authorises other nominated officers to deal with tenancies or licences for specific purposes.
- 13.2 The Assistant Director Physical Resources & Procurement (and any other Director authorised so to do) will arrange the acquisition or disposal of estates or interests in land (including any buildings erected on it) either pursuant to the authority delegated to him by a Director in accordance with Part 3 (Section F) of the Constitution or, in the case of a decision made by Cabinet then in accordance with the authority delegated to him from the Cabinet.
- 13.3 Where any proposed land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between the Assistant Director Physical Resources & Procurement and the Assistant Director Legal, Governance & Monitoring, and details of the process leading to the transaction must be recorded, and the circumstances reported to Cabinet either for information, if falling within the delegated authority of officers, or in order to secure the relevant authority to give effect to the transaction.
- 13.4 Where Land Assets are sold at a public auction, the Assistant Director Physical Resources & Procurement must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) for consideration alongside the bids submitted or made. If a successful bid is less than the reserve price then the Assistant Director Physical Resources and Procurement may accept a lower bid provided that such lower bid is not less than 10% below the professional valuation of the reserve price.

### **[14] CONTRACTS & ORDERS**

- 14.1 The procurement of all Supplies (and the provision of Supplies to outside bodies) up to £80,000 can be made by the Director or officers authorized by the Director either:-
- (a) By the issue of an official electronic Council order; or
  - (b) By the issue under signature of a written Council order; or
  - (c) In accordance with other procurement arrangements agreed with the Assistant Director Physical Resources & Procurement; or

- (d) By a contract approved by the Assistant Director Legal, Governance & Monitoring.

If the Director and Assistant Director Legal, Governance & Monitoring agree that it is appropriate for the contract to be sealed (or if it is required by law), the contract will be executed by the Assistant Director Legal, Governance & Monitoring

- 14.2 The procurement of all Supplies (and the provision of Supplies to outside bodies) of £80,000 and above must be made by a contract, in writing, issued by the Assistant Director Legal, Governance & Monitoring.

Every contract for the procurement of Supplies (which includes call-offs from Framework Agreements entered into by this council and on its behalf by procurement bodies such as Yorkshire Purchasing Organisation) and every Framework Contract with an estimated value of £80,000 or more must be either:-

- (a) Made under the corporate common seal of the council, attested by one officer

or

- (b) Signed by two legal officers

who have been nominated by the Assistant Director Legal, Governance & Monitoring; except where clause 14.4 below applies.

- 14.3 Every contract for the procurement of Supplies must set out:

- a) Details of the Supply to be made or Asset to be disposed of;
- b) The price or prices to be paid or received and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deductions;
- c) The time(s) within which the contract is to be performed; and
- d) Such other matters as the Assistant Director Legal, Governance & Monitoring considers to be necessary.

- 14.4 The Assistant Director Legal, Governance & Monitoring(or nominee) may authorise other nominated officers to sign specific or specialist contracts for Supplies of £80,000 or above. Two authorised officers must sign each such contract.



- 14.5 In respect of any contract for Supplies valued at less than £80,000 where a Director believes that an Official Council Order may be inappropriate they must consult the Assistant Director Legal, Governance & Monitoring
- 14.6 Supplier standard contracts must not be signed by any officer except when agreed by the Assistant Director Legal, Governance & Monitoring.
- 14.7 The Assistant Director Legal, Governance & Monitoring will complete all land transactions, including acquisition or disposal by way of freehold or leasehold purchase or sale or the taking or granting of all short or long term leases or tenancies (with the exception of the granting of tenancies for housing and associated properties for rent which is delegated to Kirklees Neighbourhood Housing Ltd) and other deeds and documents associated with Land Assets. The Assistant Director Legal, Governance & Monitoring may nominate other officers to enter into Land Assets commitments and arrangements using documentation previously approved by Assistant Director Legal, Governance & Monitoring.
- 14.8 Any contract for the sale or acquisition of Land Assets and any other deed or document relating to Land Assets transactions shall either be signed by the Assistant Director Legal Governance & Monitoring or have the corporate common seal affixed in his presence or, in either case, by a legal officer nominated by him except where the Assistant Director Legal Governance & Monitoring authorises other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR13.1.
- 14.9 All supply contracts in excess of £300,000 will be bonded in the sum of 10% of the Quotation value, except where the Assistant Director Legal, Governance & Monitoring and Assistant Director Financial Management, Risk & Performance agree either:
- a) No bond is necessary; or
  - b) A different value (or percentage) is appropriate; and or
  - c) A parent company guarantee or other form of surety can be accepted instead.
- 14.10 The Assistant Director Legal, Governance & Monitoring may release any bond held by the Council, on request from the Assistant Director Physical Resources & Procurement. The Assistant Director Finance, Risk & Performance is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Assistant Director Legal, Governance & Monitoring accept such proposed sums.
- 14.11 A Director, in consultation with the Assistant Director Legal, Governance & Monitoring, has the power to terminate any contract in the event of any breach of contract justifying termination, where in the opinion of these officers no other remedy is appropriate. Where the financial implications of

a decision to terminate a contract exceed, or may exceed £50,000, the reason for termination and any consequences must be reported to the next meeting of the Cabinet.

- 14.12 The Assistant Director Legal, Governance & Monitoring is entitled to sign any agreement related to the procurement or sale of any item, services or works, which is not covered by these CPRs, or any other Council or Cabinet delegation provided that these are not subject to any contrary direction from the Council or Cabinet.

**[15] SPECIAL PURPOSE VEHICLES**

- 15.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the Assistant Director Legal, Governance & Monitoring and Director of Resources This does not apply to any purchase of shares or similar for the purpose of investment.

KIRKLEES COUNCIL

FINANCIAL PROCEDURE  
RULES

JUNE 2012

## **Financial Procedure Rules**

### **Introduction**

These Financial Procedure Rules set out the framework which the Council will use in managing its financial affairs. They set out levels of responsibility and give authority to the Cabinet, Members and Officers and are intended to promote good practice in the use of public funds.

A guide to the Financial Procedure Rules will be published on the Intranet to help users understand and implement good financial management. Users should contact the Director of Finance & Performance or his staff if assistance or clarification is needed.

### **Contents**

1. Financial Governance
2. Revenue Budget Preparation and Management Revenue Budget
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## **Financial Procedure Rules**

### **Definitions**

Activity Budget	A standard sub division of a Service Budget
Asset	An item belonging to the Council that has a value ; It can include buildings, equipment, vehicles, stocks, stores, money and items of intellectual value
Associated Organisation	An organisation in which the Council has a majority or substantial shareholding, or exercises substantial influence through its funding of the organisation.
Business Case	A written document, setting out the reasons for a project, including analysis of options, risks and resources needed.
Cabinet Member	A single member of the Cabinet.
Director	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive.
Fixed Asset	Any physical item having a long term value –such as a vehicle, or property.
Irregularity	An unexpected or inappropriate event or behaviour
Land Asset	Means the property of the Council that is freehold or leasehold property (including any buildings on it), rights of possession of land, easements and/or other estates or interests in land.
Medium Term Financial Plan	Three year Revenue Budget Plan and Capital Investment Plan.
Named Project	A project (forming part of a Capital Programme) identified by Cabinet (or any other body or person so authorised by Cabinet) for inclusion in the Capital Plan.
Officer	An employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules apply.
Partnership	Any organisation with which the Council has a formal or informal agreement to act together.
Programme Area	A group of projects having a similar purpose in the Capital Investment Plan.
Project	A single scheme included separately in the Capital Investment Plan, or as a part of a programme area.
Rollover	A mechanism for transferring budgets between financial year.
Service Budget	The budget associated with each Service Plan.
Service Plan	A statement of objectives plans, performance measures and the use of resources for a Service.
Specified Project	A project specified by Council for inclusion in the Capital Plan.
Virement	The transfer of resources from one budget to another.

## **1. FINANCIAL GOVERNANCE**

- 1.1 The Council has a statutory duty to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has responsibility for the administration of those affairs. The Council has resolved that the Director of Resources is the responsible officer.
- 1.2 The Council will approve Financial Procedure Rules to be used by all members and officers.
- 1.3 The Corporate Governance & Audit Committee is responsible for approving the Council's Annual Statement of Accounts
- 1.4 The Cabinet is responsible for ensuring that the Financial Procedure Rules are followed across the Council. The Corporate Governance & Audit Committee is also responsible for reviewing the Financial Procedure Rules annually and for making recommendations for any changes to the Council.
- 1.5 The Cabinet is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management arrangements.
- 1.6 The Personnel Committee is responsible for recommending to Council the annual Pay Policy statement and strategy, for implementation each April.
- 1.7 The Director of Resources is responsible for the proper administration of the Council's financial affairs, and particularly for:-
  - a) Providing financial advice and information to members and officers;
  - b) Setting standards for good financial management and monitoring compliance with those standards;
  - c) Advising on the key financial controls necessary to secure sound financial management;
  - d) Ensuring that proper systems of internal control are operated;
  - e) Co-ordinating the preparation of the Revenue Budgets and the Capital Investment Plan;
  - f) Determining the accounting policies and financial procedures and records for the Council;
  - g) Preparing the annual financial statements in accordance with the relevant accounting standards and codes of practice;
  - h) Treasury management activities;
  - i) Preparing a risk management policy statement and promoting it throughout the Council;
  - j) Maintaining an effective internal audit function;
  - k) Ensuring proper professional practices are maintained within the finance function; and
  - l) Managing the Council's taxation affairs.
- 1.8 The Director of Resources must report to the Council if :-

- a) A decision has been made, or is about to be made, which involves the incurring of expenditure which is unlawful; or
  - b) There has been, or is about to be, an unlawful action resulting in a financial loss to the Council.
- 1.9 The Director of Resources may issue any instruction intended to fulfil these responsibilities and is entitled to any information or explanations as he/she may require.
- 1.10 Directors must ensure that financial systems and procedures used in their service area are adequate to record and control all transactions and to achieve adequate levels of internal check and control.
- 1.11 Directors must make arrangements to ensure that all Officers involved in financial matters are aware of, and competent in the use of, these Financial Procedure Rules. The extent of delegated authority to officers must be recorded.
- 1.12 Directors must ensure that the financial implications of all proposals have been agreed with the Director of Resources and reported to Cabinet.
- 1.13 Where, as a result of legislation or decision of the Council, part of the Council's functions are delivered by an associated organisation including any partnerships of which the council is a member or participant, funded partly or wholly by the Council, the organisation must submit for approval by the Council its own arrangements for corporate governance. These arrangements will incorporate the spirit of the Council's Financial Procedure Rules, and will include the Council's right of access to financial information about the associated organisation.
- 1.14 Schools with delegated budgets are subject to, and must comply with, the 'Kirklees Scheme for Financing Schools', which has tailored these Financial Procedure Rules for use in those Schools.
- 1.15 A reference in the Financial Procedure Rules:-
- a) To a Director includes where appropriate the Chief Executive.
  - b) To the Cabinet includes Cabinet committees;
  - c) To the Director of Resources includes his or her nominees; and
  - d) To an officer means any employee of the Council, or other persons contracted to carry out functions where these Financial Procedure Rules apply.

## **2. REVENUE BUDGET PREPARATION AND MANAGEMENT**

### **Responsibilities**

- 2.1 The Council is responsible for determining the Council's Medium Term Financial Plan comprising a multi year General Fund Revenue Budget Plan and Capital Investment Plan and setting the level of Council Tax each year. The multi year plan will normally be for a period of 3 years.
- 2.2 The Cabinet is responsible for recommending to the Council a Medium Term Financial Plan comprising a multi year General Fund Revenue Budget Plan and Capital Investment Plan and for implementing it when determined.
- 2.3 The Cabinet is responsible for approving the setting of Council Tenant Rents, and other rents and service charges within the Housing Revenue Account (HRA), each year, within the scope of existing HRA rent and charging policies.

### **Budget Preparation**

- 2.4 The Cabinet will submit to the October meeting of the Council each year a provisional budget strategy for the following three years, and Budget Planning Totals for all services and central budgets.
- 2.5 The provisional budget strategy will include arrangements for wider public engagement on budget options being considered.
- 2.6 Directors will produce draft service plans and budgets in accordance with the Budget Planning Totals, as required by the annual budget timetable. These draft plans will explain the service changes proposed to be made, taking into account performance targets, resources allocated, and the specific requirements of any relevant legislation, including service equalities impacts, in formulating budget options for Cabinet consideration.
- 2.7 The Cabinet will consider these proposals in detail and make its recommendations to the Council at least 14 days before the date set for the meeting of the Council which will determine the budget.
- 2.8 The Director of Resources is responsible for establishing budget procedures and a timetable, and providing financial information on all the draft service plans including any amendments put forward as part of the Council's budget process and on the extent of change in service levels or efficiency in the proposals.
- 2.9 The Director of Resources will advise the Cabinet and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need for contingency budgets, and on the risks involved in the forecasts of spending levels and income.

### **Budget Management**

- 2.10 The Cabinet is responsible for implementing Service and Corporate Plans within the resources allocated in the Revenue Budget. The Cabinet will provide summary monitoring information to the Council at least twice per year.



- 2.11 The Cabinet is authorised to transfer resources (undertake a Virement) of more than £200,000 either within or between service budgets, subject only to the cumulative Virements on any one service not exceeding 10% of the original gross budget, or £1m, whichever is the smaller. Cumulative Virements above these thresholds requires Council approval.
- 2.12 Directors, in consultation with executive members, are authorised to transfer resources either within or between service budgets subject only to the cumulative Virements on any one activity not exceeding 5% of the original gross budget or £200,000, whichever is the smaller. Virement which is associated with a change in the level of service from that set out in the service plan must be approved by the Cabinet.
- 2.13 Assistant Directors are authorised to transfer resources within an activity budget without limit providing the service plan for the activity is not changed in a material way.
- 2.14 The receipt and use of grants or other funding contributions not included in the service plan will usually be a material change. Any material increase in risk as a consequence of a proposed Virement requires Cabinet approval (for example a change from outsourced to direct employment may have the same overall cost, but may significantly increase the Council's risk). Virement is specifically not allowed where the transfer of resources is from budgets for capital charges simple service level agreements (SLAs) or statutory taxes and levies.
- 2.15 All Virements will be recorded in a way prescribed by the Director of Resources who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet .
- 2.16 Directors are authorised to incur any expenditure included in the approved revenue budget for the Service, as amended by any Virement including obtaining and accepting quotations and providing grants and loans, subject to other requirements of CPRs and FPRs.
- 2.17 Directors are responsible for managing budgets within their delegated authority and should exercise proper budgetary control in order to achieve service plan objectives.
- 2.18 .Directors must report on budget management, They must take action to avoid overspending budgets and report any difficulties to the Director of Resources. These reports must be in a format and to a timetable prescribed by the Director of Resources.
- a) Where a Director is reporting a projected overspending of more than £200,000 and it equates to 1% or more of the service budget, or in all cases an overspending of more than £500,000, the Director must prepare a report to Cabinet setting out the reasons for the overspending and options for eliminating or reducing the overspending.
  - b) When a Director reports under Financial Procedure Rule 2.18a, the Cabinet is responsible for approving an action plan.
  - c) The Cabinet is responsible for monitoring the implementation of the action plan, and for taking such further steps as are necessary to align activity with resources.

- 2.19 The Director of Resources is accountable for all contingency budgets, which will be managed in the same way as service and activity budgets. The Director of Resources will also have delegated authority to review the requirement for existing Council Provisions and earmarked Reserves, in-year, and to report any new Reserves or Provisions requirements, to Cabinet
- 2.20 Directors should delegate authority to commit budgets to the appropriate level of management, make arrangements to set out clearly the extent of authority of managers, and review the performance of managers in managing these budgets.
- 2.21 Where, as a result of a mistake or error by an officer, the Council becomes liable for any charges, penalties or additional expenses, such costs will be met by the Service in which the error is made.
- 2.22 Whenever the Cabinet becomes aware –following a report from the Director of Resources- that a reduction in resources during the current or future years may impact on the Councils financial position, it may take such steps as it considers necessary to reduce activity immediately or at a stage prior to the next budget Council in order to address this factor.
- 2.23 Director of Resources will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year.
- 2.24 After the end of each financial year, the Director of Resources will report to the Cabinet and the Council on the outturn financial performance and proposed rollover of each Directorate and of the Council as a whole.

### **Rollover**

- 2.25 Rollover is a mechanism for transferring budget provisions from one year to the next, or vice versa.
- 2.26 The Council, in determining the Revenue Budget for a particular year, will also determine the arrangements for rollover for that year. The Council will determine changes to the Council's Revenue Budget arising from the rollover process.
- 2.27 The Cabinet is responsible for recommending changes to the Revenue Budget arising from the rollover process.
- 2.28 In the rollover process, there will be a presumption that the overall level of resources available to support rollover proposals will not exceed the net under spend of the Council as a whole for that year.
- 2.29 Subject to the parameters set out in FPR 2.28 above, there will be a presumption that rollover entitlement will be considered at a Directorate level in the first instance, and will not exceed the Directorate's net under spend position for that year.

### 3. **CAPITAL INVESTMENT PLAN PREPARATION AND MANAGEMENT**

#### **General**

- 3.1 All capital investment must be made in recognition of the CIPFA 'Prudential Code for Capital Expenditure', and take account of affordability, prudence and financial sustainability, value for money, stewardship, organisational objectives, and practicality. In order to achieve this, Directors must prepare a business case in respect of each project (or programme).

#### **Responsibilities**

- 3.2 The Council is responsible for determining the Council's Capital Investment Plan and approving the prudential indicators and limits that support the capital investment.
- 3.3 The Cabinet is responsible for recommending to the Council a multi-year Capital Investment Plan and the prudential indicators and limits that support the recommended capital investment, and for implementing it when determined.
- 3.4 The Director of Resources will advise the Cabinet and the Council on the overall Capital Investment Plan and levels of funding available. The Director of Resources must confirm the robustness of the capital plan and assess and report to Cabinet on the revenue effects of the capital plan (financing, additional running costs, savings and income) and indicating the prudential indicators and limits that support the capital investment.

#### **Capital Investment Plan Preparation.**

- 3.5 The Director of Resources will prepare draft investment plans in accordance (where set) with the planning totals. Directors are responsible for providing details of all programmes and projects in a format prescribed by the Director of Resources.
- 3.6 The Cabinet will consider these proposals in detail and make its recommendations to the Council at the same time as the proposed Revenue Budget.
- 3.7 The Council will determine allocations of capital resources to programme areas, or to specified projects.

#### **Plan Management**

- 3.8 The Cabinet is responsible for implementing the Capital Investment Plan within the resources allocated.
- 3.9 Where the Council has allocated resources to a programme area, the Cabinet will determine the allocation of resources from the programme area to named

projects.

- 3.10 The Cabinet is authorised to transfer resources within a programme area without restrictions.
- 3.11 The Cabinet is authorised to transfer resources between programme areas or specified projects, subject only to the maximum amount of Virement in any one year on any programme or specified project not exceeding 10% or £500,000, whichever is the smaller. Where the 10% is less than £100,000, Virement of £100,000 will be allowed. The 10% limit does not apply to transfers from the Capital Contingency.
- 3.12 The Cabinet may delegate its authority under Financial Procedure Rules 3.10 and 3.11 to individual Cabinet members, to Area/Town & Valley Committees, to Directors or, in the case of the Housing Investment Plan, to the Board of Kirklees Neighbourhood Housing Limited. The Cabinet is required to determine arrangements for delegation, which may differ between service areas. These delegations should be agreed annually by the Cabinet.
- 3.13 The Cabinet may delegate to Directors its authority to exercise Virement within a programme area, provided that: the spending on the whole programme area being contained within the resources allocated; the Virement of additional resources into or from a project being less than the tolerance levels set out in Financial Procedure Rule 3.21 and Directors report retrospectively to Cabinet on the use of this authority as part of the quarterly monitoring on the Capital Plan.
- 3.14 All Virement will be recorded in a way prescribed by the Director of Resources, who will arrange for Virements to be reported to the Cabinet.
- 3.15 The Director of Resources will report to the Cabinet on the overall management of the Capital Investment Plan at least four times per year. The Cabinet will provide summary monitoring information to the Council at least twice year.

### **Virement**

- 3.16 Directors are responsible for managing programmes and projects. Directors must prepare regular reports on the progress of projects in a format and to a timetable prescribed by the Director of Resources.
- 3.17 Directors are responsible for managing programmes and projects. They must take action to avoid overspending the amounts provided in the Capital Investment Plan and report any difficulties to the Director of Resources.

### **Progressing investment decisions**

- 3.18 The Chief Executive may establish a Strategic Investment Board to oversee investment in capital programmes and projects (and revenue projects as approved by Management Board). This Board will consider business cases and has authority to give instruction to Directors and provide advice to Cabinet in relation to delivery of investment. Directors must prepare a business case

(in a format prescribed by the Director of Resources) for each project or programme area. The Strategic Investment Board may permit Directors to proceed with planning applications and the completion of feasibility studies and option appraisals as part of developing a business case.

- 3.19 The Cabinet will approve each business cases. The Cabinet will in some instances decide that the business case should be prepared for a whole programme area, or a group of projects. The Cabinet may delegate some or all of its authority to approve business cases to individual Cabinet members, to Area Committees or in the case of Housing Revenue investment to Kirklees Neighbourhood Housing Ltd. Cabinet may delegate the identification of projects that fall within a business case to individual Cabinet members, to Area Committees, in the case of Housing Revenue investment to Kirklees Neighbourhood Housing Ltd, or to Directors. These delegations should be agreed annually by the Cabinet.
- 3.20 In respect of each project authority to proceed only arises when the Cabinet, or other body or person authorised by 3.19, has approved the Business Case and (if applicable) named project allocation. Directors are authorised to proceed (as appropriate) to land acquisition, detailed design and to commit to contracts providing: -
- a) That the total costs of a project including tenders or quotations, fees etc, are estimated to be less than or equal to the amount approved in the business case and the Capital Investment Plan; or
  - b) That where the total costs of a project exceed the amount approved in the business case and the Capital Plan and the excess is within agreed tolerance levels(3.21), the appropriate Virement has been approved;
  - c) All necessary external approvals, if any, have been obtained;
  - d) The incurring of the expenditure has been authorised by the Director of Resources; and
  - e) That any contracts over £80,000 have been signed by the Assistant Director Legal Governance & Monitoring

- 3.21 The tolerance levels set out in Financial Procedure Rule 3.20(b)

<b>Current project value</b>	<b>% Tolerance</b>	<b>Minimum value</b>
£0-£249,000	10%	£15,000
£250,000 to £499,000	8%	£25,000
£500,000 to £749,000	6%	£40,000
£750,000 to £1,249,000	5%	£45,000
£1,250,000 to £1,999,999	4%	£60,000
£2,000,000 and above	3%	£80,000

- 3.22 The Director of Resources will authorise the incurring of the full project costs provided he/she is satisfied that the approval will not give rise to any further expenditure not provided for in either the Capital Investment Plan or the

Revenue Budget, and there is no other material change to any circumstance. In the event of material change, the processes described at 3.18 and 3.19 must be repeated

- 3.23 The Director of Resources and Strategic Investment Board are responsible for post implementation reviews of capital projects to assess the outcome of investment programmes and projects, and the extent to which these achieved the planned objectives set out in the business case. This assessment will be used to influence future investment planning and conclusions reported in summary to Cabinet as a part of the capital investment planning process.

#### **4. FINANCIAL SYSTEMS, PROCEDURES AND GRANTS**

- 4.1 The Director of Resources is responsible for the operation of the Councils accounting systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems or the establishment of new systems must be approved by the Director of Resources.
- 4.2 Any changes to financial procedures to meet the specific needs of a Service must be agreed between the Director and the Director of Resources.
- 4.3 Directors must ensure that officers understand and are competent to undertake their financial responsibilities and receive relevant financial training that has been approved by the Director of Resources.
- 4.4 Directors are responsible for the proper operation of financial processes in their own departments and must ensure that all financial, costing, and other statistical information is recorded fully and accurately.
- 4.5 Directors must ensure that financial documents are retained in accordance with the Council's approved retention schedule.
- 4.6 As far as practicable, Directors must make arrangements for the separation of duties between the carrying out of transactions and the examining and checking of transactions.
- 4.7 Directors in consultation with Cabinet Members, may apply for grants from any funding body, providing the proposed activity is consistent with the approved service plan and Council policy.
- 4.8 Directors must ensure a detailed business case is prepared, in consultation with the Director of Resources, in respect of any grant offer. Any material grant conditions must be agreed with the Assistant Director Legal Governance & Monitoring
- 4.9 Directors are authorised to accept any offer of grant and subsequent grant conditions up to a maximum of £100,000, or 5% of the gross revenue budget (capital plan where the grant funding is for capital purposes) for the activity, whichever is the higher.

- 4.10 The Director of Resources in consultation with the Assistant Director Legal Governance & Monitoring and the appropriate Director is authorised to apply for, and or approve the acceptance of grants in all other circumstances.
- 4.11 Grant claims, financial returns and submissions must be completed by the relevant Director and the Director of Resources for submission to the relevant government department, agency or organisation.

## **5. INTERNAL AUDIT**

### **Responsibility & Authority**

- 5.1 The Director of Resources must arrange and direct a continuous internal audit, which is an independent review of the accounting, financial and other operations of the Council.
- 5.2 The Head of Audit & Risk will report directly to the Chief Executive, the Chair of the Corporate Governance & Audit Committee or the External Auditor in any circumstance where the functions and responsibilities of the Director of Resources are being reviewed.(other than routine reporting of work carried out )
- 5.3 The Head of Audit & Risk has authority to:-
- (a) Enter at all times any Council premises or land or location from which Council services are provided;
  - (b) have access to all property, records, documents and correspondence relating to all activities of the Council;
  - (c) require and receive explanations concerning any matter; and
  - (d) Require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.

The Director of Resources has the same authority for any accounting or associated purpose.

### **Reporting**

- 5.4 The Head of Audit & Risk must report upon:-
- a) The risks inherent in and associated with each system;
  - b) The soundness, adequacy and application of the financial and other management controls and systems within each Service;
  - c) The extent of compliance with, and the financial effects of, established policies, plans and procedures;

- d) The extent to which the organisation's Assets and interests are accounted for and safeguarded from losses of all kinds arising from fraud, other offences, waste, extravagance and inefficient administration, poor value for money and other cause;
  - e) The suitability, accuracy and reliability of financial and other management data within the organisation; and
  - f) Value for money aspects of service provision.
- 5.5 In respect of any audit report or communication issued, the Director must reply within 6 weeks indicating the action proposed or taken, by whom and including target dates. Where a draft report is issued for initial comments a reply must be made within 2 weeks of issue.
- 5.6 The Head of Audit & Risk will provide a written summary of the activities of the Internal Audit function to the Cabinet and Corporate Governance & Audit Committee at least four times per year and an Annual Report produced for consideration by Management Board, Cabinet and Corporate Governance & Audit Committee, including an audit opinion on the adequacy and effectiveness of the Council's risk management systems and internal control environment.

The Director of Resources will review the system of internal audit on an annual basis and report the outcome to the Corporate Governance & Audit Committee.

#### **Investigations and Suspected Fraud, Corruption or Bribery.**

- 5.7 The Chief Executive and Directors must ensure that all Members and employees are:-
- a) Aware of the Council's Anti-Fraud, Anti Corruption and Anti Bribery Strategy;
  - b) Aware of the Whistleblowing Strategy; and
  - c) Operating in a way that maximises internal check against inappropriate behaviour.

The Director of Resources is responsible for the development and maintenance of the Anti-Fraud, Anti-Corruption and Anti Bribery Strategy and Whistleblowing Strategy and for directing the Council's efforts in fraud investigation.

- 5.8 It is the duty of any officer who suspects or becomes aware of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the operations or exercise of the functions of the Council to immediately advise the Director. The Director concerned must immediately notify the Head of Audit & Risk who may take action by way of investigation and report.



- 5.9 Where, following investigation, the Head of Audit & Risk considers that there are reasonable grounds for suspecting that a loss has occurred as a result of misappropriation, irregular expenditure or fraud, consultations will be held with the Director on the relevant courses of action, including the possibility of police involvement and the invoking of any internal disciplinary procedure in accordance with the relevant conditions of service. (Claimant fraud in respect of Housing and Council Tax Benefit and Discounts (where the claimant is not an employee or Member of the Council) is investigated by the Customer and Exchequer Service).

## 6. **INSURANCE**

- 6.1 The Director of Resources, in consultation with Directors is responsible for assessing insurable risks and for arranging all insurance cover, including the management and control of the insurance fund. He/she will control all claims and maintain records of them. He/she has authority to receive or make claims on behalf of the council and negotiate and agree all settlements.
- 6.2 Directors must promptly notify the Director of Resources in writing of all new risks or Assets to be insured and of any alterations affecting existing insurances. All insurances held must be reviewed on an annual basis.
- 6.3 In the event of any insurance claim or occurrence Directors must:-
- a) Not admit liability where this may prejudice the outcome of any settlement;
  - b) Promptly notify the Director of Resources, in writing, of any loss, liability, damage or any event likely to lead to a claim; and
  - c) Inform the Police in the case of loss or malicious damage to Council property.
- 6.4 Directors must consult the Director of Resources and the Assistant Director Legal Governance & Monitoring as to the terms of any indemnity the Council is required to give.
- 6.5 The Director of Resources will determine the extent of insurance cover which must be provided for in any external contract for the supply of goods, works or services. The Director of Resources, in consultation with the Director and Assistant Director Legal Governance & Monitoring, may reduce the cover requirements in respect of specific contracts.

## 7. **ASSETS**

- 7.1 Directors are responsible for the care and custody of all current and Fixed Assets of the relevant service (including stocks, stores, inventory items and all other items used for the Council's purposes, including property). These items must only be used for the authorised purposes of the Council.

- 7.2 Directors must ensure that contingency plans exist for the security of Assets and the continuity of service in the event of any disaster, significant event, or system failure.

### **Disposal of Assets**

- 7.3 Surplus or obsolete goods, materials and inventory items are to be disposed of by agreed transfer to another Service, competitive sale or public auction in accordance with Contract Procedure Rules, except when the Cabinet instructs otherwise.
- 7.4 Leased items (excluding Land Assets) should only be disposed of in accordance with instructions of the lessor.

### **Stores**

- 7.5 Directors must keep records of all stock held, and certify the value for accounting purpose at 31 March of each year. The Director of Resources will determine which items will be subject to stock accounting, the methods of recording and valuation.
- 7.6 Directors must arrange periodical or continuous checks of stock. This should be by persons independent of the management of the stock. These arrangements must ensure that all items of stock are checked at least once per year. The Director of Resources will be notified of any discrepancies revealed by periodic checks, and is authorised to amend records accordingly.
- 7.7 Stock holdings should be kept at minimum levels consistent with normal working practices

### **Inventories**

- 7.8 Directors are responsible for ensuring that detailed inventories of all land, buildings, equipment, furniture, fittings, vehicles, plant and machinery are compiled and kept up-to-date. New inventory items must be entered promptly and redundant items (other than Land Assets) deleted and disposed of in accordance with Financial Procedure Rule 7.3. The form of inventory and the type of Assets recorded thereon will be determined by the Director of Resources after consultation with the appropriate Director.
- 7.9 The inventory should include:-
- a) The nature, type, model , serial number, location, quantity, value, date of acquisition;
  - b) All items of, or collection of similar items valued at, more than £100;
  - c) Items of a lesser value which are portable and attractive; and

- d) Evidence to indicate an annual inspection has been carried out.
- 7.10 When Assets are loaned to employees, other Council services or other organisations, the Director must record the reason for the loan, date/periods and name of the receiver.
- 7.11 Inventory items must (where appropriate) be security marked, stamped or engraved with the Council's name.
- 7.12 Each Director is responsible for ensuring that an annual check is made of all items on the inventory and must notify the Director of Resources of any discrepancies revealed by these checks.

### **Fixed Assets Register**

- 7.13 The Director of Resources must ensure that a Register of Fixed Assets is maintained.
- 7.14 Each Director must immediately notify the Director of Resources of the acquisition of any Asset having a value of £10,000 or (and Land Assets of any value).
- 7.15 Each Director must immediately notify the Director of Resources of the disposal (or transfer to another Service) of any Asset (or part of any Asset) which is included on the Register of Fixed Assets.
- 7.16 In respect of any item acquired by lease (other than a Land Asset) the inventory must be marked with the name of the leasing company and the date of expiry of the lease agreement. When requested by the leasing company the item must be suitably marked as the property of that company.

### **Land Assets**

- 7.17 The Assistant Director Physical Resources & Procurement must maintain a detailed record of all Land Assets owned by the Council (except dwellings provided for general letting) and is responsible for the security and custody of all title deeds and must maintain a suitable register of Land Assets.
- 7.18 The disposal of Land Assets is dealt with in the Contract Procedure Rules.
- 7.19 **Information Assets**

Directors are responsible for ensuring that inventories of all information Assets are compiled and kept up-to-date. New inventory items must be entered promptly and redundant items deleted and disposed of in accordance with the Council's Information Security Policy Records Management Policy and the appropriate Retention and Disposal Schedule. The form of inventory and the type of Assets recorded thereon will be determined by the Director of Resources

## 8. **SECURITY**

### **Security of Assets**

- 8.1 Directors are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash and any other Assets for which they are responsible. The Director of Resources must be consulted to establish adequate security arrangements except in relation to Land Assets that are the responsibility of the Assistant Director Physical Resources and Procurement, or other Director, under Contract Procedure Rule 13.
- 8.2 All keys to safes and other places containing money, goods or other valuables are to be the responsibility of specified officers who must retain possession of such keys at all times.

A register of keys and their holders must be maintained by each Director. The loss of any key must be reported immediately to the Director who must record details of the circumstances of the loss, and take such action as is necessary to protect the property of the Council.

- 8.3 Maximum limits for cash holdings in each separate establishment are to be agreed with the Director of Resources, and must not be exceeded without permission.

### **Security of Information**

- 8.4 Directors must maintain proper security, privacy and use of information held in computers, portable storage devices and all other recording systems under their control.

Directors must ensure that:-

- a) All employees are aware of and comply with the Council's Information Security and Records Management policies;
- b) All sensitive information is protected from unauthorised disclosure;
- c) The accuracy and completeness of information and software is safeguarded;
- d) Software and other intellectual property is used only in accordance with licensing agreements;
- e) Data Protection legislation is complied with;
- f) The Freedom of Information Act is complied with;
- g) Proper controls to system and physical access are in place; and
- h) The Council's intellectual property rights are protected.

## **Security of Property Relating to Clients and Customers**

- 8.5 Directors must provide detailed written instructions on the collection, custody, investment, recording, safekeeping and disposal of customer/clients' property (including instructions on the disposal of property of deceased clients) for all staff whose duty is to administer, in any way, the property of clients. Due care should be exercised in the management of a customer or clients' money in order to maximise the benefits to the customer/client.
- 8.6 The Council is responsible for taking reasonable care of all items of property found by staff or members of the public on Council premises until the items are reclaimed or disposed of. Each Director must nominate officers who are responsible for the custody of lost property and keep a register of such property received, detailing the item, date, time, name and address of finder and how and to whom the property is returned or disposed of.
- 8.7 Directors may seek Cabinet authority on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months it vests in the Council. The Director will then determine if the item is of value for use by the Council, and arrange for its use for this purpose. All other items are to be disposed of by sale in accordance with Contract Procedure Rules.

## **9. TREASURY MANAGEMENT**

### **Policies and Strategies**

- 9.1 The Council has adopted the key recommendations of the Code of Practice for Treasury Management in the Public Services, published by the Chartered Institute of Public Finance and Accountancy.
- 9.2 The Council is responsible for adopting a treasury management policy statement, setting out the policies and objectives of its treasury management activities, and treasury management practices, setting out how those policies and objectives will be achieved and how treasury management will be managed and controlled.
- 9.3 The Cabinet is responsible for the implementation and monitoring of the treasury management policies and practices.
- 9.4 The Director of Resources is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices.
- 9.5 The Director of Resources will report to the Council before each financial year recommending a treasury management strategy and plan, and subsequently an annual report after the end of the year. This will include the planned and actual performance in respect of the prudential indicators and limits

### **Administration**

- 9.6 All money under the management of the Council is to be aggregated for the

purposes of treasury management and will be controlled by the Director of Resources.

- 9.7 Investments other than bearer securities are to be in the name of the Council or nominee approved by the Cabinet. All borrowings are to be in the name of the Council.
- 9.8 The Director of Resources will select the Council's Registrar of stocks, bonds and mortgages and must maintain records of all borrowings by the Council.
- 9.9 A suitable register must be maintained in respect of all investments, securities, bearer securities and borrowings.
- 9.10 The Director of Resources will arrange all loans and leases including operating leases.

### **Trust Funds**

- 9.11 All trust funds are to be, wherever possible, in the name of the Council, except where charities legislation dictates otherwise. Officers acting as trustees by virtue of their official position must deposit all documents of title relating to the trust with the Assistant Director, Legal Governance & Monitoring (unless the Trust Deed otherwise directs) who must maintain a register of all such documents deposited.

## **10. BANKING ARRANGEMENTS, CHEQUE SIGNING AND IMPREST ACCOUNTS**

### **Banking Arrangements**

- 10.1 All of the Council's banking arrangements are to be approved by the Director of Resources, who is authorised to operate such bank accounts as he or she considers appropriate.
- 10.2 Bank accounts must not be opened without the approval of the Director of Resources. Where a bank account is opened, the account name must describe the purpose of the account. All new accounts should be named in the format 'KC, XYZ Unit Account'.

### **Cheques and Electronic Payments**

- 10.3 Payments to suppliers and employees will be made by electronic means unless there are good reasons to use a different method.
- 10.4 All cheques are to be ordered only in accordance with arrangements approved by the Director of Resources, who is to ensure their safe custody. Cheques drawn on the Council's main bank accounts must either bear the facsimile signature of the Director of Resources or be signed in manuscript by him/her or other authorised officers. All alterations and amendments are to be signed in manuscript by the Director of Resources, or other authorised

officers.

- 10.5 Banking arrangements made for authorisation of payments to be made or received under electronic transfer are to be in a form approved by the Director of Resources.
- 10.6 Directors must maintain a register of all officers authorised to sign cheques and other bank documents together with specimen signatures

### **Imprest Accounts**

- 10.7 Directors will determine what amount is appropriate for an individual imprest subject to any limit set by the Director of Resources, and keep a record of every imprest issued, including the name of the imprest holder, amount and location.
- 10.8 Any imprest holder (or sub imprest - see rule 10.10) must at any time account for the total imprest if requested to do so by the Director of Resources and keep adequate records in a form approved by the Director of Resources and supported by valid (VAT) receipts. On ceasing to be responsible for an imprest account the officer must account promptly to the Director for the amount advanced.
- 10.9 Payments from imprest accounts are to be limited to minor items of expenditure and to any other items approved by the Director of Resources.
- 10.10 Where deemed appropriate by an imprest account holder a sub-imprest may be provided to another officer for which the main imprest account holder must obtain and retain an acknowledgement. In all cases where this occurs the main imprest holder must notify the Director.

## **11. INCOME**

- 11.1 Directors have authority in consultation with the Director of Resources to amend fees and charges in line with the annual budget strategy. Fees and charges must be reviewed at least once per annum.
- 11.2 The methods of collecting, recording and banking of all income due to the Council are to be approved by the Director of Resources
- 11.3 The Director of Resources must be notified, in accordance with practices agreed with the relevant Director, of all income due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.
- 11.4 Directors must ensure that to the maximum extent possible income is collected by electronic means. This means that positive action should be taken to promote the use of customer payment by direct debit at the point of order for one off items, and continuous debit arrangements for on going services provision. Directors must ensure full compliance with all practices

necessary to fully protect the banking data of the councils customers.

### **Collection and Banking of Income**

- 11.5 Directors must make appropriate arrangements for the control and issue of all receipt forms, books, tickets, ticket machines or other acknowledgements for money.
- 11.6 All income received by the Council must be acknowledged by the issue of an official receipt or by another approved method indicating payment has been received. In order to ensure compliance with relevant money laundering regulations, the Council must not accept any cash payment in excess of £10,000 (15,000 euros) in respect of one single transaction on one occasion. The exception to this rule is that in the case of a disposal of a Land Asset by way of public auction, or under auction conditions, the Council may accept a cash payment in excess of £10,000 where the Land Asset being disposed of exceeds a sale price of £10,000.
- 11.7 All money received by an officer on behalf of the Council must either be paid to the Director of Resources or to the Council's bank account as the Director of Resources may determine, at intervals taking account of the security of the premises. No deductions are to be made from such monies unless specifically authorised by the Director of Resources. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system.
- 11.8 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.
- 11.9 Every transfer of official money from one officer to another must be evidenced in the records of the Services concerned by the signature of the receiving officer.

### **Cash discrepancies**

- 11.10 Each Director must maintain a detailed record of all cash surpluses and deficiencies in a manner approved by the Director of Resources, and these must be recorded in the Council's accounts.
- 11.11 The Director must investigate any apparent patterns of discrepancies
- 11.12 Where such discrepancies are in excess of £100 individually, or in total within any period of 1 month, the Director concerned must immediately investigate and notify the Director of Resources who may undertake such investigations as he/she deems appropriate.

### **Debtors**

- 11.13 Wherever possible, payment should be obtained in advance, or at the time of provision of a service, goods, letting or works. Where credit is given, Directors must ensure that the credit status of each customer is satisfactory.



Directors are responsible for issuing debtor accounts in a form approved by the Director of Resources immediately a debt falls due. Each Director, in conjunction with the Director of Resources must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.

- 11.14 Directors must regularly consider debts due and ensure adequate year end provisions for bad and doubtful debts. Directors are authorised to write off all individual bad debts subject to the approval of the Director of Resources. A report on the details of all debts written off under delegated authority must be prepared and formally noted by the Director in consultation with the Cabinet Member. The Director of Resources must prepare a consolidated report of all debts written off for consideration by the Cabinet and the Corporate Affairs Scrutiny Panel. Directors must ensure that appropriate accounting entries are made following write off actions.
- 11.15 The 'writing off' of a debt does not absolve a Director of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Director.

## **12. PAYMENT OF INVOICES**

The Council is currently implementing an automated "procure and payment system". 12.3 to 12.4 apply to transactions that are made using electronic invoices, 12.5 to 12.6 apply to other means of processing. All payments should be made by electronic transfer except where there are substantial overriding reasons for alternative means of payment.

- 12.1 Directors must ensure that all valid invoices are paid within 30 days of receipt.
- 12.2 The Director of Resources will determine the method and frequency of payment from one of the Council's main bank accounts, except for:-
- Petty cash and other imprest accounts
  - Delegated bank accounts approved by the Director of Resources.

### **Automated Payments**

- 12.3 When an invoice is matched through the automated procurement and payment system, it will be paid automatically.
- 12.4 Any invoices rejected by the automated system must be subject to thorough checking by the Director to determine the reason for variance, and the cause recorded.

### **Certification & Processing (paper records)**

- 12.5 Directors must approve a schedule of officers authorised to certify invoices, and supply their names and specimen signatures to the Director of Resources. The schedule must be reviewed at least once per year.

- 12.6 All invoices must be certified in manuscript, unless an alternative method is expressly authorised by the Director of Resources.

By certifying an account for payment the authorised officer indicates that satisfactory checks have been carried out to ensure that:-

- (a) The work, goods or services to which the account relates have been received or carried out, examined and approved;
  - (b) Prices, extensions, calculations, discounts, other allowances and tax are correct;
  - (c) There is a proper tax invoice when appropriate;
  - (d) The relevant expenditure has been properly incurred, is within budget, and is charged to the appropriate budget;
  - (e) Entries have been made in Asset registers, inventories, stores and other records as appropriate; and
  - (f) The account has not previously been paid.
- 12.7 Where errors on an invoice are detected manual adjustments which reduce the total payment are permissible, provided that this does not change the total amount of VAT payable. In all cases where the amount due increases, or changes the amount of VAT, a replacement invoice and/or credit note must be obtained before payment is made.
- 12.8 The Director must where possible achieve an adequate level of internal check. At least two officers should be involved. The officer certifying the account for payment should not be the same officer who received or checked the items, goods, works or services.
- No officer may certify any invoice involving payment to himself or herself.
- 12.9 All forms of account submitted for payment to a supplier or contractor other than on the original invoice must be accompanied by a special certification stating that the original invoice has not been paid and will not be paid subsequently. The certificate must be signed by an officer authorised to certify accounts for payment.
- 12.10 The Director of Resources may withhold payment of any invoice where there is evidence to suggest that it is not in order.

### **Advance Payments**

- 12.11 Where a supplier or contractor requires payment prior to the despatch of goods or the provision of services, an official order signed by a duly authorised officer and clearly marked that payment is to be made before receipt of the goods or services must be completed. A proforma invoice or supplier's order form detailing fully the goods/service to be obtained must be

approved by an officer authorised to certify invoices and retained as a record of the payment made.

- 12.12 All discounts available from a supplier are to be taken as a deduction against the cost of goods purchased and must appear on the invoice. Where a supplier provides any free item, or discount is available in the form of goods these are the property of the Council, as are loyalty or bonus points or other rewards earned.

### **Payment by Direct Debit/Standing Order**

- 12.13 . The Director (or Designated Finance Officer) must approve all requests for creation of a Direct Debit mandate, and supply to the Director of Resources such information as is deemed necessary (e.g. codes, cost centre(s) to be charged, a copy of a recent bill, showing signatory certification, for the account in question). If the payment method is Standing Order, the requestor must also specify the frequency of payment and, where appropriate, a termination date.
- 12.13 The Director must inform the Director of Resources when any payment is to be terminated.
- 12.14 Services must retain all statements relating to accounts paid by Direct Debit /Standing Order for current plus three previous financial years in order to substantiate the authorities claim for VAT on these accounts.

## **13. PAYMENT CARDS**

- 13.1 All arrangements regarding payment and procurement cards must be approved by the Director of Resources.
- 13.2 Directors in conjunction with the Director of Resources will determine the credit limit for individual payment and procurement cards.
- 13.3 Each cardholder will ensure safe custody of the card and not exceed their monthly limit.
- 13.4 Cards may be used only in accordance with the approved scheme and for legitimate expenses incurred by the cardholder in the course of official Council business.

They must not be used:-

- a) To avoid any corporate rules on procurement and purchasing (for example to purchase only from approved suppliers)
  - b) To circumvent the procedures for the ordering of and payment for, goods and services under these regulations; or
  - c) To purchase items for the private or personal use of cardholders.
- 13.5 Each cardholder must ensure that all expenditure incurred is supported by adequate records and in respect of payment cards, a VAT receipt is obtained

to support all expenditure

#### **14. SALARIES, WAGES AND PENSIONS**

- 14.1 All payments of salaries, wages, pensions, compensations, gratuities, allowances and other emoluments to current or former employees are to be made by the Director of Resources in accordance with information supplied by the Director. All payroll transactions must be processed through the Council's payroll system.
- 14.2 Directors must ensure that appointments of all employees are in accordance with the appropriate Conditions of Service of the Council or any approved scheme of delegation, and within the approved budgets, grades and rates of pay. Any variations of terms and conditions must be in accordance with arrangements approved by the Cabinet.

#### **Records**

- 14.3 Directors must maintain adequate records to notify the Director of Resources of all appointments, resignations, dismissals, and retirements together with changes in pay rates, bonuses due, overtime worked and other matters affecting remuneration, and provide all information to ensure that the correct adjustments are made in respect of absences, pensions, income tax, national insurance, sickness and maternity pay and any other additions, to or deductions from pay. Directors must also advise the Director of Resources of any employee benefit in kind to enable reporting for taxation purposes.
- 14.4 All officers must complete a time record of actual times of attendance at work, except where a time clock is used. Paper records should be signed by the officer as a correct statement. It is the responsibility of each manager to check time records of officers for which that manager has responsibility.
- 14.5 Time records and other pay documents must be maintained in a manner approved by the Director of Resources and be certified by the Director or other authorised officers. A record of all authorised officers must be maintained together with specimen signatures, a copy of which will be sent to the Director of Resources.

#### **Overpayments**

- 14.6 The Director of Resources authorised to write-off any net overpayment of salary/wage where death-in-service of an employee occurs, except where the Council holds a statutory obligation to recover such overpayments. All other overpayments of pay must be treated for the purposes of recovery and write off in accordance with Financial Procedure Rule 11.

#### **15. TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES**

- 15.1 Payment of all claims must be in accordance with Schemes of Conditions of

Service adopted in respect of the employee to which the payment relates, and will be paid through the councils payroll system, or otherwise as agreed by the Director of Resources

- 15.2 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be made on a form approved by the Director of Resources. The form must provide for certification in manuscript by the Director or authorised officer. The names and specimen signatures of officers authorised to sign such expense claims must be supplied to the Director of Resources, and these authorisations must be reviewed at least annually by the Director.
- 15.3 The certification of a claim by or on behalf of a Director is taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council. Expense claims should normally be submitted on a quarterly basis.

## 16 **TAXATION**

- 16.1 The Director of Resources is responsible for advising the Council on all taxation issues that affect the Council.
- 16.2 Each Director must ensure taxation is treated correctly and consult with the Director of Resources in the event of any uncertainty as to any taxation treatment.
- 16.3 The Director of Resources will lead and co-ordinate discussion or negotiations with the HM Revenue and Customs about any taxation matter.
- 16.4 The Director of Resources will complete all of the Council's tax returns.

## 17. **GIFTS AND HOSPITALITY**

- 17.1 Officers must ensure that it is apparent that no cause could reasonably arise for adverse criticism or suggestion of improper influence about the acceptance of any gift or hospitality. They must ensure that in accepting any offer of gifts and or hospitality to do so would not infringe the requirements of the Bribery Act 2010.
- 17.2 Directors must maintain a central record of all gifts, invitations and hospitality offered and or received, including items of token value.
- 17.3 The receipt of personal gifts should be discouraged, but if an officer, during the course of, or as a result of, official duties, receives any personal gift, other than one of only token value (less than £15), the matter must be reported to the Director who will decide if the item is to be returned or forwarded to some charitable cause, and the Director must inform the donor what has happened to the gift and explain the reason why gifts should not be sent in the future.

- 17.4 Directors and other officers with the permission of the Director may accept invitations to events and associated hospitality of any value where this relates to a function promoted by an organisation with which the Council has formal links and attendance constitutes a demonstration of faith in that organisation. It will not normally be appropriate for attendance by a companion; A Director must agree that such attendance is appropriate.
- 17.5 Hospitality must only be given or accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion, not extravagant and justifiable as in the public interest. Particular care must be taken when this involves potential customers or suppliers. The circumstances and the type of hospitality are to be recorded in the central record maintained by the Director concerned.

## 18. **WORKING WITH CLIENTS AND CONTRACTORS**

- 18.1 Officers who, in accordance with their conditions of service, are permitted to carry out private or other paid work must not do so during Council time, and must not use any Council premises, resources or facilities for the execution of such work. No stationery or publicity material is to indicate that the person is a Council employee nor should the address or any telephone number of the Council be stated. Officers must declare to their Director in writing the nature and duration of such private work.
- 18.2 Officers must declare to their Director any circumstance where they believe that they may have a pecuniary or non-pecuniary interest in any proposed supply contract, grant award or other transaction for which they have involvement or responsibility.
- 18.3 Officers must not work for any current or prospective supplier or contractor to the Council.
- 18.4 All intellectual property created by employees in the course of their duties is, and remains, the property of the Council. The copyright or equivalent of any material cannot be sold without the permission of Cabinet. Any article, book or similar material for publication, prepared in council time, is the property of the Council. Any article, book or similar material for publication prepared by an employee (relating to their official duties) requires the written approval of the Director prior to publication.

## 19. **UNOFFICIAL AND VOLUNTARY FUNDS**

*These regulations relate to funds administered by officers of the Council, the accounts of which are not included in the Authority's accounts.*

- 19.1 Any proposed unofficial funds require the prior approval of the Director concerned who must maintain a record of all such funds and ensure that officers are appointed to administer each fund.

- 19.2 A separate bank account must be maintained for each fund (in the name of the fund) and fund monies must be kept separate from Council monies.
- 19.3 Directors must ensure that they receive a copy of the accounts of each fund and a certificate in the prescribed form from the auditors or independent examiners of each fund that has to be audited or independently examined. Such accounts are to be prepared annually, and at the completion of the purpose for which the fund was set up.
- 19.4 The Director of Resources is to have access to any records relating to such funds, and be immediately informed of any irregularities which arise in connection with them.

**20. FINANCIAL CONTROL OF PARTNERSHIPS, JOINT VENTURES  
ASSOCIATED ORGANISATIONS AND SIMILAR ARRANGEMENTS**

**Working in Partnership with Associated Organisations**

- 20.1 The Director of Resources is responsible for promoting and maintaining the same high standards of financial administration in partnerships that apply throughout the Council, or advising the Cabinet where he/she is aware that arrangements within a partnership are in conflict or are uncertain compared with the practices adopted by the Council.
- 20.2 The Director of Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, and must;-
- a) Consider the overall corporate governance arrangements and legal issues when arranging contracts with the partner/joint venture or associated organisation.
  - b) Ensure that the risks have been fully appraised before agreements are entered into with the partner/joint venture or associated organisation.
- 20.3 Directors must ensure that in all grant agreements, contribution to partnerships and where appropriate in agreed contracts for the supply of works, goods and services the Director of Resources has access to the accounts, records and all other documentation, and is entitled to seek explanations from Officers of the funded organisation regarding the deployment of the Council's funding payment.

**Working for Other Organisations**

- 20.4 Directors are responsible for ensuring that approval is obtained from the Director of Resources and the Assistant Director Legal Governance & Monitoring before any negotiations commence in relation to the provision of new or additional works or services to other organisations expected to exceed £20,000.

- 20.5 The Cabinet is responsible for approving any new contractual arrangements for any work for other organisations expected to exceed £100,000. The Director of Resources may agree contractual arrangements below this level.
- 20.6 Directors must ensure that any proposed arrangement to work for other organisations does not impact adversely upon the Services provided to or by the Council. All agreements, contracts or arrangements must be properly documented and appropriate information must be provided to the Director of Resources to enable a note to be entered into the Council Statement of Accounts concerning material items.

### **Grants and Loans to Other Organisations**

- 20.7 A Director may issue a grant or loan of any value;
- a) Provided that it is offered fully in accordance with a scheme of grants or loans that has been approved by the Cabinet; and
  - b) There is sufficient budget provision
- 20.8 Where a Director proposes to offer a grant, or loan to any organisation which is not covered by an existing approved scheme (as 20.7 above) he/she may do so only following:
- a) A full financial appraisal of the project to which the grant or loan relates, by the Director of Resources;
  - b) A full financial appraisal of the organisation to which the grant or loan is to be granted, by the Director of Resources;
  - c) The preparation of a written report that establishes the justification for the financial assistance.
  - d) Consultation with the Executive Member responsible for the budget area which is to offer the grant or loan.; and
  - e) There is sufficient budget provision
- 20.9 An Area Committee may issue a grant of any value;
- a) Provided that it accords with, or is not in contravention of, any general scheme rules which are established by the Cabinet; and
  - b) There is sufficient budget provision.
- 20.10 The Assistant Director Legal Governance & Monitoring will execute a legal agreement in respect of any grant exceeding £20,000, and any loan of any value. In respect of a grant or loan of £20,000 or more, the Assistant Director



Legal Governance & Monitoring will, where appropriate, obtain as necessary, legal charges on assets, bonds and or guarantees to protect the council's interests.

- 20.11 When offering grants or other forms of assistance to entities that operate on a commercial basis Directors must ensure that no assistance will infringe EU State Aid requirements. In the event of any doubt about the matter advice must be sought from the Assistant Director Legal Governance & Monitoring.

## 21. **PURCHASING OF WORKS, GOODS AND SERVICES**

### **Orders**

- 21.1 Before any official order is issued for goods, work or services, the Director or other authorised officer must ensure that:-
- (a) The goods works or services are necessary for the discharge of the responsibilities of the Council;
  - (b) Sufficient budget is available to fund the expenditure; and
  - (c) The Contract Procedure Rules (which apply to all purchasing decisions irrespective of value) have been complied with.
- 21.2 Directors are responsible for all orders issued. Electronic and paper orders must only be issued and if necessary signed in manuscript by officers authorised by the Director. The items, quantities and prices must be accurately recorded.
- 21.3 Directors must keep a list of who is authorised to sign order documentation or issue orders electronically and the extent of this authority. This list must be reviewed at least once per year.
- 21.4 Except where there is a formal contract, in which case work instructions and orders must conform with the provisions of the contract, official orders will be issued for all work, goods or services to be supplied to the Council, except for supplies of continuous services (such as gas), and statutory taxes, for petty cash purchases and other exceptions as the Director of Resources may approve. Orders must clearly indicate the nature and quantity of the work/services/items/supplies required, any related contract or agreed prices, discounts receivable and dates or periods of delivery.
- 21.5 Verbal orders must be kept to a minimum and be confirmed either the same or next working day by written orders which must be marked as a confirmatory order.
- 21.6 Records of all non-computerised order books must be kept by the Director. Copies of orders must be retained. All copies of spoilt, incorrect or unissued orders must be appropriately marked and retained in any order book.
- 21.7 Order records whether computerised or manual must be used to record the

receipt of the goods, works or services and all payments made in respect of an order. All Goods Received Notes must be retained.

### **Management of Suppliers**

- 21.8 In respect of each order or contract for construction work, and any order or contract for services exceeding £20,000 the Director responsible must appoint an authorised officer, directly employed, or otherwise to carry out supervision of the contract.

### **Specification**

- 21.9 In respect of each order or contract exceeding £20,000 the Director must prepare or agree a written brief stating the objective of the order or contract and the sources of funding to meet the estimated cost of the project and appoint an authorised officer.
- 21.10 Unless otherwise agreed with the Director of Resources, the authorised officer must prepare a specification which will indicate relevant issues for the supply, (for example type, quantity, quality, time, location, occasions), and the risks and obligations placed on the supplier. Specifications should set outcomes or outputs, and be prepared on a generic basis and not include named products except where this can be justified on technical grounds. They should be prepared in a way which is likely to bring about the most economically advantageous solution whilst ensuring compliance with minimum statutory requirements and Council policy. The specification may only be altered on the basis of written instructions from the Director, who must justify the reason for change and sources of funding.

### **Variations**

- 21.11 The authorised officer may, subject to the provisions of the contract, make any variations essential to the achievement of the objectives of the contract but must have regard to the budget provision. The authorised officer must not issue any variation likely to increase the approved cost of the project without the written agreement of the Director responsible, who must state the authority and source of financial provision for the additional expenditure.
- 21.12 Every variation must be immediately recorded in writing by the authorised officer.

### **Overspending**

- 21.13 Any variation to a contract which results or will result in additional costs being incurred on a contract of more than 5% of the contract sum will be reported to the budget holding Director and Director of Resources as soon as practicable.

### **Recording of Contractual Payments**

- 21.14 Directors must ensure that a Contract Register is kept which shows details of all payments made against any contract. Any payments on account to

contractors against a formal contract are to be made only on an approved certificate issued and checked by the authorised officer which must be passed to the Director of Resources.

- 21.15 The certificate authorising final financial settlement of any contract will not be issued until the appropriate officer has produced a detailed statement of account and all necessary supporting documents, and these have been checked in accordance with arrangements approved by the Director of Resources and the final payment agreed by the budget holding Director.

### **Claims**

- 21.16 All claims (or prospective claims) from contractors for loss and expense will be considered by the authorised officer who will immediately advise the client Director and they will jointly consider methods for cost reduction to achieve the budgetary provision.
- 21.17 The budget holding Director and the Director of Resources must be consulted in respect of any claim (or prospective claim) from a contractor for loss and expense in excess of £10,000.
- 21.18 The Director will report in detail to the Cabinet if the financial consequences of the claim cannot be accommodated within the approved project budget.
- 21.19 Any claim from a contractor outside the terms of the contract, or under any statutory instrument or any claim for an ex-gratia payment will be jointly considered by the Assistant Director Legal Governance & Monitoring, Director of Resources and Director(s) of the appropriate Service(s) before any recommendation is made to the Cabinet.

### **Codes of Practice**

- 21.20 All procurement must accord with the Contract Procedure Rules, Procurement Policy and all relevant Procedure Guidelines.