

Public Document Pack



**Service Director – Legal, Governance and
Commissioning**

Julie Muscroft

The Democracy Service
Civic Centre 3
High Street
Huddersfield
HD1 2TG

Tel: 01484 221000

Please ask for: Andrea Woodside

Email: andrea.woodside@kirklees.gov.uk

Thursday 3 May 2018

Notice of Meeting

Dear Member

Corporate Governance and Audit Committee

The **Corporate Governance and Audit Committee** will meet in the **Meeting Room 1 - Town Hall, Huddersfield** at **11.00 am** on **Friday 11 May 2018**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Corporate Governance and Audit Committee members are:-

Member

Councillor Hilary Richards (Chair)
Councillor Julie Stewart-Turner
Councillor Carole Pattison
Councillor Kath Pinnock
Councillor Ken Sims
Councillor Nigel Patrick
Vacancy (Liberal Democrat Group)

When a Corporate Governance and Audit Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
D Bellamy
G Wilson
D Firth
J Taylor

Green

K Allison
A Cooper

Independent

C Greaves
T Lyons

Labour

E Firth
C Scott
M Sokhal
S Ullah
S Hall
S Pandor

Liberal Democrat

J Lawson
A Pinnock

Ex Officio Members

Councillor Andrew Marchington
Councillor Graham Turner
Councillor Musarrat Khan – Cabinet Member (Resources)

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Interests

1 - 2

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

3: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

4: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

5:	Review of Treasury Management Performance	3 - 32
	To receive the report.	
	Contact: Eamonn Croston, Finance Manager	
<hr/>		
6:	External Audit Fee 2018/2019	33 - 40
	To receive the report.	
	Contact: Eamonn Croston, Finance Manager	
<hr/>		
7:	Proposed Amendments to Financial Procedure Rules	41 - 78
	To consider the report.	
	Contact: Martin Dearnley, Head of Audit and Risk	
<hr/>		
8:	Proposed Amendments to the Constitution	79 - 160
	To consider the report.	
	Contact: Julie Muscroft, Service Director (Legal, Governance & Commissioning)	
<hr/>		

KIRKLEES COUNCIL				
COUNCIL/CABINET/COMMITTEE MEETINGS ETC				
DECLARATION OF INTERESTS				
Corporate Governance and Audit Committee				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Corporate Governance and Audit Committee, 11 May 2018

Title of report: Annual Report on Treasury Management 2017-18

Purpose of report

Financial Procedure Rules require that the Council receives an annual report on Treasury Management activities for the previous financial year. The report reviews borrowing and investment performance.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Yes
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Strategic Director & name	Rachel Spencer-Henshall 2 May
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	Eamonn Croston 2 May
Is it also signed off by the Service Director for Governance and Commissioning Support?	Karl Larrard 2 May
Cabinet member portfolio	Cllr Graham Turner Cllr Musarrat Khan

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

1. Summary

1.1 The Council's treasury management operation for the year has followed the strategy approved by Council on 15 February 2017. Investments averaged £37.9 million, were largely deposited in instant access accounts and earned an average interest rate of 0.26%. Total external borrowing decreased for the year by £25.0 million to £413.2 million. (£438.2m 31st March 2017) The decrease is due to a variety of reasons including; repayment of existing debt, slippage in the capital plan and increases in reserves due to policy changes. The majority of

borrowing is on fixed rate terms and the average borrowing rate for 2017-18 was 4.76%.

- 1.2 In 2017-18 the Council approved a revision to its Minimum Revenue Provision (MRP) policy, which relates to the amount of revenue resources set aside each year to provide for its outstanding debt repayments over the longer term. This was done by updating its approach to Supported Borrowing from 2007-08 onwards, moving from a 4% reducing balance to an annuity basis in its repayment of debt.
- 1.3 In updating the approach the Council effectively over-provided in previous years the re-payment of debt to the sum of £91.1m. Within the Treasury Management Strategy 2018-19 the Council set out its approach to unwind this over-provision at £9.1m each year over the next 10 years, starting from 2017-18 onwards. Within the 2017-18 accounts this has resulted in the budgeted over-provision element of £9.1m being transferred to financial resilience reserves in order to strengthen the Council's overall financial resilience as per the Council's approved reserves strategy.
- 1.4 Treasury management costs incurred in the year include £10.4 million on net interest payments and £4.1 million on providing for the repayment of debt (MRP). The Council complied with its treasury management prudential indicators in the year.
- 1.5 This report also notes a number of early 2018-19 treasury management issues for consideration. These include options for re-financing two current Lender Option-Borrower Option loans at £10m each, and a proposed amendment to the treasury management strategy to include a further potential loan funding source; SALIX Finance, a government funded interest free loan funding body for public sector services. It also considers potential Council investment in a property fund investment fund, CCLA, specifically set up for not-for profit investors, including local authorities.

2. Information required to take a decision

2.1 Background

- 2.1.1 The Council has adopted the CIPFA Code of Practice on Treasury Management and operates its treasury management service in compliance with this Code and various statutory requirements. These require that the prime objective of the activity is to secure the effective management of risk, and that borrowing is undertaken on a prudent, affordable and sustainable basis.
- 2.1.2 Financial Procedure Rules require that the Council receives an annual report on Treasury Management activities for the year. Cabinet is responsible for the implementation and monitoring of the treasury management policies. Corporate Governance and Audit Committee undertake a scrutiny role with regard to treasury management.

2.1.3 In reviewing performance, reference will be made to the Treasury Management Strategy Report approved by Council on 15 February 2017.

2.2 Borrowing and Investment Strategy 2017-18

2.2.1 The Councils overall Treasury Management Strategy prioritises security, liquidity and risk management which was adhered to in 2017-18. The Council aims to invest externally balances of £30 million, largely for the purpose of managing day-to-day cash flow requirements, with any remaining balances invested “internally”, offsetting borrowing requirements. The investment strategy is designed to minimise risk, investments being made primarily in instant access accounts or short-term deposits, with the major British owned banks and building societies, or Money Market Funds.

2.3 The economy and interest rates

Below paragraphs 2.3.1-2.3.2 are a commentary from our external treasury management advisors, Arlingclose

2.3.1 2017-18 was characterised by the push-pull from expectations of tapering of Quantitative Easing (QE) and the potential for increased policy rates in the US and Europe and from geopolitical tensions, which also had an impact.

2.3.2 The Bank of England’s Monetary Policy Committee (MPC) increased Bank Rate by 0.25% in November 2017. It was significant in that it was the first rate hike in ten years, although in essence the MPC reversed its August 2016 cut following the referendum result. Although in March two MPC members voted to increase policy rates immediately and the MPC itself stopped short of committing itself to the timing of the next increase in rates, the minutes of the meeting suggested that an increase in May 2018 was highly likely.

2.4 Investment activity

2.4.1 The Council’s treasury management investments totalled £36.1 million as at 31 March 2018 (£31.3 million 31 March 2017). The Council invested an average balance of £37.9 million externally during the year (£41.8 million 2016-17). Income of £98k was generated through these investments (£153k 2016-17). Appendix 1 shows where investments were held at the beginning of April, the end of September and the end of March, by counterparty, by sector and by country. The Council’s average lending rate for the year was 0.26% (0.37% 2016-17). The fall in rates between the years reflects the Base Rate in 16-17 being 0.5% until autumn and then a reduction to 0.25%. In the current year there has been 4 months at the increased rate of 0.5%, but there is also an element of lag in institutions passing on the benefit of higher interest rates.

2.4.2 The majority of investments were placed in instant access bank deposit

accounts/Money Market Funds (MMFs). MMFs offer greater diversification of counterparties and thus lower risk, as well instant access and relatively good returns.

2.5 Borrowing requirement and debt management

- 2.5.1 In terms of borrowing, long-term loans at the end of the year totalled £392.5 million and short-term loans (excluding interest accrued) £20.7 million (£400.5 million and £37.7 million 31 March 2017), an overall decrease of £25.0 million. There was no new long term borrowing in 2017-18. Appendix 2 details repayments of long-term loans during the year and short-term loans outstanding as at 31 March 2018.
- 2.5.2 Fixed rate loans account for 80.5% of total long-term debt (see also Appendix 5, expressed as a percentage of net interest payments) giving the Council stability in its interest costs. The maturity profile for all long-term loans is shown in Appendix 3 and shows that no more than 9% of all debt is due to be repaid in any one year. This is good practice as it reduces the Council's exposure to a substantial borrowing requirement in future years when interest rates might be at a relatively high level.
- 2.5.3 The primary source of the Council's borrowing is from the Government ie Public Works Loan Board (PWLB).
- 2.5.4 The table below sets out the estimated external borrowing requirement against actual requirements;

	2017-18 £m estimated	2017-18 £m actual
General Fund CFR - Non PFI	437.9	412.8
PFI	52.3	52.3
HRA CFR - Non PFI	182.8	182.8
PFI	54.9	54.9
Total CFR	727.9	710.3
Less: Other debt liabilities*	111.3	106.3
Borrowing CFR	616.6	603.2
Less: Deferred Liabilities	4.1	4.1
Less: Internal borrowing	104.3	185.9
PWLB Loans	278.6	278.6
LOBOs	76.6	76.6
Loan Stock (Fixed Rate)	7.0	7.0
Other LT Loans (Fixed Rate)	30.3	30.3
Temporary Borrowing	115.7	20.7
Total : External Borrowing	508.2	413.2
Investments	30.0	36.1

- 2.5.5 As can be seen from the table above the temporary borrowing requirement is far lower than expected due to a combination of an increase in internal balances (it was expected that these would reduce in year by £38.0m from £146.4m) and additional slippage in the capital plan of £21.8m.
- 2.5.6 The Local Capital Finance Company established in 2014 by the Local Government Association as an alternative source of local authority finance. It plans to issue bonds on the capital markets and lend the proceeds to local authorities. It has yet to issue any loans but officers will continue to monitor developments of this potential new funding source.
- 2.5.7 In terms of debt rescheduling, the premium charge for early repayment of PWLB debt remained relatively expensive for the loans in the Council's portfolio and therefore unattractive for debt rescheduling activity in 2017-18.
- 2.5.8 The average long term borrowing rate for 2017-18 for the Council's long-term loans outstanding was 4.76% (4.78% 2016-17).

2.6 Trends in treasury management activity

- 2.6.1 Appendix 4 shows the Council's borrowing and investment trends over the last 5 years. This highlights the current trend to re-pay long term debt at maturity and where required borrow over the short term.

2.7 Risk and Compliance Issues

- 2.7.1 The Council has complied with its prudential indicators for 2017-18, which were approved as part of the Treasury Management Strategy. Details can be found in Appendix 5. Indicators relating to affordability and prudence will be reported in the forthcoming 2017-18 Financial Outturn report to Cabinet and Council in June and July 2018.
- 2.7.2 When the Council has received unexpected monies late in the day, officers have no alternative but to put the monies into the Barclays Business Reserve Account overnight. The account is maintained so that usually, daily balances are under £100k. The maximum daily amount deposited in this account overnight as a result of unexpected late payments was £1.381m. Whilst this is not an ideal situation, the Council is still within investment limits as per the Treasury Management Strategy which is set at £10m per counterparty.
- 2.7.3 In line with Council treasury management strategy, the Council has not placed any direct investments in companies as defined by the Carbon Underground 200.
- 2.7.4 The Council is aware of the risks of passive management of the treasury portfolio and, with the support of the Council's consultants (Arlingclose), has proactively managed the debt and investments over the year.

- 2.7.5 The CIPFA Code of Practice requires that treasury management performance be subject to regular member scrutiny. The Corporate Governance and Audit Committee performs this role and members have received reports on strategy, half yearly monitoring and now the outturn for the year 2017-18. Training was provided to Members on the 17th November 2017.

Looking ahead – Treasury Management developments in 2018-19

2.8 Re-financing/re-payment of current Long Term Borrowing

- 2.8.1 As outlined within the Council approved Treasury Management Strategy 2018-19, the Council will continue to look to repay existing long term debt when the opportunity arises where it becomes beneficial for the Council to do so.
- 2.8.2 Within the next 12 months there are 2 Lenders Option Borrowers Option (LOBO) loans which may present us with an option to convert or re-finance and these as detailed further below.
- 2.8.3 The Council currently has a £10.0m Range LOBO with Barclays. The Range LOBO has an annual rate of interest of 3.4% when the 6 month London Interbank Offered Rate (LIBOR) Rate is between 4%-6%, and a rate of 4.1% when it falls outside of this. Currently the LIBOR Rate is 0.83% and hasn't been as high as 4% since November 2008. The current interest rate is therefore 4.1%.
- 2.8.4 Barclays have approached the Council to convert the LOBO into a fixed rate of interest. The rate is currently subject to discussion between both parties, and would remain until maturity of the loan on 15th January 2067. This could generate immediate savings per annum. By way of illustration, a mid-point fixed rate of 3.75% would equate to immediate £35k annual savings to the Council for the remainder of the loan.
- 2.8.5 The Council also has a £10.0m LOBO loan with Commerzbank. The rate of interest applied for the first 2 years of the loan was 3.8%, which then increased to 5.0% after the first 2 years as per the signed agreement. This LOBO loan matures on the 9th June 2042.
- 2.8.6 Commerzbank have also approached the Council to review options for re-paying this loan early.
- 2.8.7 On both LOBO loans the Lender has the option to exercise their right to change the interest rate. At which point the borrower can then choose to accept the new interest rate or choose to re-pay at no additional cost.
- 2.8.8 It is intended that Council officers liaise with the Council's external Treasury Management advisors, Arlingclose, to review both lender options, and proceed if they are considered to be in the longer term best interests of the Council.

2.9 Loan Funding Sources

- 2.9.1 The Council may be presented with additional sources of long-term funding at certain points in time, beyond those currently listed in the Council's current treasury management strategy. These may be at preferential rates of interest and therefore the Chief Financial Officer (s151 officer) will look to maximise the use of source funds when it is preferential to do so.
- 2.9.2 One opportunity is a source of funding from SALIX Finance Ltd. SALIX provides interest free Government funding to the public sector to improve their energy efficiency, reduce carbon emissions and lower energy bills. The Council has taken the opportunity to apply to SALIX for interest-free loan funding to be applied against the £11m Council approved street lighting replacement scheme within the 2018-19 – 2022-23 Capital Plan, which would otherwise be funded entirely from Council prudential borrowing.
- 2.9.3 SALIX has approved an in-principle £5.9m interest-free loan, repayable over a 7 year period.
- 2.9.4 The in-principle SALIX loan agreement requires Council approval to incorporate this type of loan product into its overall borrowing portfolio. It is estimated that this would save the Council £55k in interest payments over the period of the scheme, based on current short-term borrowing rates. If interest rates were to increase, the comparable savings to the Council would be higher.

2.10 Investment Opportunities

- 2.10.1 The Local Authorities Property Fund was established in 1972, and is managed by CCLA Fund Managers. Any Local Authority in the United Kingdom can invest in the Fund, and the minimum investment is £25k. The Fund aims to provide investors with a high level of income and long-term capital appreciation, and it is an actively managed, diversified portfolio of UK commercial property. It principally invests in UK assets, but may invest in other assets. There is an accompanying prospectus and factsheet attached to this report, for information.
- 2.10.2 Such funds tend to generate a higher rate of return. For example, (2016-17 returned 3.07% dividend on the Local Authority Property Fund compared with the Council's average rate of return on investments of 0.37%.
- 2.10.3 Clearly there are increased risks associated with higher yield investment opportunities, and any potential investment would need to be considered very much as a much longer term investment strategy, pro-actively managed by CCLA, to manage those risks over time.
- 2.10.4 Investment opportunities in funds such as the CCLA are not part of the current Treasury Management Investment Strategy for 2018-19.

2.10.5 The annual budget report to Budget Council on 14 February 2018, in setting out the treasury management strategy for 2018-19, noted that the strategy reflected the pre-existing CIPFA Prudential Code and statutory Government guidance on Investment strategy and Minimum Revenue Provision. The CIPFA code and Government statutory guidance was updated early 2018, and officers intend to bring forward an updated Treasury Management Strategy, for member consideration, at the same time as the Budget Strategy Update report, in Autumn 2018.

2.10.6 It is proposed that as part of the treasury management strategy update, officers will bring forward more detailed proposals for potential investment in the Local Authority Fund and any other investment opportunities.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP) – no impact

3.2 Economic Resilience (ER) – no impact

3.3 Improving Outcomes for Children – no impact

3.4 Reducing demand of services - no impact

3.5 Other implications – Any changes in assumed borrowing and investment requirements, balances and interest rates will be reflected in revenue budget monitoring reports during the year.

4. Consultees and their opinions

None.

5. Next steps

Comments and feedback from CGAC will be incorporated into this report which will be subsequently considered at Cabinet in June and Council in July 2018 as part of the overall financial outturn and rollover report 2017-18.

6. Officer recommendations and reasons

CGAC are asked to recommend the following for Cabinet and Council approval ;

6.1 note treasury management performance in 2017-18 as set out in this report;

6.2 agree officer proposals to review the two LOBO loan re-financing options in conjunction with Arlingclose, and to proceed if considered beneficial to the Council;

6.3 agree an amendment to the existing borrowing strategy to incorporate

SALIX Finance as an interest free loan funding source; and

- 6.4 note officer intention to bring forward more detailed proposals regarding potential investment in the Local Authority Fund, as part of the Treasury Management strategy update later in the year, for member consideration

7. Contact officer

Eamonn Croston Acting Service Director for Finance, IT and Transactional Services

James Buttery Finance Manager

8. Background Papers and History of Decisions

CIPFA's Code of Practice on Treasury Management in the Public Services.

CIPFA's Prudential Code for Capital Finance in Local Authorities.

MHCLG Investment Strategy Guidance

Public Works Loan Board Website.

Treasury Management Strategy Report approved by Council on 14 February 2018.

Local Authorities Property Fund & Factsheet

9. Service Director responsible

Eamonn Croston

01484 221000

APPENDIX 1

Kirklees Council Investments 2017/18										
Counterparty	Credit Rating Mar 2018*	1 April 2017			30 September 2017			31 March 2018		
		£m	Interest Rate	Type of Investment	£m	Interest Rate	Type of Investment	£m	Interest Rate	Type of Investment
Specified Investments										
Bank of Scotland	Bank	F1/A+	1.3	0.20%	Instant Access					Instant Access
Svenka Handelsbanken	Bank	F1+/AA			Instant Access	8.0	0.20%	Instant Access		Instant Access
Std Life	MMF**	AAAmmf	8.7	0.28%	Instant Access	10.0	0.20%	Instant Access	9.9	0.46%
Aviva	MMF**	Aaa-mf	7.3	0.22%	Instant Access	10.0	0.16%	Instant Access	10.0	0.42%
Deutsche	MMF**	AAAmmf	6.9	0.20%	Instant Access			Instant Access	9.0	0.37%
Goldman Sachs	MMF**	AAAmmf	7.1	0.20%	Instant Access	3.5	0.13%	Instant Access	7.2	0.37%
			31.3			31.5			36.1	
Sector analysis										
Bank			£m	%age		£m	%age		£m	%age
Bank			1.3	4%		8.0	25%			
Building Society										
MMF**			30.0	96%		23.5	75%		36.1	100%
Local Authorities/Cent Govt										
			38.3	100%		31.5	100%		36.1	100%
Country analysis										
UK			£m	%age		£m	%age		£m	%age
UK			1.3	4%						
Sweden						8.0	25%			
MMF**			30.0	96%		23.5	75%		36.1	100%
			31.3	100%		31.5	100%		36.1	100%

*Fitch short/long term ratings, except Aviva MMF (highest Moody rating). See next page for key. ** MMF – Money Market Fund. These funds are domiciled in Ireland for tax reasons, but the funds are made up of numerous diverse investments with highly rated banks and other institutions. The credit risk is therefore spread over numerous countries, including the UK. The exception to this is the Aviva Government Liquidity Fund which invests directly in UK government securities and in short-term deposits secured on those securities.

Key – Fitch’s credit ratings:

		Long	Short	
Investment Grade	Extremely Strong	AAA	F1+	
		Very Strong		AA+
	AA			
	AA-			
	Strong			A+
		A		
		A-		
	Adequate	BBB+		F2
		BBB		F3
		BBB-		
Speculative Grade	Speculative	BB+	B	
		BB		
		BB-		
	Very Speculative	B+		
		B		
		B-		
	Vulnerable	CCC+		C
		CCC		
		CCC-		
		CC		
C				
Defaulting	D	D		

Appendix 2

Long-term loans repaid and short-term loans outstanding 31 March 2018

Long-term loans repaid during 2017/18

	Amount £000s	Rate %	Date repaid
Repayments on maturity			
PWLB (498358)	2,768	4.24	21 Aug 17
PWLB (496734)	4,613	8.375	6 Dec 17
Repayments on annuity loans			
PWLB (496956)*	322	4.58	29 Sep 17
PWLB (496956)*	329	4.58	29 Mar 18
Total	8,032		

* represents loan extended to Kirklees College, for which the College is making similar repayments to the Council

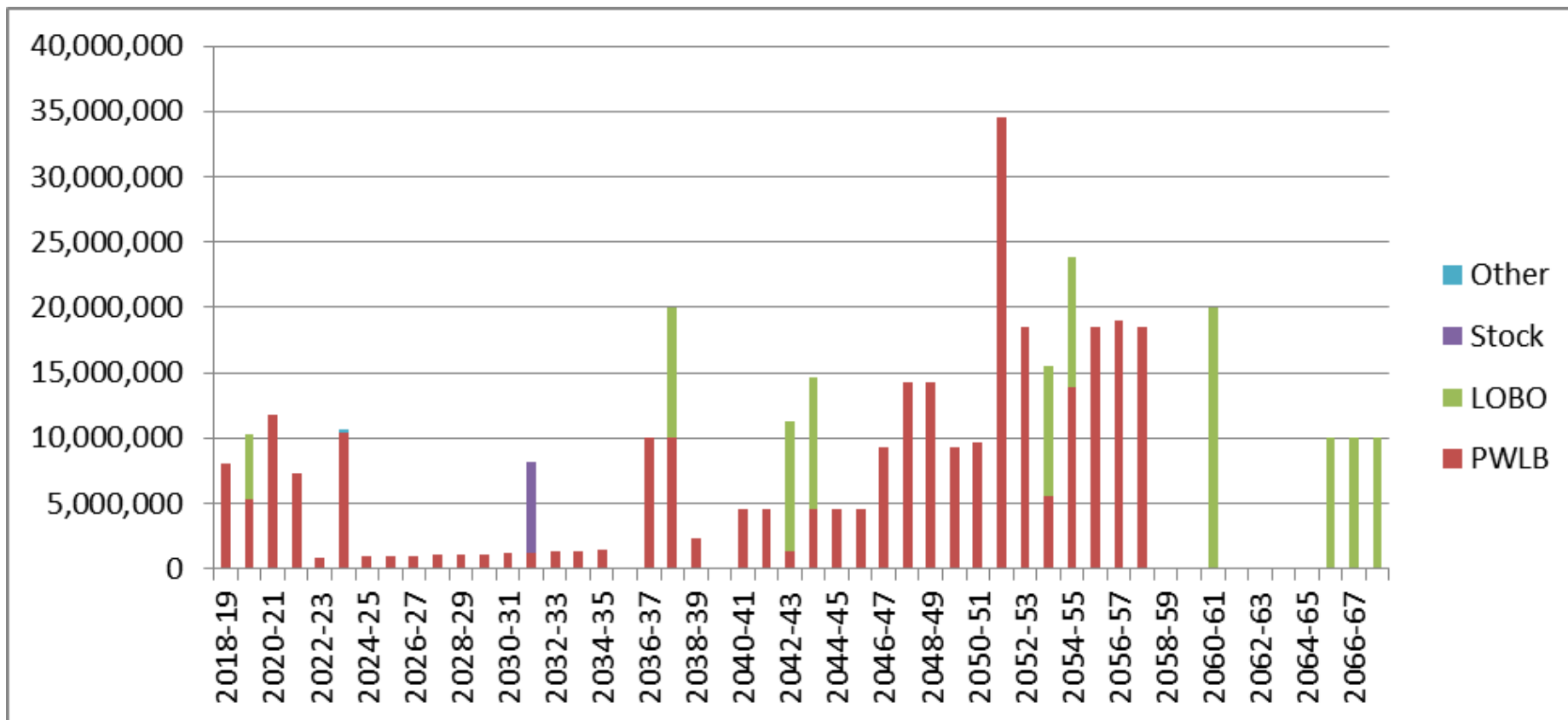
Short-term loans outstanding 31 March 2018

	Amount £000s	Rate %	Length (days)
Temporary borrowing from the Money Market			
London Borough of Newham	5,000	0.45	19
Gateshead Council	5,000	0.55	9
Local lenders/Trust Funds	2,626		
Long-term loans due to mature in the next twelve months	8,062		
Total*	20,688		

* excludes interest accrued

Kirklees Council Loan Maturity Profile (All Debt)

Appendix 3



Kirklees Council - Borrowing and Investment Trends

At 31 March	2018	2017	2016	2015	2014
Investments	36.1m	31.3m	38.3m	38.7m	33.1m
ST Borrowing (excl interest accrued)	20.8m	37.7m	16.0m	21.1m	29.6m
LT Borrowing	392.4m	400.5m	408.4m	422.6m	432.4m
Total Borrowing	413.2m	438.2m	424.4m	443.7m	462.0m
Deferred liabilities (non PFI)	4.1m	4.1m	4.3m	4.4m	4.5m
Net debt position	373.0m	411.0m	390.4m	409.4m	433.4m
Capital Financing Requirement (excl PFI)					
General Fund	420.3m	412.8m	411.3m	422.2m	447.5m
HRA	182.8m	186.2m	192.4m	196.6m	203.3m
Total CFR	603.2m	599.0m	603.7m	618.8m	650.8m
Balances "internally invested"	185.9m	156.7m	175.0m	170.7m	184.3m
Ave Kirklees' investment rate for financial year	0.3%	0.4%	0.5%	0.4%	0.4%
Ave Base rate (Bank of England)	0.3%	0.3%	0.5%	0.5%	0.5%
Ave LT Borrowing rate (1)	2.5%	2.5%	3.2%	3.7%	4.3%

(1) Based on average PWLB rate throughout the year on a 20 year loan repayable on maturity.

APPENDIX 5

Treasury Management Prudential Indicators

Interest Rate Exposures

While fixed rate borrowing can contribute significantly to reducing the uncertainty surrounding future interest rate scenarios, the pursuit of optimum performance justifies retaining a degree of flexibility through the use of variable interest rates on at least part of the treasury management portfolio. The Prudential Code requires the setting of upper limits for both variable rate and fixed interest rate exposure:

	Limit Set 2017-18	Actual 2017-18
Interest at fixed rates as a percentage of net interest payments	60% - 100%	86%
Interest at variable rates as a percentage of net interest payments	0% - 40%	14%

The interest payments were within the limits set.

Maturity Structure of Borrowing

This indicator is designed to prevent the Council having large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates.

Amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate	Limit Set 2017-18	Actual Levels 2017-18
Under 12 months	0% - 20%	3%
12 months to 2 years	0% - 20%	2%
2 years to 5 years	0% - 60%	6%
5 years to 10 years	0% - 80%	4%
More than 10 years	20% - 100%	85%

The limits on the proportion of fixed rate debt were adhered to.

Total principal sums invested for periods longer than 364 days

The Council has not invested any sums longer than 364 days.

This page is intentionally left blank

The Local Authorities' Property Fund

Fund Fact Sheet – 31 March 2018

Investment objective

The Fund aims to provide investors with a high level of income and long-term capital appreciation.

Investment policy

The Fund is an actively managed, diversified portfolio of UK commercial property. It will principally invest in UK commercial properties, but may invest in other assets.

Suitability

The Fund is suitable for the long-term funds of any local authority seeking exposure to UK commercial property.

Independent Governance

The trustee is the Local Authorities' Mutual Investment Trust (LAMIT) a body controlled by members and officers appointed by the Local Government Association, the Convention of Scottish Local Authorities, the Northern Ireland Local Government Officers' Superannuation Committee and investors in the Fund.

Who can invest?

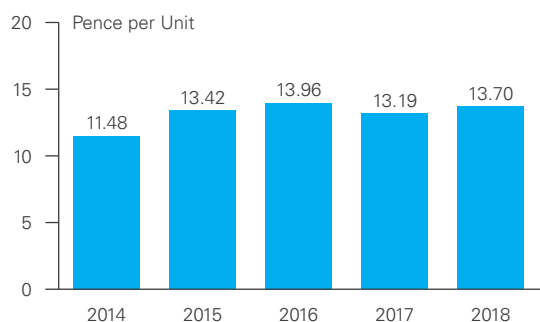
Any local authority in England, Wales, Scotland and Northern Ireland.

Income

Gross dividend yield	4.54%*
AREF/IPD™ Other Balanced Property Fund	
Index yield	3.60%
Official Bank Rate	0.50%

* Based upon the net asset value and historic gross annual dividend of 13.6993p

Rolling 12 month distributions to 31st March:



Unique accounting advantages

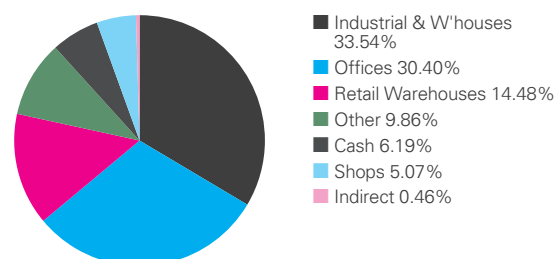
Unlike other property fund investments or even direct property purchases, investment in the Fund does not count as capital expenditure for English or Scottish local authorities. Dividends are treated as revenue but the General Fund is protected from fluctuations in the unit price. The investment is treated as an available for sale financial asset.

Fund update

The prime focus of our investment strategy is on asset selection and management. We try to identify assets which, through active management, can make a significant contribution to total returns and to the income payment to investors. We also bias the sub-sector weightings to reflect our view of their relative attractiveness. At present, this means a relatively high weighting to industrial and office assets and a relatively low weighting to retail, with no shopping centre or supermarket holdings.

Cash flows into the Fund continued at a high level, however, just one property was added to the Fund. This is an educational facility in Derby, acquired at a total cost of £14.9m, on an initial yield of 5.7%, but with fixed annual income growth of 2.5% and a remaining lease life of 12 years. Lease management activity continued with one unwelcome immediate outcome, a pickup in expenditure and an increase in the void rate as assets are refurbished. The most significant current project is the major office asset in Kingsway, where there has been good early progress on marketing the new accommodation. So far two floors have been let and a substantial rental increase on one of the retail units has been secured. Elsewhere, a new letting in Wellingborough has improved income inflows, but this gain will be offset by the start of work at Stockley Park. The overall income level continues to be significantly reversionary, underpinning the potential for future income growth.

Asset allocation



The Fund has credit facilities which, at quarter end, were not utilised.

Discrete year total return performance (net)

12 months to 31 March	2018	2017	2016	2015	2014
The Local Authorities' Property Fund	+9.72%	+3.07%	+11.26%	+17.81%	+14.27%
Benchmark	+10.46%	+4.58%	+10.98%	+16.86%	+12.16%

Annualised total return performance (net)

Performance to 31 March 2018	1 year	3 years	5 years
The Local Authorities' Property Fund	+9.72%	+7.96%	+11.11%
Benchmark	+10.46%	+8.63%	+10.94%

Benchmark – AREF/IPD™ Other Balanced Property Fund Index. Net performance shown after management fees and other expenses. Past performance is no guarantee of future returns. Source: CCLA

Top ten property holdings – total 36.43%

London, Kingsway	Bracknell, The Arena
London, Goodman's Yard	Bristol, Gallagher Retail Park
London, Stockley Park, Longwalk	Coventry, Torrington Avenue
London, Beckton Retail Park	Brighton, West Street
Elstree, Centennial Park	Leeds, Leeds 27 Industrial Estate

Key facts

Total fund size	£976m
Current borrowing	£0m
Number of holdings	63

Income units

Offer (buying) price	322.40p (xd)
Net asset value	302.01p (xd)
Bid (selling) price	297.33p (xd)
Launch date	18 April 1972
Unit types	Income
Minimum initial investment	£25,000
Minimum subsequent investment	£10,000
Dealing day	Month end valuation day*
Sedol & ISIN numbers	0521664, GB0005216642
Dividend payment dates	End January, April, July & October
Annual management charge (taken 100% from income)	0.65%

* Instructions for the issue or redemption of units must be received by CCLA no later than 5pm on the business day prior to the Valuation Date. If the valuation day is a bank holiday, the dealing day will be the previous working day. Units are only realisable on each monthly dealing date and redemptions may not be readily realisable; a period of notice not exceeding six months may be imposed for the redemption of units.

Tax reclaims should be addressed to: Glynis Free, Specialist Repayment Team 7 South, Ty - Glas, Cardiff, CF14 8HR.
Telephone 03000 580618, 9.30am - 1pm.

Risk Warning

This document is a financial promotion and is issued for information purposes only. It does not constitute the provision of financial, investment or other professional advice. CCLA have not considered the suitability of this investment against your individual needs and risk tolerance. To ensure you understand whether our product is suitable, please read the Fund Factsheet document and the Scheme Particulars. We strongly recommend you seek independent professional advice prior to investing. Investors should consider the following risk factors identified as specific to the Fund before investing: Counterparty/Tenant/Credit Risk (financial institution/tenants may not pay), Market Risk (investment value affected by market conditions), Operational Risk (general operational risks), Expiry/Maturity Profile (timing of maturity of tenancies), Liquidity Risk (investment in non-readily realisable assets), Interest Rate risk (changes to interest rate affecting income), Concentration Risk (need for diversification and suitability of investment), Business Risk (possibility of lower than anticipated profits). Please see the Fund Scheme Particulars for further details.

Disclosure

Investment in the Fund is for Eligible Local Authorities only. Past performance is not an indicator of future performance. The value of investments and the income derived from them may fall as well as rise. Investors may not get back the amount originally invested and may lose money. Any forward-looking statements are based upon our current opinions, expectations and projections. We undertake no obligations to update or revise these. Actual results could differ materially from those anticipated. Investments in the Fund and the Fund itself are not covered by the Financial Services Compensation Scheme (FSCS). However, the Manager may pay fair compensation on eligible claims arising from its negligence or error in the management and administration of the Fund. The Fund is an Alternative Investment Fund and an Unregulated Collective Investment Scheme established under a Scheme approved by H M Treasury under Section 11 of the Trustee Investments Act 1961 and is subject to provisions of a Trust Deed dated 6 April 1972 and a supplemental Trust Deed dated 13 September 1978. The Fund operates as an open-ended Fund under Part IV of the schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001. CCLA Fund Managers Limited (registered in England No. 8735639 at the office below) is authorised and regulated by the Financial Conduct Authority and is the manager of the Local Authorities Property Fund.

HIGHER INCOME FOR LOCAL AUTHORITIES

THE LOCAL AUTHORITIES' PROPERTY FUND

Increasing your income, diversifying your risk

The Local Authorities' Property Fund – A pooled investment fund, managed by CCLA, created by local authorities for local authorities

PROPERTY AS AN ASSET CLASS

THE NEED FOR ALTERNATIVES TO CASH

The rationale for looking at alternative asset classes is that the outlook for cash investment remains challenging. Interest rates are expected to remain low for the foreseeable future with the risk that the real value of capital invested in cash is eroded over time by inflation. In addition, investors have to understand the implications of “bail-ins” and the threat that these pose to their capital.

One option for investors to boost choice and improve returns could be to reduce their minimum credit rating thresholds towards the lower end of the investment grades or to extend the maturity limits to invest in a portfolio of longer-term bank deposits. Unfortunately this course of action adds little to income in the current environment but would result in a significant increase in credit risk exposure.

Even in more supportive conditions cash deposits offer strictly limited returns, the best that can be hoped for is the return of the principal plus interest. Other asset classes, such as shares and property, give the investor the ability to participate in rising asset values and the potential for a growing income over time.

To ease the pressure on counterparty lists, diversify investments away from financial institutions and to boost the income from their investments, local authorities should consider property for a portion of their strategic long-term balances.

WHAT IS PROPERTY?

For investment purposes, commercial property is usually considered to consist of three broad sectors: office, retail and industrial. Owning property brings exposure to a physical asset and the rights associated with it, in addition the purchase entitles the investor to the future income streams from rent and any capital growth from that land or building.

All properties are unique; their value is determined by factors such as location, build quality and condition and also the length of the lease, the strength of covenant provided by the tenant and the size of the current and potential income stream. Conditions in the property sector and indeed in the wider investment market will also be important.

Each property therefore has different return and risk characteristics which can be combined to build portfolios to meet particular requirements. For investors concerned about volatility in capital values, a lower risk strategy might be to hold prime assets in sought-after locations with high quality tenants secured on long leases. However the income achieved by this approach will be lower. Alternatively, investors might seek higher gains and a higher income from opportunities where, for example, the quality of the asset is good but the tenant or lease can be improved. The risk/return characteristics of property strategies can differ greatly and these need to be understood by potential investors.

BENEFITS OF INVESTING IN PROPERTY

There are many benefits that may be realised from investing in property, including greater portfolio diversification and more predictable and stable income returns. Over time property has also been a useful source of capital growth.

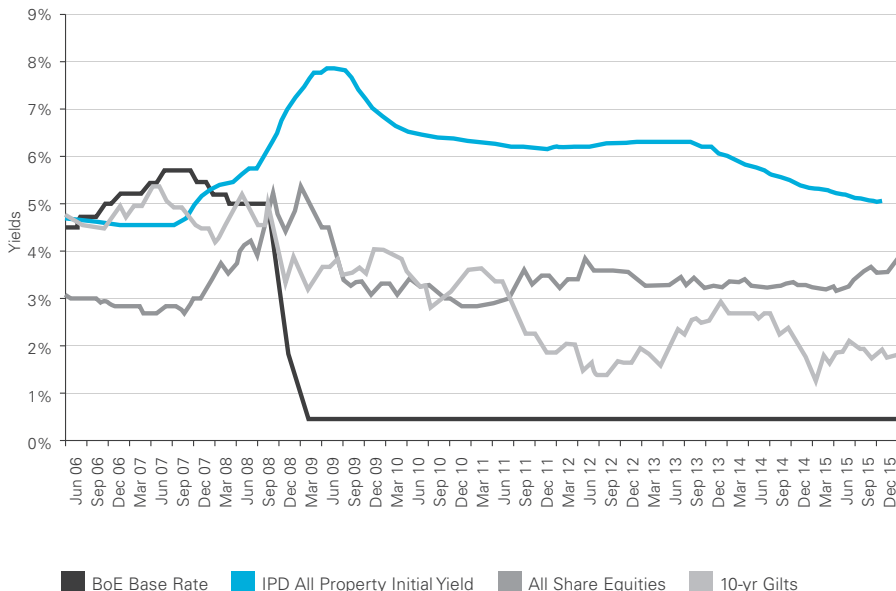
DIVERSIFICATION

Property can add value to a general portfolio because of the low correlation of its returns to those of bonds and equities. A weighting to property improves diversification and so can reduce overall risk.

HIGH AND STABLE INCOME RETURN

Over the long-term a large proportion of the total return from property has been derived from income. Income has also been the most consistent source of return. Whilst property values have risen over time, there have been down years. Income however has been far more stable and predictable, a reflection of the contractual nature of income payments in the sector. Investors who take a longer view, 5 years or more, find that their annualised total return becomes far less volatile. The table below shows the yields available on cash, government bonds and property; it highlights the relative attraction of property in the current investment environment.

Asset Class – Yield Comparison at 31 December 2015



Source: IPD/BoE/BNP - Past yield is no guarantee of similar yield patterns in future.

THE LOCAL AUTHORITIES' PROPERTY FUND

FEATURES OF THE FUND

Fund Objective

The objective for the Fund is to provide investors with a high level of income and long-term capital appreciation.

Income Distribution

Income is paid on a quarterly basis, at the end of January, April, July and October.

Minimum Investment

The minimum initial investment is £25,000.

Fees

There is an Annual Management Charge of 0.65% plus VAT.

Bid/Offer Spread

The spread reflects the cost of dealing in the underlying assets including the cost of Stamp Duty. A price spread protects investors from having the value of their holding diluted by

incoming or outgoing investors. Units are purchased at an "offer" price 6.75% above the net asset value and sold at a "bid" price 1.55% below it.

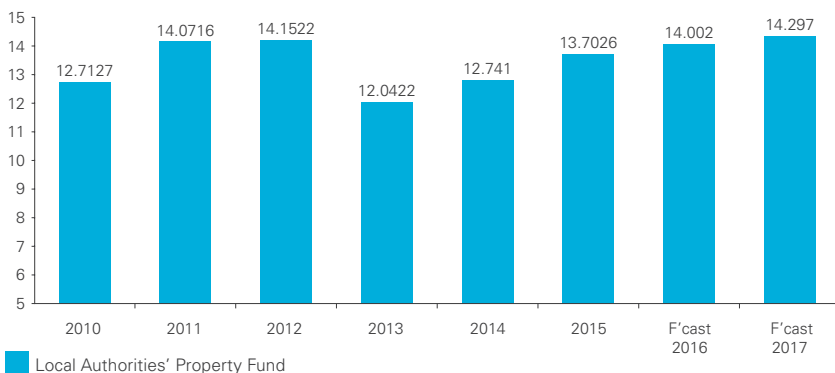
FUND PERFORMANCE

The Fund has been a consistent performer in its sector and has outperformed its benchmark,* both over the recent past and the longer term.

An important contribution to the Fund's strong record has come from the active management of the property assets. A proactive approach to tenant management, combined with the quality of the portfolio has ensured that the exposure to empty properties has remained low.

The income distribution has been relatively smooth despite the potentially disruptive effects of lease negotiations and portfolio changes. All income earned by the Fund is distributed to investors gross of tax.

Income payments on the Fund for the year to 31 December



Source: CCLA and IPD – Past performance is no guarantee of future returns

*The benchmark is the IPD Other Balanced Property Funds Index.

GOVERNANCE ARRANGEMENTS

Fund Structure

The Local Authorities' Property Fund (the Fund) is an unregulated collective investment scheme established under a Scheme approved by HM Treasury under Section 11 of the Trustee Investments Act 1961 and is subject to the provisions of a Trust Deed dated 6 April 1972 and a supplemental Trust Deed dated 13 September 1978. The Fund is an AIF and is managed as an AIFM in accordance with the FCA Rules and the AIFMD Legislation.

The Trustee

The Local Authorities' Mutual Investment Trust (LAMIT) is the Trustee of the Fund. LAMIT is a company incorporated under the Companies Act 1948 (Registered Number 700132), limited by guarantee and not having a share capital. LAMIT is controlled by representatives of the Local Government Association, the Convention of Scottish Local Authorities, the Northern Ireland Local Government Officers' Superannuation Committee and investors in the Fund.

The Trustee's responsibilities include agreeing the investment strategy, monitoring the diversification, suitability and risk profile of the Fund's investments, reviewing the performance and expenditure of the Fund and approving the payment of dividends.

The Trustee Board meets four times each year. It receives quarterly written reports from the Fund Manager. In addition, the Property Sub

Committee of LAMIT meets quarterly with the property manager to review the Fund's property portfolio, transactions and policies.

The Fund Manager

CCLA Fund Managers Ltd manages the Fund's properties and provides administrative and registrar services for the Fund and company secretarial services to the Trustee. CCLA Fund Managers Ltd is registered in England as a company (Registered Number 8735639), and is authorised and regulated by the Financial Conduct Authority (Registration Number 611707). CCLA Fund Managers Ltd is a wholly owned subsidiary of CCLA Investment Management Ltd. (Registered Number 2183088), and is authorised and regulated by the Financial Conduct Authority (Registration Number 119281).

CCLA Investment Management Ltd has over 50 years of investment management experience and on a group basis currently manages assets of more than £6.0 billion* on behalf of its clients, via its segregated management service and a wide range of pooled funds. LAMIT owns 13.5% of the share capital of CCLA Investment Management Ltd, with the remainder owned by its charity and church investment funds and executive directors.

This unique ownership structure means that CCLA is in a position to understand the particular needs of the public and voluntary sectors.

*(Source: CCLA as at 31st March 2016)

Management Arrangements

CCLA Fund Managers Ltd provides LAMIT with all the investment management, property management and administration functions for the Fund. These include the valuation of the Fund's assets in conjunction with the External Property Valuer (the Valuer), the issue and redemption of units, the operation of the Fund's Register, the payment of dividends and the maintenance of the accounts of the Fund.

The valuation of the Fund's properties is undertaken by the Valuer on the monthly valuation dates. Additions to the portfolio are valued externally after acquisition. The current Valuer is BNP Paribas Real Estate.

Risk Control

CCLA has permanent operational and investment risk management functions that are hierarchically and functionally separated from the operating units and have the necessary authority and access to relevant information to perform their roles effectively.

CCLA has an operational risk management framework which provides a consistent methodology for the assessment, mitigation and reporting of operational risk, ensuring that a high quality of risk management and control is maintained throughout the organisation. CCLA has documented a risk management policy, appropriate to the nature, scale and complexity of both CCLA and the LAPF, which identifies all the relevant risks to which the Fund is or may be exposed. Quantitative and qualitative risk limits have been established for relevant risks, in line with the risk profile of the Fund. An Investment Risk committee oversees investment risk management activity.

Eligible Contributors

The units of the Fund can only be issued to and owned by local authorities in England, Wales, Scotland and Northern Ireland. The Trustee and the Fund Manager are required to satisfy themselves as to the identity of participants in the Fund for money laundering purposes.

Safe Custody of Assets

The Trustee has appointed Hogan Lovells LLP to provide safe custody services for the English properties owned by the Fund. Scottish property documents are held by DLA Piper Scotland LLP.

Reports and Accounts

The Fund operates on a financial year to 31 March and publishes its report and accounts every six months, these are subject to external audit. The Trustee is required to prepare accounts which give a true and fair view of the financial position of the Fund at the end of each half-yearly accounting period and the movement in net assets for the period.

The Manager publishes a quarterly factsheet as at the end of March, June, September and December each year. The report and accounts and factsheets are all available on the Manager's website www.ccla.co.uk.

BENEFITS AND RISKS

BENEFITS OF INVESTING IN THE FUND

1. Local authorities have been long-term investors in property through directly purchased assets, but a simpler and more efficient route is to invest in a suitable property fund.
2. Whereas a directly held portfolio requires a substantial scale to achieve an appropriate spread of investments, a unitised approach can work regardless of the scale of the investor. It allows the efficient management of the underlying property and can offer geographical and industry diversification. Furthermore, the Fund offers unique accounting advantages. These are explained on page 9.
3. The LAPF gives local authorities an exposure to a diversified portfolio of commercial property throughout the UK. For investors it eliminates the issues of maintenance, management and repairs, reduces property specific risk and improves liquidity.
4. The Manager aims to add value by active management including upgrading the asset, improving the quality of the tenant or lengthening the income stream. The size of the Fund allows it to adjust swiftly to changes in investor sentiment and market conditions in the various sectors in the industry.

RISKS OF INVESTING IN THE FUND

Risks arise in three main areas: the risk of declines in the value of the investment, the risk of illiquidity and the risk from gearing.

RISES AND FALLS IN VALUE

The value of units will rise and fall in value over time, reflecting sector and underlying property conditions. These price trends can persist over medium term periods. The Fund has an investment strategy which seeks to provide a relatively high income and to take an active approach to asset management. These policies could exacerbate market trends.

LIQUIDITY AND COSTS

Property is an illiquid asset class and it is not always possible to sell units immediately. The costs of dealing are also relatively high. These two facts suggest that the investment horizon for investors in the Fund should be measured in years.

GEARING

The Fund has a modest loan facility which is used to provide liquidity and support returns. The existence of borrowings can amplify any change in unit values.

ACCOUNTING AND REGULATORY ISSUES

ACCOUNTING FOR INVESTMENTS

The Fund benefits from a favourable accounting and regulatory framework, where dividends are treated as revenue income but the General Fund is protected from fluctuations in the unit price. Uniquely and unlike other property funds or direct property purchases, the Fund does not count as capital expenditure for English and Scottish local authorities.

Classification

Under International Accounting Standard 39 and the current CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, a local authority's holding in the Fund will be accounted for as an Available for Sale financial asset.

Purchase

The holding will be recognised on the balance sheet under Long-term Investments at the same value as the cash price paid for the units, plus direct transaction costs, if any.

Dividends

Dividends are recognised as "other investment income" within the Financing & Investment Income & Expenditure Account when the right to receive payment is established. Since the Fund rules require the payment of a dividend comprising the Fund's net income each quarter, local authorities should accrue the dividend for the quarter ending 31 March that will be paid in April each year.

Capital gains and losses

At the end of each financial year the value of the local authority's investment will be adjusted to equal the number of units held multiplied by the published bid price, with the gain or loss taken to the Available for Sale Reserve. Movements in the unit price therefore have no impact on the General Fund until the investment is sold or impaired.

An investment in the Fund would only be considered impaired if there was a significant or prolonged decline in the unit price below the level at which the units were bought. In that case, the loss would be removed from the Available for Sale Reserve and shown as an impairment loss in the Financing & Investment Income & Expenditure Account.

Sale

The full difference between the purchase price and the sale proceeds (net of any earlier impairment losses) will be shown in Financing & Investment Income & Expenditure, with the balances in the Long-term Investments and the Available for Sale Reserve reduced to zero.

Where units have been bought at different prices and only part of the holding is sold, it will be necessary to determine which units have been sold to calculate the gain or loss since purchase.

CAPITAL EXPENDITURE TREATMENT

England: The acquisition of share capital in a body corporate, including units in unregulated collective investment schemes, normally counts as capital expenditure under section 25(1)(d) of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended). However, as a scheme approved by HM Treasury under section 11(1) of the Trustee Investments Act 1961, and in accordance with section 25(3) (d) of the regulations, the purchase of units in the Fund does not count as capital expenditure in England.

Scotland: The Scottish Government has not made regulations on the acquisition of share capital, so the purchase of units in the Fund does not count as capital expenditure in Scotland.

Wales: No such exemption has been enacted by the Welsh Assembly, so in accordance with section 20(1) (d) of the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003, the purchase of units in the Fund does count as capital expenditure in Wales.

Northern Ireland: The regulations in Northern Ireland are similar to those in Wales, so in accordance with section 12(1)(d) of the Local Government (Capital Finance and Accounting) (Northern Ireland) Regulations 2011, the purchase of units in the Fund does count as capital expenditure in Northern Ireland.

IMPACT

The effect of being classed as capital expenditure in Wales and Northern Ireland is that resources (such as capital receipts or minimum revenue provision) must be put aside to fund the “expenditure”, and the proceeds from the sale of units will be capital receipts and hence be restricted in their use. Any loss incurred on the sale of units will therefore impact on capital receipts instead of the General Fund.

RISK WARNING

The value of the Fund units and the income from them can fall as well as rise and a local authority may not get back the amount originally invested. Past performance is no guarantee of future returns. The unit value will reflect fluctuations in property values. The units are intended only for long-term investment and are not suitable for money to be spent in the near future. They are realisable only on each monthly Valuation Date and a period of notice, may be imposed for the redemption of units.

The properties within the Fund are valued by an external property valuer; any such valuations are a matter of opinion rather than fact. Yields may vary and are not guaranteed and are quoted on a pre-tax basis after deduction of management charges.

CCLA Fund Managers Ltd (Registered in England No. 8735639 at Senator House, 85 Queen Victoria Street, London EC4V 4ET) is regulated by the Financial Conduct Authority and is the manager of the Local Authorities' Property Fund. The Trustee is the Local Authorities' Mutual Investment Trust (Registered in England and a company limited by guarantee No 700132 at the above office).

CCLA

Client services:
freephone 0800 022 3505
www.ccla.co.uk

CCLA Investment Management Ltd (Registered in England No. 2183088) and CCLA Fund Managers Ltd (Registered in England No. 8735639) whose registered address is: Senator House, 85 Queen Victoria Street, London, EC4V 4ET. Are authorised and regulated by the Financial Conduct Authority.

July 2016

This brochure is printed on a combination of 100% recycled and FSC approved paper



Name of meeting: Corporate Governance and Audit Committee
Date: 11th May 2018
Title of report: Planned Audit Fee 2018-19

Purpose of the report

The report updates Members on the Planned Audit Fee for 2018-19 for final accounts work, and arrangements for the audit of external grant claims and returns from 2018-19 onwards.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by Strategic Director & name	Rachel Spencer-Henshall, 02 May 2018
Is it also signed off by the Acting Service Director for Finance, IT and Transactional Services?	Eamonn Croston, Interim Section 151 Officer 30 April 2018
Is it also signed off by the Service Director for Governance and Commissioning Support?	Karl Larrad - 02 May 2018
Cabinet member portfolio	Cllr Graham Turner Cllr Musarrat Khan

Electoral wards affected: Not applicable
Ward councillors consulted: Not applicable
Public or Private: **Public**

1. Summary

1.1 At its meeting on 27th January 2017 this Committee agreed that the Council be recommended to ask Public Sector Audit Appointments Ltd to carry out Auditor Panel duties on behalf of the Council and nominate a proposed External Auditor to the

Council in due course, from 2018-19 onwards. The council agreed with this action at its meeting on 15th February 2017.

- 1.2 Public Sector Audit Appointments Ltd (PSSA) subsequently carried out their tendering exercise, and notified the Council that they wished to formally consult on their proposal to appoint Grant Thornton (UK) LLP to audit the accounts of Kirklees Metropolitan Council for five years from 2018/19. The appointment will start on 1 April 2018.
- 1.3 The attached Grant Thornton letter at Appendix A sets out the planned audit work for 2018-19 and the prescribed fee for this work, at £122,221. The fee for 2018-19 is about 23% less than the 2017-18 equivalent prescribed fee of £158,729.
- 1.4 Councils are also required to appoint a reporting accountant to undertake any required assurance work on external grant claims and returns. The most significant of these relates to the housing subsidy grant claim, which accounts for annual subsidy payments of about £115m. KPMG currently undertake the Council's external grant audit. The Department of Works and Pensions (DWP) has set a deadline of no later than 2 July 2018 for Councils to inform them of their reporting accountant appointment for the housing subsidy grant claim audit for 2018-19.
- 1.5 Any breach of this deadline may result in DWP withholding in-year subsidy payments otherwise due to the Council. This will not impact on individual housing benefit payments to eligible claimants, but may impact on the Council's treasury management cashflow forecasts from budgeted.
- 1.6 It is intended that Council officers will review current grant claim arrangements, and appoint in accordance with the Council's Contract Procedure Rules a reporting accountant for external grant claims and returns for 2018-19, no later than 2 July 2018.

2. Information required to take a decision

- 2.1 The Local Audit & Accountability Act 2014 provides the framework for local public audit.
- 2.2 Public Sector Audit Appointments Limited (PSAA) has been specified as an appointing person under the Local Audit (Appointing Person) Regulations 2015. This includes responsibility for setting fees, appointing auditors and monitoring the quality of auditor's work.
- 2.3 The PSAA appointed auditor for Kirklees Council, from 2018-19, for a five year period, is Grant Thornton. The planned audit fee for 2018-19 is £122,221. The planned audit work, billing schedule and outline audit timetable is set out in the attached auditor letter, at Appendix A.
- 2.4 The PSAA prescribed audit fee for 2018-19 is £122,221 and represents a 23%

reduction from the equivalent scale fee in 2017-18 of £158,729.

- 2.5 The audit fee is set on the expectation that the Council is able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes.
- 2.6 The planned audit work for 2018-19 covers the audit of the Council's financial statements, work on the Value For Money conclusion, and work on the whole of government accounts return. The scope of the overall work programme for the audit for 2018-19 is unchanged from 2017-18.
- 2.7 Following the abolition of the Audit Commisison, PSAA has delegated powers to make external accountant appointments for assurance on the housing subsidy grant claim, and to prescribe fees for this work. These transitional arrangements cease after March 2018. KPMG has previously undertaken these audits in addition to final accounts audit work.
- 2.8 The Council will need to appoint its own external accountant for assurance work on the housing subsidy grant claim from 2018-19 onwards. The PSAA prescribed fee for this grant work for comparison, is in the region of £37k.
- 2.9 In addition, there are other current grants and returns also requiring audit assurance. These include the Teachers' Pensions return, Pooling of Housing Capital Receipts return, NCTL Initial Teacher Training return and Skills Funding Agency sub-contracting arrangements. These audits are subject to direct agreement between the reporting accountant, the relevant grant bodies/government departments, and the Council. KPMG currently undertake this work, and the estimated annual fee for this combined grant work is about £14,500.
- 2.10 The Department of Works & Pensions (DWP) has set a deadline of 2 July 2018 for Councils to inform them of their reporting accountant for the housing subsidy grant work for 2018-19. Any delay may result in the DWP withholding payments due to the Council in-year. Payment delays would not impact on individual payments due to eligible housing benefit claimants. However, it would impact on the Council's cashflow management forecasts from budgeted, and the Council could incur additional interest costs e.g. one month's payment delay may incur about £5k additional treasury management interest costs. Any subsequent monthly payment delay would add a further £5k cost for each extra month's delay i.e. £10k month 2, £15k month 3 etc.
- 2.11 The reporting accountant for housing benefit subsidy grant claims must be an independent company or concern appointed by the local authority who can carry out the audit of local government and health bodies; under Section 1239 of the Companies Act 2006, as applied in relation to local audits by Section 18 of Schedule 5 to the Local Audit and Accountability Act 2014 (as amended). The reporting accountant must also be on the register of licensed auditors for this purpose.
- 2.12 The register of licensed auditors is maintained by the Institute of Chartered Accountants in England and Wales (ICAEW). The register mainly consists of the

largest external audit firms with national reach, including Grant Thornton and KPMG. The full register can be found at:

[Local Auditor Register | ICAEW](#)

- 2.13 It is intended that Council officers review Council grant claim assurance requirements for 2018-19 and appoint a reporting accountant to cover all the required grant assurance work in 2018-19; initially to ensure the Council achieves the DWP deadline of 2 July 2018. The length of contract for any such appointment is a matter for the Council and initial consideration will be for one year. The above will be undertaken in accordance with the relevant Council contract procedure rules.

3 Implications for the Council

The planned audit work for 2018-19 provides an independent opinion on the proper stewardship of public funds, and that adequate arrangements are in place to ensure that resources are deployed economically, efficiently, and effectively in the year (Value For Money). This work ultimately supports the delivery of the following Council objectives and priorities :

- 3.1 Early Intervention and Prevention (EIP)
- 3.2 Economic Resilience (ER)
- 3.3 Improving Outcomes for Children
- 3.4 Reducing demand of services

The responsibility for approving the Statement of Accounts and any accompanying documentation is delegated to this Committee.

4 Consultees and their opinions

None

5 Next steps

The planned audit work for 2018-19 will be implemented in accordance with the timeline set out in the Grant Thornton letter attached at Appendix A, in order to meet statutory final accounts certification deadlines.

Officers will appoint a reporting accountant to deliver the required grant assurance work for 2018-19, and no later than 2 July, to meet the DWP deadline.

6 Officer recommendations and reasons

Corporate Governance and Audit Committee are asked to :

- (i) note the appointment of Grant Thornton UK LLP as the Council's auditor for 5 years from 1 April 2018 ,their planned audit fee, work programme and timetable for 2018-19 (Appendix A); and

- (ii) agree to the approach set out in this report for officers in accordance with the Council's Contract Procedure Rules to appoint a reporting accountant to undertake relevant external grant and reporting requirements for 2018-19, no later than 2 July 2018.
- (iii) The reasons for the recommendations are to comply with the Local Audit (Appointing Person) Regulations 2015 ; and to ensure value for money .

7 Contact officer

Eamonn Croston Head of Finance & Accountancy 01484 221000

8 Background Papers and History of Decisions

Grant Thornton letter dated 24th April 2018 to Jacui Gedman re: planned audit fee for 2018/19

9 Service Director responsible

Eamonn Croston 01484 221000

Jacqui Gedman
Chief Executive
Kirklees Council
Civic Centre 3
Market Street
Huddersfield
HD1 1WG

Grant Thornton LLP
No 1 Whitehall Riverside
Leeds
LS1 4BN
T +44 (0)113 245 5514
www.grant-thornton.co.uk

24 April 2018

Dear Jacqui

Planned audit fee for 2018/19

The Local Audit and Accountability Act 2014 (the Act) provides the framework for local public audit. Public Sector Audit Appointments Ltd (PSAA) has been specified as an appointing person under the Act and the Local Authority (Appointing Person) Regulations 2015 and has the power to make auditor appointments for audits of opted-in local government bodies from 2018/19.

For opted- in bodies PSAA's responsibilities include setting fees, appointing auditors and monitoring the quality of auditors' work. Further information on PSAA and its responsibilities are available on the [PSAA website](#).

From 2018/19 all grant work, including housing benefit certification, now falls outside the PSAA contract as PSAA no longer has the power to make appointments for assurance on grant claims and returns. Any assurance engagements will therefore be subject to separate engagements agreed between the grant-paying body, the Council and ourselves and separate fees agreed with the Council.

Scale fee

PSAA published the 2018/19 scale fees for opted-in bodies in March 2018, following a consultation process. Individual scale fees have been reduced by 23 percent from the fees applicable for 2017/18. Further details are set out on the [PSAA website](#). The Council's scale fee for 2018/19 has been set by PSAA at £122,221.

PSAA prescribes that 'scale fees are based on the expectation that audited bodies are able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes'.

The audit planning process for 2018/19, including the risk assessment, will continue as the year progresses and fees will be reviewed and updated as necessary as our work progresses.

Scope of the audit fee

There are no changes to the overall work programme for audits of local government audited bodies for 2018/19. Under the provisions of the Local Audit and Accountability Act 2014, the National Audit Office (NAO) is responsible for publishing the statutory Code of Audit Practice and guidance for auditors. Audits of the accounts for 2018/19 will be undertaken under this Code. Further information on the NAO Code and guidance is available on the [NAO website](#).

The scale fee covers:

- our audit of your financial statements;
- our work to reach a conclusion on the economy, efficiency and effectiveness in your use of resources (the value for money conclusion); and
- our work on your whole of government accounts return (if applicable).

PSAA will agree fees for considering objections from the point at which auditors accept an objection as valid, or any special investigations, as a variation to the scale fee.

Value for Money conclusion

The Code requires us to consider whether the Council has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VfM) conclusion.

The NAO issued its latest guidance for auditors on value for money work in November 2017. The guidance states that for local government bodies, auditors are required to give a conclusion on whether the Council has put proper arrangements in place. The NAO guidance identifies one single criterion for auditors to evaluate:

In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.

Billing schedule

Fees will be billed as follows:

Main Audit fee	£
September 2018	30,555
December 2018	30,555
March 2019	30,555
June 2019	30,556
Total	122,221

Outline audit timetable

We will commence our audit planning in October 2018 and undertake our interim visit in November 2018. Upon completion of this phase of our work we will issue a detailed audit plan setting out our findings and details of our audit approach. Our final accounts audit and work on the VfM conclusion will be completed between January and July and work on the whole of government accounts return in June and July.

Phase of work	Timing	Outputs	Comments
Audit planning and interim audit	October 2018 and January 2019	Audit plan	The Plan summarises the findings of our audit planning and our approach to the audit of the Council's accounts and VfM.

Final accounts audit	June and July 2019	Audit Findings (Report to those charged with governance)	This report sets out the findings of our accounts audit and VfM work for the consideration of those charged with governance.
VfM conclusion	January to July 2019	Audit Findings (Report to those charged with governance)	As above
Whole of government accounts	June and July 2019	Opinion on the WGA return	This work will be completed alongside the accounts audit.
Annual audit letter	July 2019	Annual audit letter to the Council	The letter will summarise the findings of all aspects of our work.

Our team

The key members of the audit team for 2018/19 are:

	Name	Phone Number	E-mail
Engagement Lead	Robin Baker	0161 214 6399	robin.j.baker@uk.gt.com
Engagement Manager	Marianne Dixon	0113 200 2699	marianne.dixon@uk.gt.com
Assistant Manager	Richard Anderson	0141 223 0753	richard.j.anderson@uk.gt.com

Additional work

The scale fee excludes any work requested by the Council that we may agree to undertake outside of our Code audit. Each additional piece of work will be separately agreed and a detailed project specification and fee agreed with the Council.

Quality assurance

We are committed to providing you with a high quality service. If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact Sarah Howard, our Public Sector Assurance regional lead partner, via sarah.howard@uk.gt.com.

Yours sincerely

Robin Baker
Engagement Lead
For Grant Thornton UK LLP

Name of meeting: Corporate Governance & Audit Committee

Date: 11th May 2018

Title of report: Proposed revisions to Financial Procedure Rules

Purpose of report; To provide information on proposed changes to Financial procedure rules for the municipal year 2018/19

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name Is it also signed off by the Service Director for Finance, IT & Transactional Services Is it also signed off by the Service Director - Legal Governance and Commissioning?	J Muscroft Service Director - Legal Governance and Commissioning Yes (acting CFO)
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public

1. Summary

- 1.1 This report sets out information on proposed changes to Financial Procedure Rules.
- 1.2 The main areas proposed for amendment relate to procedures relating revenue and capital management.
- 1.3 A small number of other changes are also proposed. These are marked on the attached documents

2. Information required to take a decision

- 2.1 The detail is contained within the attachment
- 2.2 Section 2 includes suggested amendments to reflect the practical time periods for budgeting and medium term financial planning can be between 2 and 4 years.
- 2.3 The existing FPRs at 2.23 allow for the identification, by officers, or cabinet, of revenue contributions to capital projects funded by revenue virements. The proposal in these changes is that this practice during year is restricted somewhat, so that resources can only be identified either through the council annual budget process or by way of approved virement in respect of existing programmes or projects, and

then subject to the approval of both the Executive Team and the Chief Financial Officer. Text at 3.12 makes the same change to the rules as they relate to capital.

- 2.4 At present rollover (the taking of underspends, or overspends forward at year end) is presumed based on the separate budgets of each directorate. A change is proposed that ends this directorate based assessments, but instead expects executive team to collectively make proposals about which over or underspends should be rolled forward. (2.30).
- 2.5 The council has officer arrangements in place to identify, assess and then control individual capital projects and programmes to deliver effective investments decisions., some minor changes to wordings are suggested to strengthen the approach at 3.17 and 3.18, and to allow the incurring of some design fees to ensure that projects included in the capital plan are appropriately costed.
- 2.6 Additional text at 3.11 makes clear that capital virement transfers must not impact on funding sources (eg capital is not moved between the HRA and general fund)
- 2.7 A further change is proposed at 2.36 and 3.21 that makes clear that the chief finance officer is authorised to make changes to funding streams (mainly between capital and revenue) in order to maximise the councils financial position .
- 2.8 Other changes include making responsibility for establishing an effective internal audit operations a responsibility of the chief executive, in consultation with the chief finance officer and monitoring officer.
- 2.9 The council follows CIPFAs treasury management policies. FPRs 3.1 and 9.1 are recommended for minor drafting changes.
- 2.10 There are also a small number of minor wording changes eg at 5.7,6, 12.11, 20.6 and definitions.

3. Implications for the Council

- 3.1 Early Intervention and Prevention (EIP) -None directly
- 3.2 Economic Resilience (ER) -None directly
- 3.3 Improving Outcomes for Children -None directly
- 3.4 Reducing demand of services -None directly
- 3.5 Although each of the sub categorisations above suggest no direct implications, the financial procedure rules are important rules that dictate the processes and procedures to be followed by officers in delivering sound governance and control.

4. Consultees and their opinions

- 4.1 The chief executive and strategic directors, and acting chief finance officer have been involved in the drafting of these proposals.

5. Next steps

- 5.1 This matter will go forward to Annual Council for consideration.

6. Officer recommendations and reasons

- 6.1 Members are asked to consider the proposed changes to Financial Procedure Rules and recommend them to Annual Council for approval.

7. Cabinet portfolio holder recommendation

7.1 Not applicable.

8. Contact officer

Martin Dearnley, Head of Risk (01484 221000; x 73672)

9. Background Papers and History of Decisions

The attached document includes track changes

10. Director responsible

Director of Legal Governance & Commissioning.

This page is intentionally left blank

KIRKLEES COUNCIL

FINANCIAL PROCEDURE RULES

June 2018

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 Chief Finance Officer or their staff if assistance or clarification is needed.

Contents

1. Financial Governance
2. Revenue budget Preparation and Management Revenue Budget
3. Capital Investment Plan Preparation and Management
4. Financial Systems, Procedures and Grants
5. Internal Audit
6. Insurance
7. Assets
8. Security
9. Treasury Management
10. Banking Arrangements, Cheque Signing and Imprest Accounts
11. Income
12. Payment of Invoices
13. Payment Cards
14. Salaries, Wages and Pensions
15. Travel, Subsistence and other Allowances
16. Taxation
17. Gifts and Hospitality
18. Working with Clients and Contractors
19. Unofficial and Voluntary Funds
20. Financial Control of Partnerships, Joint Ventures, Associated Organisations and Similar Arrangements
21. Purchasing of Works, Goods and Services

Financial Procedure Rules

Definitions

Activity	A standard sub division of a Strategic Director's budgets; normally equivalent to the service portfolio operationally managed at Service Director level
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
Central Budget	A budget which is held centrally and for which statutory Chief Finance Officer is accountable (in accordance with any rules established in these procedures, or by Council, or Cabinet)
Chief Finance Officer	The person so designated as the Section 151 of the Local Government Act 1972 from time to time by the Chief Executive
Controllable Budget	A budget which is allocated to a Director, and for which the Director is accountable, in accordance with any rules established in these procedures, or by the Chief finance Officer, or by Council, or Cabinet
Directorate	The consolidated group of Service plans and activity budgets that fall within the responsibility of any one Strategic Director, including the Chief Executive
Executive Team	The Council's most senior officer leadership team
Fixed Asset	Any physical item having a long term value – such as a vehicle or property
Head of Risk	The officer currently holding the role of Head of Internal Audit, as required by Public Sector Internal audit Standards
His or Her Nominees	Refers to the 'Head of Service level' to which Service Directors, including the Chief Finance Officer can nominate on their behalf, to enact Service Director delegated authorities as set out in these FPR's
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 (MTFP)	Revenue Budget Plan, normally between 2 and 4 years and Capital Investment Plan, up to 5 years
Monitoring Officer	The person appointed under Section 5 of the Local Government & Housing Act 1989, currently the Service Director, Legal, Governance & Commissioning
Named Project	A project (forming part of a Capital Programme) identified by Cabinet (or any other body or person so authorized 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, or a major project listed separately within the Capital Investment Plan
Project	A single scheme included separately in the Capital Investment Plan, or as part of a programme area
Rollover	A mechanism for transferring budgets between financial years
Service Director	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive
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
Strategic Director	The person responsible for the commissioning of activity at a Directorate level, and includes the Chief Executive
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 Chief Finance Officer 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 Corporate Governance & Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management arrangements. The Cabinet is responsible for assessing the risk of activity undertaken by the Council.
- 1.6 The Chief Finance Officer 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, jointly with the Chief Executive;
 - k) Ensuring proper professional practices are maintained within the finance function; and
 - l) Managing the Council's taxation affairs
- 1.7 The Chief Finance Officer must report to the Council's Monitoring Officer and 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;

and the Council's Monitoring Officer will take all appropriate and necessary steps to deal with the matter.

- 1.8 The Chief Finance Officer may issue any instruction intended to fulfil these responsibilities and is entitled to any information or explanations as he/she may require. The Head of Risk, and the Service Director Legal, Governance & Commissioning may also issue instructions or guidance in relation to these financial procedure rules.
- 1.9 Service Directors must ensure that financial systems and procedures used in their service areas are adequate to record and control all transactions and to achieve adequate levels of internal check and control.
- 1.10 Service 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.
- 1.11 Strategic Directors must ensure that any report to Cabinet contains the financial implications of any proposals. These financial implications must be agreed with the Chief Finance Officer.
- 1.12 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.
- 1.13 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.
- 1.14 A reference in the financial Procedure Rules:-
 - a) To the Cabinet includes Cabinet Committees;
 - b) To a Strategic Director includes where appropriate the Chief Executive.
 - c) To a Service Director includes his or her nominees (except where otherwise specifically forbidden);
 - d) To the Chief Finance Officer includes his or her nominees; and
 - e) 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 (MTFP) comprising a multi-year General Fund Revenue Budget Plan, which will normally cover a period between 2 and 4 years (including the revenue consequences from the Capital Investment Plan), a multi-year capital budget plan

of up to 5 years, and setting the level of Council Tax for the following financial year.

- 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 no later than the October meeting of the Council each year a provisional budget strategy, for a period of between 2 years and 4 years. The starting point will be the existing multi-year plans rolled forward from the previous year, including a high level review of Council funding and spend assumptions. Any resultant gap between funding and spend forecasts will inform target spending controls over the new MTFP period.
- 2.5 The Chief Finance Officer is responsible for establishing budget procedures, including determination of the following:
- i) target spending controls for the Council budget over the MTFP, and their allocation to Directors, as appropriate,
 - ii) the format for budget documentation,
 - iii) a corporate budget timetable, and
 - iv) to report on any amendments put forward as part of the Council's budget process
- 2.6 The provisional budget strategy will include arrangements for wider public engagement on budget options being considered.
- 2.7 Strategic Directors will produce draft budget proposals to meet target spending controls for Council budgets over the MTFP, in accordance with budget procedures and the annual budget timetable as set out by the Chief Finance Officer. These draft budget proposals will show how resources are to be allocated across activities, taking into account any service changes, performance targets, and the specific requirements of any relevant legislation, including service equalities impacts, in formulating budget options for Cabinet consideration.
- 2.8 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 Council's Budget for the next financial year.
- 2.9 The Chief Finance Officer 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. The annual budget report must make reference to all matters required by legislation or appropriate professional guidance.

Budget Management

- 2.10 The Cabinet is responsible for implementing the Corporate Plan within the resources allocated in the Revenue Budget. The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.
- 2.11 The Chief Finance Officer will determine which budgets are “controllable” by Strategic Directors, and will allocate the specific budgets that each Strategic Director has responsibility to manage.
- 2.12 These budgets will normally align with the Directorate structure of the Council, but may also reflect the cross council (transformational) structure of the Council. The Chief Finance Officer will determine which budgets may be considered together for the purposes of delegated virement authority (per FPR 2.21 to 2.27 below).
- 2.13 Service Directors are responsible for managing controllable budgets within their delegated authority and should exercise proper budgetary control in order to achieve Corporate Plan and Service Plan objectives.
- 2.14 Service Directors are authorised to incur any expenditure included in the approved revenue budget, as amended by any Virement including obtaining and accepting quotations and providing grants and loans, subject to other requirements of CPRs and FPRs.
- 2.15 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Strategic Director and the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.
- 2.16 Where a Service Director is reporting a projected overspending of more than £500,000 on an activity that cannot be addressed through budget virement, this will be highlighted by the Chief Finance Officer as part of the report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year, setting out the reasons for the overspending and management options for eliminating or reducing the overspending.
- 2.17 The Cabinet is responsible for reviewing management options and for recommending such further steps as are necessary to align activity with resources.
- 2.18 The Chief Finance Officer is accountable for all central budgets, which will be managed in the same way as activity budgets.
- 2.19 The Chief Finance Officer has 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 Service 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.

Virements

- 2.21 Service 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. 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.
- 2.22 Virements must recognise funding arrangements. Virement is not permitted between HRA funded and General Fund funding streams
- 2.23 Strategic Directors, in consultation with the appropriate executive member(s), are authorised to transfer resources between controllable activity budgets subject only to the cumulative Virements on any one activity not exceeding 10% of the original net controllable Directorate budget or £1,000,000, whichever is the smaller.
- 2.24 The Cabinet is authorised to transfer resources (undertake a Virement) of more than £1,000,000 between activity budgets, subject only to the cumulative Virements on any one Directorate not exceeding 10% of the original gross budget, or £2m, whichever is the smaller. Cumulative Virements above these thresholds requires Council approval.
- 2.25 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if:
- (a) There is explicit prior year approval as part of the approved budget plans of the Council, for the following financial year; or
 - (b) Service Directors can identify, from the revenue budget (up to £500,000 cumulative virement in any one financial year) to add additional resources to the capital plan, in respect of approved programmes and projects, and subject to approval by the Executive Team and the Chief Finance Officer; and compliance with FPR 3.19 and 3.20
- 2.26 Virement is specifically not allowed where the transfer of resources is from budgets for capital charges, Council support functions or statutory taxes and levies.
- 2.27 All Virements will be recorded in a way prescribed by the Chief Finance Officer who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet.

Rollover

- 2.28 Rollover is a mechanism for transferring budget provisions from one year to the next, or vice versa. Rollover arrangements apply equally to the General Fund and the Housing Revenue Account.
- 2.29 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.
- 2.30 The Cabinet is responsible for recommending changes to the Revenue Budget arising from the rollover process.

- 2.31 In the rollover process, the overall level of resources available to support rollover proposals will not exceed any reported net underspend of the Council as a whole for that year. If the Council as a whole does not have a reported under spend, the presumption is that there will be no revenue rollover for that year.
- 2.32 Subject to the parameters set out in FPR 2.31 above, rollover proposals will be considered at Executive Team in the first instance.

Other

- 2.33 Where during any year a material change of funding (and or any change associated activity) arises this must be reported to Cabinet along with a statement of any associated change in the risk profile (for example a change from outsourced to direct employment may have the same overall cost, but may significantly increase the Council's risk).
- 2.34 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 activity in which the error is made.
- 2.35 Whenever the Cabinet becomes aware –following a report from the Chief Financial Officer- 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.
- 2.36 The Chief Finance Officer will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year. At least a summary of this information will be published on the council website.
- 2.37 After the end of each financial year, the Chief Finance Officer will report to the Cabinet and the Council on the outturn financial performance and any proposed rollover, subject to the parameters set out in FPR 2.31 above.
- 2.38 The Chief Finance Officer is permitted to make variations to revenue funding as necessary in order to ensure that the council funding position is optimised, subject to reporting such actions to Cabinet and Council.

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 associated statutory Government guidance'.

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 at the same time as the proposed Revenue Budget, a multi-year Capital Investment Plan and the prudential indicators and limits that support the recommended capital investment.

- 3.4 The Council will determine allocations of capital resources to programme areas, or to specified projects.
- 3.5 The Cabinet is responsible for implementing the Capital Plan approved by Council, in line with any stated Council policies, or strategies
- 3.6 The Chief Finance Officer will advise the Cabinet and the Council on the overall Capital Investment Plan and levels of funding available. The Chief Finance Officer 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

- 3.7 The Chief Finance Officer will prepare draft investment plans in accordance (where set) with the planning totals. Service Directors are responsible for providing details of all programmes and projects in a format prescribed by the Chief Finance Officer.

Plan Management

- 3.8 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.
- 3.9 The Cabinet is authorised to;
 - (1) Transfer resources within a programme area without restrictions.
 - (2) Transfer resources between any project or programme area up to a maximum of £1,000,000 in any financial year.
- 3.10 Service Directors are responsible for managing programmes and projects, and must make appropriate arrangements to control projects and avoid overspending.
- 3.11 Service Directors are authorised to transfer resources to or from any project, or to or from any unallocated resources within a programme area up to a maximum of £500,000 in any financial year, subject to the approval of the Chief Finance Officer and notification to the relevant Cabinet Member and appropriate ward Members
- 3.12 Transfers under 3.9 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream as a result of the changes.
- 3.13 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if;
 - (a) There is explicit prior year approval as part of the approved budget plans of the Council for the following financial year; or
 - (b) Service Directors can identify from the revenue budget (up to £500,000 cumulative virement in any one financial year) to add additional resources to the capital plan, in respect of approved programmes and projects, but subject to approval by the Executive Team and the Chief Finance Officer; and compliance with FPR 3.19 and 3.20.

- 3.14 Transfer of resources must recognise funding arrangements. Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project to the extent that it is funded by a project specific third party grant.
- 3.15 The Cabinet may delegate its authority under FPR 3.9 and 3.10 to the Board of Kirklees Neighbourhood Housing Limited. The Cabinet may also allow additional delegated authority to Service Directors. This is to be agreed on an annual basis.
- 3.16 Any decision on resource allocation by Cabinet, Strategic and Service Directors or Subsidiary Organisations (FPR 3.9 to 3.13) must recognise any policy decisions of Council; any decision on resource allocation by Strategic and Service Directors or Subsidiary Organisations (FPR 3.10-3.13) must recognise any policy decisions of Cabinet.
- 3.17 The Chief Finance Officer will report to the Cabinet on the overall management of the Capital Investment Plan on a quarterly basis through the year (including the reporting of virements in respect of transfer of resources within or between programmes. The Cabinet will provide summary monitoring information to the Council at least twice per year.

Initiating and Progressing Investment Decisions

- 3.18 The Chief Executive will establish arrangements, delegated as appropriate to a lead Strategic Director in conjunction with the Chief Finance Officer, to ensure effective deployment of capital resources, ensuring that these align with council priorities and including the preparation of business cases and/or option appraisals designed to ensure project effectiveness and value for money, and to assist Council to determine its Capital Investment Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purpose the Strategic Director and Chief Finance Officer may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source.
- 3.19 A capital outlay report will be prepared for each specific project. It will be signed off by the relevant programme manager and approved by the Chief Finance Officer, who will grant approval to each specific project when satisfied that:
 - a) The project appears on a schedule of named projects (approved by Council or Cabinet, or by officers under a scheme approved by Cabinet).
 - b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan;
or
Where the total costs of a project exceed the amount approved in the Capital Investment Plan the appropriate additional resources has been approved;
(FPR 3.9, 3.11),
 - c) Any necessary external approval have been obtained;
 - d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.
- 3.20 Service Directors have authority to progress projects once the approvals at FPR 3.19 has been given. They must ensure compliance also with Contract Procedure Rule.

- 3.21 Strategic Directors 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 to be used in summary to Cabinet as a part of the capital investment planning process.
- 3.22 The Chief Finance Officer is permitted to make variations to capital funding as necessary in order to ensure that the council funding position is optimised, subject to reporting such actions to Cabinet and Council.

4. FINANCIAL SYSTEMS, PROCEDURES AND GRANTS

- 4.1 The Chief Finance Officer 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 Chief Finance Officer.
- 4.2 Any changes to financial procedures to meet the specific needs of a Service must be agreed between the Service Director and the Chief Finance Officer.
- 4.3 Service 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 Chief Finance Officer.
- 4.4 Service Directors are responsible for the proper operation of financial processes in their own activity and must ensure that all financial, costing, and other statistical information is recorded fully and accurately.
- 4.5 Service Directors must ensure that financial documents are retained in accordance with the Council's approved retention schedule.
- 4.6 As far as practicable, Service Directors must make arrangements for the separation of duties between the carrying out of transactions and the examining and checking of transactions.
- 4.7 Service Directors in consultation with the appropriate Strategic Director and 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 Service Directors must ensure a detailed business case is prepared, in consultation with the Chief Finance Officer, in respect of any grant offer. Any material grant conditions must be agreed with the Service Director Legal Governance & Commissioning
- 4.9 Service Directors are authorised to accept any offer of grant and subsequent grant conditions up to a maximum of £100,000. Strategic Directors are authorised to accept a grant of up to 5% of the gross revenue budget (or for capital projects, up to 5% of the activity capital plan where the grant funding is for capital purposes) for the activity. (This includes grants from government and third parties which do not involve an application process)
- 4.10 The Chief Finance Officer in consultation with the Service Director Legal Governance & Commissioning and the appropriate Strategic 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 Service Director and the Chief Finance Officer for submission to the relevant government department, agency or organisation.

5. INTERNAL AUDIT

Responsibility & Authority

- 5.1 The Chief Executive, (in consultation with the Chief Finance Officer and Monitoring Officer) must arrange a continuous internal audit, which is an independent review of the accounting, financial and other operations of the Council.
- 5.2 The Head of 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 Chief Finance Officer are being reviewed (other than routine reporting of work carried out)
- 5.3 The Head of 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.
- 5.4 The Chief Finance Officer has the same authority for any accounting or associated purpose.

Planning & Reporting

- 5.5 The Head of Risk must plan and report (in accordance with the approved Audit Strategy and Charter, Public Sector Internal Audit Standards and any instruction from the Councils Corporate Governance & Audit Committee) 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
- 5.6 In respect of any audit report or communication issued, the Director must reply within 4 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.

- 5.7 The Head of Audit & Risk will provide a written summary of the activities of the Internal Audit function to the Corporate Governance & Audit Committee at least four times per year and an Annual Report produced for consideration by, 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.
- 5.8 The Head of Risk will review the system of internal audit on an annual basis (and arrange for an external assessment once every 5 years) and report the outcome to the Corporate Governance & Audit Committee.

Investigations and Suspected Fraud, Corruption or Bribery

- 5.9 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
- 5.10 The Head of Risk 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.
- 5.11 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 Risk who may take action by way of investigation and report.
- 5.12 Where, following investigation, the Head of 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 Benefit and Council Tax Reduction and Discounts (where the claimant is not an employee or Member of the Council) is currently investigated by the Revenues & Benefits Service).

6. INSURANCE

- 6.1 The Service Director Legal, Governance & Commissioning, in consultation with Service 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 Service Directors must promptly notify the Service Director Legal, Governance & Commissioning 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 Service Directors must:-
- a) Not admit liability where this may prejudice the outcome of any settlement;
 - b) Promptly notify the Insurance Team, 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 Service Directors must consult the Service Director Legal Governance & Commissioning as to the terms of any indemnity the Council is required to give.
- 6.5 The Service Director in consultation with the Insurance Team 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 Service Director, in consultation with the Service Director Legal Governance & Commissioning, may reduce the cover requirements in respect of specific contracts.

7. ASSETS

- 7.1 Service 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 Service 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, or disposal 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 Service Directors must keep records of all stock held. The Chief Finance Officer will determine which items will be subject to stock accounting, the methods of recording and valuation. An appropriate system of continuous stock taking must be agreed with the Chief Finance Officer.
- 7.6 Service 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 Chief Finance Officer 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 Service Directors are responsible for ensuring that detailed inventories of all land, buildings, equipment, specialist furniture, specialist 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 FPR 7.3. The form of inventory and the type of Assets recorded thereon will be determined by the Chief Finance Officer after consultation with the appropriate Service Director.
- 7.9 The inventory should include:-
- a) The nature, type, model, serial number, location, quantity, value, date of acquisition;
 - b) All items valued at, more than £100;
 - c) Items of a lesser value which are portable and attractive; and
- 7.10 Evidence to indicate an inspection has been carried out Service Directors are responsible for ensuring that inventory items owned by another Directorate, but used operationally by their service areas are subject to an appropriate risk based level of control. When Assets are loaned to employees, or other organisations, the Service Director must record the reason for the loan, date/periods and name of the receiver, and ensure recovery at the end of the period at which the purpose of the loan has expired.
- 7.11 Inventory items must (where appropriate) be security marked, stamped or engraved with the Council's name.
- 7.12 Each Service Director is responsible for ensuring risk based checking of the inventory and must notify the Chief Finance Officer, and the Head of Internal Risk of any discrepancies revealed by these checks.

Fixed Assets Register

- 7.13 The Chief Finance Officer must ensure that a Register of Fixed Assets is maintained.
- 7.14 Each Service Director must notify the Chief Finance Officer of the:
- (1) Acquisition of any land, property or vehicle and any other assets having a value of more than £10,000.
 - (2) Disposal (or transfer to another Service) of any Asset (or part of any Asset) which is included on the Register of Fixed Assets.
- 7.15 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

- 7.16 The Service Director responsible 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.
- 7.17 The disposal of Land Assets is dealt with in the Contract Procedure Rules.

Information Assets

- 7.18 Service 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 Chief Finance Officer.

8. SECURITY

Security of Assets

- 8.1 Service 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 Chief Finance Officer must be consulted to establish adequate security arrangements except in relation to Land Assets that are the responsibility of the Service Director responsible for them,
- 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 Service Director. The loss of any key must be reported immediately to the Service 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 levels for cash holdings in each separate location are to be established in line with insurance limits.

Security of Information

- 8.4 Service Directors must maintain proper security, privacy and use of data and information held in any media including, but not inclusively, documents, magnetic, digital,(such as laptop and tablet computers, mobile phones, memory cards)

Service 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 Councils intellectual property rights are protected

Security of Property Relating to Clients and Customers

- 8.5 Service 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 Service 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 Service Directors may seek approval from the appropriate Strategic Director and Executive Member, on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months the Service 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 in accordance with Contract Procedure Rules and the proceeds allocated to an appropriate council income code.

9. TREASURY MANAGEMENT

Policies and Strategies

- 9.1 The Council will adopt both the Code of Practice for Treasury Management in the Public Services, published by the Chartered Institute of Public Finance and Accountancy, and any associated statutory Government guidance, as issued from time to time.
- 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, practices and performance. The Corporate Governance & Audit Committee has responsibility for scrutinizing treasury management policies and practices.
- 9.4 The Chief Finance Officer is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices.

- 9.5 The Chief Finance Officer will report to the Council (via the Corporate Governance & Audit Committee and Cabinet);
- (a) before each financial year recommending a treasury management strategy and plan;
 - (b) at least once in relation to treasury management activity during the year;
 - (c) by way of 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 Chief Finance Officer
- 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 Chief Finance Officer 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 Chief Finance Officer 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 Service Director, Legal Governance & Commissioning (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 Chief Finance Officer, 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 Chief Finance Officer. 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 Chief Finance Officer, who is to ensure their safe custody. Cheques drawn on the Council's main bank accounts must either bear the facsimile signature of the Chief Finance Officer or be signed in manuscript by him/her or other authorised officers. All alterations and amendments are to be signed in manuscript by the Chief Finance Officer, 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 Chief Finance Officer.
- 10.6 Service Directors must maintain a register of all officers authorised to sign cheques and other bank documents together with specimen signatures.

Imprest Accounts

- 10.7 Service Directors will determine what amount is appropriate for an individual imprest account 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 FPR 10.10) must at any time account for the total imprest if requested to do so by the Chief Finance Officer and keep adequate records in a form approved by the Chief Finance Officer and supported by valid (VAT) receipts. On ceasing to be responsible for an imprest account the officer must account promptly to the Service 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 Chief Finance Officer
- 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 Service Director.

11. INCOME

- 11.1 Fees and charges must be reviewed at least once per annum. Service Directors have authority to amend fees and charges to achieve budget targets and in line with the annual budget strategy, and are permitted to freeze or raise charges by an amount up to the equivalent to the consumer price index. Changes to charges may also reflect reasonable rounding to relevant prices which might in some cases mean that certain prices rise by more than the consumer price index or the budget strategy
- 11.2 Service Directors may make amendments to existing Fees and Charges during the financial year to account for changes in legislation, market conditions or to support the local communities or local business following the completion of an appropriate business case, in consultation with the appropriate Strategic Director, relevant Portfolio Holder and Chief Finance Officer.

- 11.3 Any proposal to implement new fees or charges must be approved by Cabinet (unless the making and quantum of the charge is a statutory obligation). See also Contract Procedure Rules.
- 11.4 The methods of collecting, recording and banking of all income due to the Council are to be approved by the Chief Finance Officer.
- 11.5 The Chief Finance Officer must be notified, in accordance with practices agreed with the relevant Service 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.
- 11.6 Service 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 ongoing services provision. Service Directors must ensure full compliance with all practices necessary to fully protect the banking data of the council's customers.

Collection and Banking of Income

- 11.7 Service Directors must make appropriate arrangements for the control and issue of all receipt forms, books, tickets, ticket machines or other acknowledgements for money.
- 11.8 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 15,000 euros (£11,700) 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 15,000 Euros where the Land Asset being disposed of exceeds a sale price of 150,000 Euros. Anti-money laundering compliance is the responsibility of the Service Director of Legal Governance & Commissioning who is entitled to issue instruction relating to this matter.
- 11.9 All money received by an officer on behalf of the Council must either be paid to the Chief Finance Officer or to the Council's bank account as the Chief Finance Officer 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 Chief Finance Officer. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system.
- 11.10 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.
- 11.11 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

- 11.12 Each Director must maintain a detailed record of all cash surpluses and deficiencies in a manner approved by the Chief Finance Officer.
- 11.13 The Service Director must investigate any apparent patterns of discrepancies
- 11.14 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 Head of Risk who may undertake such investigations as he/she deems appropriate.

Debtors

- 11.15 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 Chief Finance Officer immediately a debt falls due. Each Director, in conjunction with the Chief Finance Officer must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.
- 11.16 Service Directors must regularly consider debts due and ensure adequate year end provisions for bad and doubtful debts. Service Directors are authorised to write off all individual bad debts subject to the approval of the Chief Finance Officer. A report on the details of all debts written off under delegated authority must be prepared and formally noted by the Service Director in consultation with the Cabinet Member. The Chief Finance Officer, must prepare an annual consolidated report of all debts written off for consideration by the Corporate Governance & Audit Committee. Service Directors must ensure that appropriate accounting entries are made following write off actions.
- 11.17 The 'writing off' of a debt does not absolve a Service Director of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Service Director.

12. PAYMENT OF INVOICES

- 12.1 All payments must be made through the councils accounting system (SAP) and should be made by electronic transfer except where there are substantial overriding reasons for alternative means of payment. Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.
- 12.2 Service Directors must ensure that all valid invoices are paid within 30 days of receipt.
- 12.3 The Chief Finance Officer 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 Chief Finance Officer

Automated Payments

- 12.4 When an invoice is matched through the automated procurement and payment system, it will be paid in line with the councils determined procedures.
- 12.5 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)

- 12.6 Service Directors must approve a schedule of officers authorised to certify invoices, (names and specimen signatures). This must be supplied if requested to the Chief Finance Officer. The schedule must be reviewed at least once per year.
- 12.7 All invoices- that are not the subject of automated processing- must be certified in manuscript, unless an alternative method is expressly authorised by the Chief Finance Officer.
- 12.8 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.
- 12.9 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.
- 12.10 The Service 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.

- 12.11 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.

- 12.12 The Chief Finance Officer may withhold payment of any invoice where there is evidence to suggest that it is not in order. The Chief Finance Officer must establish rules that control the use of pro-forma invoices, to ensure that these are not used to circumvent council procedures,

Advance Payments

- 12.13 The council should not pay for any goods or service prior to receipt of the items, and not without an invoice. Where a supplier or contractor requires payment prior to the dispatch 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. Whenever possible a supplier's invoice must be obtained, and payment made on this. In exceptional circumstances only, a pro forma invoice or supplier's order form detailing fully the goods/service to be obtained may be used. This must be approved by an officer authorised to certify invoices and retained as a record of the payment made, Where VAT features in the advance payment, the issuing officer must then obtain a VAT invoice or authenticated receipt for the transaction, and arrange for its processing to facilitate the recovery of VAT.

Discounts

- 12.14 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

- 12.15 The Service Director (or Designated Finance Officer) must approve all requests for creation of a Direct Debit mandate, and supply to the Chief Finance Officer such information as is deemed necessary (e.g. codes, profit 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.
- 12.16 The Service Director must inform the Chief Finance Officer when any payment is to be terminated.
- 12.17 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 authority's claim for VAT on these accounts.

13. PURCHASING CARDS

- 13.1 All arrangements regarding purchasing cards must be approved by the Chief Finance Officer.(as set out in the Purchasing Card Procedure Manual)
- 13.2 Service Directors in conjunction with the Chief Finance Officer will determine the monthly credit limit, any cash limits and permissible purchasing categories for individual payment and procurement cards.
- 13.3 Each cardholder must ensure safe custody of the card at all times.

- 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 using a purchasing card is supported by adequate records and a VAT receipt is obtained to support all expenditure.

14. SALARIES, WAGES AND PENSIONS

- 14.1 Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.
- 14.2 All payments of salaries, wages, pensions, compensations, gratuities, allowances and other emoluments to current or former employees are to be made by the Chief Finance Officer in accordance with information supplied by the Director. All payroll transactions must be processed through the Council's SAP payroll system.
- 14.3 Service 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

- 14.4 Service Directors must maintain adequate records to notify the Chief Finance officer 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. Service Directors must also advise the Chief Finance Officer of any employee benefit in kind to enable reporting for taxation purposes.
- 14.5 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.
- 14.6 Time records and other pay documents must be maintained in a manner approved by the Chief Finance Officer and be certified by the Service Director or other authorised officers. The Service Director must maintain a list of officers who are permitted to certify payroll documentation – either electronically or by manuscript (and their specimen signatures) and these authorisations must be reviewed at

least annually by the Service Director. Details of officers authorised must be supplied to the Chief Finance Officer

Overpayments

- 14.7 The Service Director, in consultation with the Head of Human Resources, is entitled to write off any employee debt on compassionate grounds. All other overpayments of pay must be treated for the purposes of recovery and write off in accordance with FPR 11.15 – 11.17.

15. TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES

- 15.1 Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.
- 15.2 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 SAP payroll system unless otherwise agreed by the Chief Finance Officer
- 15.3 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be made electronically, or where authorised, on a paper form approved by Chief Finance Officer. The form must provide for certification in manuscript by the Service Director or authorised officer.
- 15.4 The Service Director must maintain a list of officers who are permitted to authorise expenses claims electronically and by paper (and their specimen signatures) and these authorisations must be reviewed at least annually by the Service Director. Details of officers authorised to sign such expense claims must be supplied to the Chief Finance Officer on request.
- 15.5 The certification (or electronic approval) of a claim by or on behalf of a Service 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.

16. TAXATION

- 16.1 The Chief Finance Officer 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 Chief Finance Officer in the event of any uncertainty as to any taxation treatment.
- 16.3 The Chief Finance Officer will lead and co-ordinate discussion or negotiations with HM Revenue and Customs about any taxation matter.
- 16.4 The Chief Finance Officer 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 Service 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 £25), the matter must be reported to the Service 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 Service Directors and other officers with the permission of the Service 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 Service Director must agree that they are satisfied that attendance by the companion 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 Service 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 Service Director in writing the nature and duration of such private work.
- 18.2 Officers must declare to their Service 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 that is prepared in the Council's time is the property of the

Council. Any disposal of intellectual; property must be made in accordance with contract procedure rules. Any article, book or similar material for publication prepared by an employee (relating to their official duties) requires the written approval of the Service 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. Alternatively, the fund may be administered through the Council's bank account and general ledger but should be separately identifiable.
- 19.3 Where a separate bank account is maintained, 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 Chief Finance Officer 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 Chief Finance Officer 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 Chief Finance Officer 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 Service 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 Chief Finance Officer 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 Service Directors are responsible for ensuring that approval is obtained from the Chief Finance Officer and the Service Director Legal Governance & Commissioning 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 arrangements for any new work for other organisations expected to exceed £100,000 per annum. The Chief Finance Officer may agree contractual arrangements below this level
- 20.6 Service 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 Chief Finance Officer to enable a note to be entered into the Council Statement of Accounts concerning material items.

Grants and Loans to Other Organisations

- 20.7 Except where the Chief Finance Officer agrees otherwise, competitive procurement aligning with the councils contract procedure rules must be used 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 £100,000 or more.
- 20.8 A Service Director may issue a:
- a) Grant or loan of any value provided that it is offered fully in accordance with a scheme of grants or loans that has been approved by the Cabinet.
- Or
- b) A grant or grants of up to £10,000 cumulative in any one year for any single purpose
- Subject to:
- c) There is sufficient budget provision.
 - d) Grants awarded under clause (b) above in aggregate may not exceed £10,000 in any one financial year for the same beneficiary (either jointly or individually)
- 20.9 Where a Service Director proposes to offer a grant, or loan to any organisation which is not covered by FPR 20.8 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 Chief Finance Officer;
 - b) A full financial appraisal of the organisation to which the grant or loan is to be granted, by the Chief Finance Officer;
 - 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) Establishing that there is sufficient budget provision.

In carrying out the evaluation at (a) and (b) above the Chief Finance Officer will consider if any surety (legal charges on assets, bonds and or guarantees) is required of the applicant.

20.10 A District Committee (or other member lead forum) may issue a grant of any value provided that;

a) 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.

20.11 The Service Director Legal Governance & Commissioning will execute any legal agreement in respect of any grant or loan exceeding £160,000.

20.12 The Service Director who is offering the grant or loan may issue any grant or loan agreement below this value (using standard documents where required by the Service Director Legal Governance & Commissioning), except where the Chief Finance Officer considers that a loan or grant should be subject to a surety from the applicant. In such cases grants or loans must then be executed by the Service Director Legal Governance & Commissioning

20.13 The Service Director Legal Governance & Commissioning has discretion to delegate the right to enter into such agreements as they think appropriate.

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

20.15 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code.

20.16 In some cases, an agreed asset transfer, or the transfer of a right to a third party may constitute a form of grant, and these types of transactions must accord both with these FPRs and CPR 10.

21. PURCHASING OF WORKS, GOODS AND SERVICES

21.1 Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

21.2 These procedure rules must be read alongside the Contract Procedure Rules which establish the framework that controls the Council's arrangements for procurement.

Orders

- 21.3 Before any official order is issued for works, goods or services, the Service Director or other authorised officer must ensure that:-
- (a) The works, goods 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.
- 21.4 Service Directors are responsible for all orders issued. Order will be issued electronically using the SAP system. Paper orders must only be used when authorised by the Chief Finance Officer. Paper orders may only be issued and signed in manuscript by officers authorised by the Service Director. The items, quantities and prices must be accurately recorded.
- 21.5 Service Directors must keep a record 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.
- 21.6 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 works, 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 Chief Finance Officer 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, and where applicable make specific requirements to obligations placed on the contractor, such as those relating to Data Protection
- 21.7 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.
- 21.8 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 un-issued orders must be appropriately marked and retained in any order book.
- 21.9 The Service Director must record the receipt of the goods, works or services electronically (or where applicable on paper) and (where applicable) all payments made in respect of an order. All Goods Received Notes must be retained.

Management of Suppliers

- 21.10 In respect of each order or contract for construction work, and any order or contract for services exceeding £20,000 the Service Director responsible must appoint an authorised officer, directly employed or otherwise to carry out supervision of the contract. All orders must provide for the reasonable inspection of progression of activity at any stage that the council (acting reasonably) chooses.

Specification

- 21.11 In respect of each order or contract exceeding £20,000 the Service 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.
- 21.12 Unless otherwise agreed with the Chief Finance Officer, 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 including data protection and management where applicable.. 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 Service Director, who must justify the reason for change and sources of funding.

Variations

- 21.13 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 Service Director responsible, who must state the authority and source of financial provision for the additional expenditure.
- 21.14 Every variation must be immediately recorded in writing by the authorized officer.

Overspending

- 21.15 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 Service Director and Chief Finance Officer as soon as practicable.

Recording of Contractual Payments

- 21.16 Service 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 Chief Finance Officer.
- 21.17 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 Chief Finance Officer and the final payment agreed by the budget holding Director.

Claims

- 21.18 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.
- 21.19 The budget holding Director and the Chief Finance Officer must be consulted in respect of any claim (or prospective claim) from a contractor for loss and expense in excess of £10,000.
- 21.20 The Service Director will report in detail to the Cabinet if the financial consequences of the claim cannot be accommodated within the approved project budget.
- 21.21 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 Service Director Legal Governance & Commissioning, Chief Finance Officer and Service Director(s) of the appropriate Service(s) before any recommendation is made to the Cabinet.

Codes of Practice

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

Approved by Council XX May 2018
MED



Name of meeting: Corporate, Governance and Audit Committee

Date: 11 May 2018

Title of report: Proposed changes to the Council's Constitution

Purpose of report

To set out proposed changes to the Council's constitution as described in paragraph 2 and as set out in more detail in the attached Appendices, which show some of the proposed amendments.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	N/A
The Decision - Is it eligible for "call in" by Scrutiny?	N/A
Date signed off by Director & name	
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Yes – 27 April 2018
Cabinet member portfolio	Graham Turner

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

1.1 To set out proposed changes in relation to different sections of the constitution and seek approval by members of those proposed changes at paragraph 2 marked with a double asterix. Each section of the Constitution is set out below with information setting out details of the proposed change for which approval and/or comments is sought.

1.2 There have been some minor changes using delegated authority granted to the Monitoring Officer by Council on 20 May 2015 to reflect changes to officer's titles, typing or grammatical errors, old references and new legislation. The list of changes made using the Monitoring Officer's delegation are set out in the attached Appendix A for information.

- 1.3 The constitution has been reviewed during the year in relation to some areas. This is an on-going process to ensure it is correct and up-to-date and reflects any changes to re-structure, procedures and legislation. The outcome of that review is set out in this report.

2. Information required to take a decision

PART 1 – SUMMARY AND EXPLANATION

- 2.01 This provides a summary and explanation of what is included in the constitution. This has been reviewed and there are no requests for approval for any changes.

PART 2 – ARTICLES

- 2.02 There are 17 articles that set out how the council operates. This has been reviewed and there are changes to the following:-

2.03 Article 7 – The Executive

Following the consideration given throughout the year to the change in approach to DBS checks, it is suggested the following wording is added

‘The Leader shall require the Cabinet member post holders of Children’s and Adults to undertake an Enhanced DBS check in accordance with the DBS Policy’.

The Leader following consultation has confirmed the approach which is to be taken and the amendment is attached for information at Appendix B.

A policy will be drafted that sets out the circumstances and procedure for carrying out those checks. In essence, this will affect the roles which are included within this report at section 2.03 and paragraph 2.12.

2.04 Article 13 – Decision Making Principles **

Members are asked to consider and provide approval for the decision making principles. These have been reviewed and updated to simplify them and keep them in line with current good practice and improve the wording relating to the decision making principles. The changes were approved by Corporate, Governance and Audit on 9 March 2018 for agreement by Council and are attached at Appendix C.

Members are referred to paragraph 2.19 of the report which sets out the recommendations of this committee on 9th March about this matter.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

- 2.05 This part details the council’s cabinet, committees’ and other groups’ responsibilities. This section also contains each individual Cabinet Member’s specific responsibilities

Section F sets out the scheme of delegation to officers. This includes executive and non-executive delegations to officers. There have been changes to titles and responsibilities following a review of the Senior Management structure and as a result of the s.151 officer leaving. The relevant amendments were made over the last year using the Monitoring Officers delegation and are set out in the attached Appendix A.

PART 4 – RULES OF PROCEDURE

2.06 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters. The documents where amendments are sought are listed below.

2.07 Council Procedure Rules**

CPR 12 (2) currently states '*The Mayor/Chair in consultation with the Chief Executive may determine that a question shall not be put where ~~the question is substantially the same as a question put at a meeting of the Council within the preceding six months or the question appears~~ defamatory, vexatious or requires the disclosure of confidential or exempt information.'*

This will allow members who have follow on questions or questions that are similar to have an opportunity to put their question and aid discussion.

It is suggested the words are deleted as outlined above.

2.08 Rule 18 of the CPR's is in relation to the Rules of Debate. This amendment is to reflect current practice and allows for flexibility in terms of who presents the budget speech. CPR 18 (6) currently states:-
No speech of a Member of the Council in moving a motion to adopt the report of Cabinet or a Committee, or a motion under Rule 14 shall exceed 10 minutes and no other speech on any item before Council shall exceed 5 minutes, except:-
(a) by consent of the Council, or

*(b) the Leader, **or the Leader's nominee** annual budget speech on the setting of the amounts of Council Tax.*

2.09 CPR 19(3) currently states:

*'An amendment to a motion proposed under paragraph (1) above, cannot be moved unless it has been **submitted and deemed to be financially sound and sustainable** by the Chief Executive no later than 7 days prior to the date of the Budget Meeting. The Notice of such an amendment must be delivered to the Chief Executive and must specify the terms of the proposed amendment and the effect which it will have on the draft Revenue Budget.*

Amendments to the Budget Motion cannot be accepted unless the Chief Executive is satisfied, upon the advice of the Service Director - Finance, Information and Transactional Services, that the proposed amendment is financially sound and sustainable.'

The proposed change is to delete and add the words in bold outlined above. This is to make the requirements regarding amendments clear and it is understood that they are required (within the 7 days) to be both:-

- i) submitted and
- ii) the Chief Executive satisfied that they are financially sustainable

2.10 CPR 19 (4) currently states:

'The Chief Executive shall inform all Members of the Council of any amendments received'

It is suggested to reflect current practice that the following words are added followed the word received '**..and the order of receipt. The amendments shall be considered at the meeting in the same order that they have been received by the Chief Executive..'**

2.11 CPR 19(5) currently states:

Debating the Motion and Amendments

(5) (i) The Mover of any Amendment to the Budget Motion shall speak for no longer than ten minutes, or for the same time taken by the Mover of the Budget Motion, whichever is the longer.

(ii) If a motion or an amendment described in paragraph (1), (2) and (3) above is not carried at the Council meeting, further motions and amendments may be moved and seconded without notice for consideration and determination. Copies of these additional motions or amendments must be made available to each Member of the Council by the mover or seconder before any debate begins.

(iii) In the event that an amendment is approved, thereby becoming the substantive motion, this resolution shall become the Council's budget and no further amendments shall be debated or voted upon.

It is suggested the following words are inserted to provide flexibility to aid debate and discussion when responding to budget motions and amendments

(iv) In order to engage in a full debate about the Budget and amendments these rules will allow reference to be made by a member, to published material by a political group related to the budget.

2.12 CPR 35 refers to the Appointment of Committees, Sub-Committees and Panels. Section 35 (2) is set out below:

(2) *The Council subject to any statutory provision:-*

- (i) *Shall not appoint any Member of the Committee so as to hold office later than the next Annual Meeting of the Council;*
- (ii) *May at any time dissolve a Committee, or alter its membership*
- (iii) *Shall not appoint the Leader, the Deputy Leader of the Council or any Members of the Cabinet as Members of the Overview and Scrutiny Committee or its Panels*

Following the consideration given throughout the year to the change in approach to DBS checks, it is suggested the following words are added

- (iv) ***Shall require the post holders of Scrutiny Lead Panel Members – Children (including those who attend Children Homes Regulations 44 visits) and Adoption Panel Members to undertake an Enhanced DBS check in accordance with the DBS policy***

As referred at 2.03 a policy will be drafted by the Monitoring Officer that will provide a framework and set out guidance, procedures and relevant legislation.

2.13 CPR 37 currently states:

'Any member of the public attending a meeting of the Council (with the exception of the Annual Meeting or the Budget Council) a Committee, Sub-Committee, or Panel (or any other meeting open to the public) may, with the permission of the Mayor/Chair, speak on any item of business to be transacted at that meeting. This speaking right shall not apply to persons who have presented a deputation on the same subject matter at the same meeting. That person shall not be permitted to remain in the meeting when consideration is being given to confidential or exempt information.'

The suggested changes are proposed so that it is clear to the public that they don't have individual speaking rights on particular items unlike attending Cabinet for example. At Council meetings the speaking is limited to deputations and petitions, unless express permission is proved as per above.

2.14 Access to Information Procedure Rules

This has been reviewed during the year and will be updated to reflect some changes in legislation and bring the rules up to date.

2.15 Budget and Policy Framework Rules

This is part of a wider piece of work which is under consideration and is currently being reviewed but there are no proposed amendments this year.

2.16 Executive Procedure Rules

This has been updated using the MO delegation to reflect the new officer titles. No further changes are proposed.

2.17 Financial Procedure Rules

There are proposed amendments and these will be the subject of a separate report to this committee

2.18 Contract Procedure Rules**

There is usually a separate report on Contract Procedure Rule changes. This year however, there are no substantive amendments requiring a separate report.

The rules have been reviewed and updated with some minor amendments to titles following the senior management restructure and updating of the EU threshold figures, for both procedural and numerical purposes. Every two years and most recently on 1st January 2018 the English legislation resets its thresholds at the exchange rate then applicable.

The proposed changes are set out in Appendix D.

2.19 Overview and Scrutiny Procedure Rules**

Following changes in relation to the structure of Scrutiny a piece of work was commissioned in 2015 by the Corporate, Governance and Audit committee to consider practice elsewhere and the development of options linked to the approach of scrutiny in Kirklees.

Following a report to CGA on 9 March 2018 a number of requirements were proposed as changes to support the principles of scrutiny. The committee did approve most of the recommendations made. A copy of the report is included at Appendix G for information. This committee recommended that Council approve the following:

(1) *That the call in proforma be amended to include a section where a signatory may set out, where appropriate, any steps they have taken to try to resolve their concerns prior to calling in the cabinet decision.*

(2) *That the Scrutiny Procedure Rules in the Constitution be amended to clarify that supporting evidence and reasons to illustrate how the decision making principle(s) has been breached should be included in the call in request. Officers to amend the call in proforma to allow for evidence to be included.*

(3) *That the decision making principles in Article 13 of the constitution, as set out in appendix 2 of the report, be simplified in line with good practice and to ensure clarity of interpretation.*

(4) *That the decision about the validity of a call in request will be determined by the Service Director, Legal, Governance and Commissioning in consultation with the Chair of Overview and Scrutiny*

(5) *That any required amendments to the constitution will be considered at the*

Annual Council Meeting.

The CGA committee **members are asked to agree the recommendations by this committee on 9th March and to approve the amended overview and scrutiny procedure rules attached at Appendix E.**

2.20 Officer Employment Procedure Rules

These have been updated during the year and the changes are set out within Appendix A.

PART 5 – CODES and PROTOCOLS

2.21 This section sets out the Council's Codes and Protocols in relation to a number of areas.

2.22 Members Code of Conduct

The Members Code of Conduct has been subject to a Standards Review and recent updates to the code were approved by full Council on 26 April 2017. This has been reviewed and no changes are necessary.

2.23 Monitoring Officer Protocol

This has been reviewed and no changes are necessary.

2.24 Protocol for Planning Committees and Sub-Committees

This has been reviewed and no changes are necessary.

2.25 Decision Making On Ward Issues – Procedural Advice to Cabinet Members

This will be reviewed during 2018/19 and initially referred back to the Standards Committee for any proposed changes for consideration. Any recommended changes will be presented in a report to CGA and back to Council as appropriate.

2.26 Protocol on the role of Representatives and Key Outside Bodies in representing the interests of the Council**

This has been reviewed during 2018/19 and updated, however, will be considered as part of a wider review during 2018/19. The proposed changes are set out in the attached Appendix F.

2.27 Officers Code of Conduct

This requires more comprehensive updating and will be subject to further report during 2018/19.

2.28 Protocol for Public Speaking at Planning Committees and Sub-Committees

This has been reviewed and no changes are necessary.

2.29 Licensing and Safety Committee Protocol

This has been reviewed following changes made to the statutory guidance and updated using the MO delegation to reflect new legislation and to bring it up to date.

2.30 Councillors and Officers in Kirklees – A Protocol for Working Effectively

No changes are proposed.

2.31 Safeguarding Protocol

No changes are proposed

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 Other implications (Financial, legal etc...)

It is essential the Council's Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, business like and effective manner. It is also essential that the Constitution complies with current legislation. Failure to do so could lead to challenges, unnecessary procedural delays and less transparency in the Council's democratic process.

4. Consultees and their opinions

The Chief Executive and various officers in Legal, Governance and Commissioning have been consulted. The Leader and the changes to DBS checks has been discussed on a number of occasions with Group Business Managers and at the Chief Executive's meeting with Leading Members.

5. Next steps

- 5.1 This report will be considered by Annual Council on 23 May 2018. Any feedback or comments from CGA will be included in that report.
- 5.2 Any amendments agreed by Council will be made to the Constitution.

6. Officer recommendations and reasons

That CGA:-

- a. Agree the proposed changes set out in the paragraphs marked with a double asterix at [2.04, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, 2.13, 2.18, 2.19 and 2.26] and the accompanying relevant Appendices and recommend them for approval and/or make any comments/observations on them for considerations by Council.
- b. Recommend to Council to delegate authority to the Service Director – Legal, Governance and Commissioning to make appropriate amendments to the constitution which are agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed.
- c. Recommend to Council to delegate authority to the Service Director to draft the DBS Policy as referred to in paragraphs 2.03 and 2.12.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Julie Muscroft – Service Director – Legal, Governance and Commissioning
01484 221 000
julie.muscroft@kirklees.gov.uk

9. Background Papers and History of Decisions

N/A

10. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and Commissioning
01484 221 000
julie.muscroft@kirklees.gov.uk

11. Appendices

Appendices

Appendix A - Amendments 2017/18 (Information only)

Appendix B – Article 7 – The Executive (Information only)

Appendix C – Article 13 – Decision Making Principles

Appendix D – Contract Procedure Rules
Appendix E – Overview and Scrutiny Procedure Rules
Appendix F – Protocol on Representatives on Outside Bodies
Appendix G – Report on Amendment Options for the Scrutiny Call-in Process

APPENIDX A

Amendments 2017 - 2018

Changes made to the Constitution authorised either by the Monitoring Officer (MO) under the delegation provided to her or authorised by Council following the relevant report are set out in the tables below for information only.

Amendment	Authorisation	Link to Report
PART 1 – Summary and Explanation		
Removal of references to District Committees	Council	24 May 2017 https://democracy.kirklees.gov.uk/documents/s18501/Draft%20Council%20report%2024%20May%202017Final%20redjm%20commnets.pdf
PART 2 – ARTICLES		
Changes to reflect new officer titles at Heads of Service <ul style="list-style-type: none"> - Head of Environmental Health to Head of Public Protection - Head of Building Control and Licensing to Head of Capital Delivery and Facilities Management - Head of Governance and Democratic Services to Head of Democracy 	Monitoring Officer delegation	-
Removal of reference to District Committee's	Council	24 May 2017 (see above link)
Add word 'Commissioning' Article 7, paragraph 7.2.4	Monitoring Officer delegation	-
Remove word 'support' in Article 14 from title of Service Director – Legal, Governance and Commissioning	Monitoring Officer delegation	-

PART 3 – RESPONSIBILITY FOR FUNCTIONS		
Changes to reflect the departure of the s.151 officer and change of non-exec and executive delegations	Non-Executive functions (Council)	21 March 2018 https://democracy.kirklees.gov.uk/documents/s21994/11.%20Council%20S151%20and%20non-exec%20decision.pdf
	Executive changes	4 April 2018
Addition of Statutory Officer Dismissal Committee	Council	13 December 2017 https://democracy.kirklees.gov.uk/documents/s20962/ITEM%209%20Dismissal%20of%20Statutory%20Officers.pdf
PART 4 – RULES OF PROCEDURE		
Removal of reference to District Committees in Council Procedure Rules	Council	24 May 2017 (see above link)
Update to Officer Employment Procedure Rules	Council	13 December 2017 https://democracy.kirklees.gov.uk/documents/s20962/ITEM%209%20Dismissal%20of%20Statutory%20Officers.pdf
Update to change titles in Executive Procedure Rules	Monitoring Officer delegation	-
PART 5 – CODES AND PROTOCOLS		
Update to Licensing and Safety Committee Protocol to reflect changes in guidance and legislation	Monitoring Officer delegation	-

ARTICLE 7 - THE EXECUTIVE

7.1 Title, Role and Transitional Provisions

- 7.1.1 The leader of the Council and Cabinet who are in office at the time of the local elections in May 2010 shall remain in office until the annual meeting of the authority following those elections and the scheme of responsibility for the authority's executive functions set out in Part 3.3 of this constitution as at that time shall continue in force unless and until it is amended by the Leader appointed in accordance with article 7.2.2 below;
- 7.1.2 Subject to 7.1.1 above, the authority will operate executive arrangements under section 11(2A) of the Local Government Act 2000 (known as the leader and cabinet executive model) with effect from three days after the date of the ordinary elections of councillors to the authority to be held in May 2010.
- 7.1.3 Under the leader and cabinet executive model the Executive consists of a councillor elected as Leader by the authority and a minimum of two and a maximum of nine councillors appointed to the Cabinet by the Leader. The Executive will carry out all of the authority's functions which are not the responsibility of any other part of the authority, whether by law or under this constitution;

7.2 Leader and Deputy Leader

- 7.2.1 The Leader will be a councillor elected to the position of Leader by the authority.
- 7.2.2 The first Leader to be elected under the arrangements referred to at article 7.1.2 shall be elected at the annual meeting of the authority following the ordinary elections of councillors to the authority to be held in May 2010. If the authority fails to elect a Leader at that meeting the Leader shall be elected at a subsequent meeting of the authority.
- 7.2.3 Subsequent Leaders shall be elected by the authority whenever there is a vacancy in the office of Leader.
- 7.2.4 The Leader shall designate one of the other Cabinet members to be the Deputy Leader. The Leader shall give written notice to the authority's Chief Executive and Service Director – Legal, Governance and of the appointment of the Deputy Leader and the appointment shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of the notice. The Leader, if they think fit, may remove the Deputy Leader from office and where a vacancy in the office of Deputy Leader occurs the Leader must appoint another person in their place. The Leader shall give written notice to the authority's Chief Executive and Service Director – Legal, Governance and Commissioning of any such removal of the Deputy Leader from office or appointment of a new Deputy Leader and the removal or appointment shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of such notice.

7.2.5 If for any reason the Leader is unable to act the Deputy Leader must act in the Leader's place.

7.2.6 If for any reason the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to act in the Leader's place.

7.3 Form and Composition of Cabinet

7.3.1 The Cabinet will consist of the Leader, together with at least two, but no more than nine councillors appointed to the Cabinet by the Leader. One of the Cabinet members must be the Deputy Leader.

7.3.2 The Leader may appoint each Cabinet member to be responsible for a specific portfolio of functions. The Leader may make adjustments to the detail of those portfolios or add additional responsibilities as they consider appropriate in the light of operational need. Any such changes shall be reported to the next meeting of the Cabinet.

7.3.3 The Leader shall appoint one Cabinet member to be "lead member for children's services" for the purposes of section 19(1) of the Children Act 2004.

7.3.4 The Leader shall, within five working days of being elected as Leader, give written notice to the local authority's Chief Executive and Service Director – Legal, Governance and Commissioning of the details of which councillors have been appointed to Cabinet, of any portfolios of functions which have been allocated to individual Cabinet members and of which Cabinet member has been appointed as lead member for Children's Services. The Leader shall also notify the Chief Executive and Service Director – Legal, Governance and Commissioning if and when he/she makes any changes to these arrangements. Such arrangements shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of such notifications.

7.3.5 The Leader shall require the Cabinet member post holders of Children's and Adults to undertake an Enhanced DBS check in accordance with the DBS Policy

7.4 Other Cabinet Members

7.4.1 Only councillors may be appointed to the Cabinet by the Leader. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Mayor nor Deputy Mayor may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of the Overview and Scrutiny Management Committee, or its panels.

7.5 Terms of Office and Removal from Office

7.5.1 The Leader's term of office shall commence upon the day of the Leader's election pursuant to article 7.2.1 or 7.2.2 and, unless article 7.5.2 applies, will expire on the day when the authority holds its first annual meeting after the Leader's normal day

of retirement as a councillor. Accordingly the maximum term of office for the Leader is 4 years.

7.5.2 The Leader's term of office will end before the time specified in article 7.5.1 in the following circumstances:

7.5.2.1 The Leader resigns from office. Such resignation shall be effective when the authority's Chief Executive receives written notice of the resignation from the Leader.

7.5.2.2 The Leader is removed from office by resolution of the authority under article 7.6.1.

7.5.2.3 The Leader resigns as a councillor.

7.5.2.4 The Leader otherwise ceases to be a councillor, except in the circumstances provided for in article 7.5.1.

7.5.3 During any period during which the Leader is suspended by the authority's standards committee or by the First-tier Tribunal (Local Government Standards in England) from being a member of the authority the Deputy Leader shall act in the Leader's place and the Leader shall not be a member of the Cabinet during the term of any such suspension.

7.5.4 The Leader may not be removed from office other than in accordance with this article.

7.5.5 The Deputy Leader is to hold office from the day when they are appointed by the Leader until the end of the term of office of the Leader, unless:

7.5.5.1 The Deputy Leader is removed from office by the Leader in accordance with article 7.2.4. Such removal from office shall be effective when the authority's Chief Executive receives written notice of the removal from the Leader;

7.5.5.2 The Deputy Leader resigns as Deputy Leader;

7.5.5.3 The Deputy Leader ceases to be a member of the authority;

7.5.5.4 The Deputy Leader is acting as Leader pursuant to article 7.6.3 during a vacancy in the office of Leader, in which case the Deputy Leader shall continue to hold office until the election of a new Leader; or

7.5.5.5 The Leader resigns from or dies in office in which case the Deputy Leader shall act as Leader and continue to hold office until the election of a new Leader.

And for the avoidance of doubt in the circumstances described in Articles 7.5.5.4 or 7.5.5.5 the Deputy Leader whilst acting as Leader shall be entitled to appoint a Cabinet in accordance with Article 7.3.

7.5.6 The individual Cabinet members are to hold office from the day when they are appointed by the Leader until the end of the term of office of the Leader, subject to article 7.5.6, unless:

7.5.6.1 They are removed from office by the Leader, or the Deputy Leader acting in the Leader's absence. Any such removal of a Cabinet member from office shall take effect upon the authority's Chief Executive receiving written notice of the removal from office, such notice to be given by the Leader or Deputy Leader as the case may be;

7.5.6.2 They resign as members of the Cabinet; or

7.5.6.3 They cease to be members of the authority.

7.6 Removal from Office of the Leader

7.6.1 The Leader may be removed from office by resolution of the authority.

7.6.2 No such resolution may be considered by the authority unless a notice of motion has been submitted in writing and delivered to the Service Director – Legal, Governance and Commissioning by 10.00 am on the tenth day before the date of the council meeting at which the motion is to be considered. The notice of motion must be signed by not less than one third of the members of the authority.

7.6.3 Where the Leader is removed from office in accordance with article 7.6.1 the authority shall elect a new Leader at the meeting which the Leader is removed from office or at a subsequent meeting. During any period during which the office of Leader is vacant the Deputy Leader will act as Leader.

7.7 Proceedings of the Executive

7.7.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this constitution. The Access to Information Procedure Rules also contain requirements which apply to the Executive.

7.8 Responsibility for Functions

7.8.1 The Leader will ensure that a list is maintained in Part 3 of this Constitution setting out which executive functions the Leader has allocated to himself / herself and which executive functions they have delegated to the Cabinet, specified individual members of the Cabinet, specified committees of the Cabinet or specified officers of the authority.

7.8.2 The Leader shall provide a copy of that list to the authority's Chief Executive and Service Director – Legal, Governance and Commissioning within five working days of being appointed as Leader and shall notify the Chief Executive and Service Director – Legal, Governance and Commissioning Support in writing of any amendments to that list. Following the appointment of a new Leader, all executive functions will vest in the Leader until the day upon which the Chief Executive gives written acknowledgment of receipt of such a list and any amendments to the list

will not take effect until the day upon which the Chief Executive gives written acknowledgment of receipt of such notice of amendment.

7.8.3 Unless the Leader otherwise directs:

7.8.3.1 The Cabinet may arrange for the discharge of any of the executive functions delegated to it by the Leader to be exercised by a committee of the Cabinet or by an officer of the authority.

7.8.3.2 Any member of the Cabinet who has been delegated executive functions may arrange for any of those functions to be exercised by an officer.

7.8.3.3 Any committee of the Cabinet which has been delegated functions may arrange for any of its executive functions to be carried out by an officer

7.8.4 Article 7.8.2 shall not prevent the Leader, the Cabinet, a member of the Cabinet or a committee of the Cabinet from exercising functions which they have previously delegated.

7.9 Executive arrangements in the event of no leader being elected

7.9.1 If at any time there is no leader and no Deputy Leader in office, any act or function that could otherwise be performed by the Leader may be performed by the Chief Executive
[who will act in consultation with the leaders of all political parties]

This page is intentionally left blank

ARTICLE 13 – DECISION MAKING

13.1 Responsibility for decision making

The council will issue and keep up to date a record of which part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this constitution. A record will also be kept (see Section G of Part 3 of the Constitution) of those bodies / working groups / boards within the council which do not have formal decision making roles but which have advisory responsibilities and functions.

13.2 Principles of decision making

The following principles apply to decision-making:-

- a. **Relevant Considerations** – Due regard to all relevant considerations and disregard of all irrelevant factors;
- b. **Proportionality** -The action must be proportionate to the desired outcome);
- c. **Consultation** – There will be appropriate consultation and professional advice obtained from officers

- d. **Human Rights** – All decisions should reflect respect for human rights Act;
- e. **Openness** – Be open about the decisions and actions the council takes;
- f. **Clarity** - Be clear in our aims and what the Council wants to achieve;
- g. **Options** – An explanation of the options considered and the reasons for decisions.
- h. **Lawfulness and Financial Propriety** – Decisions should be consistent with relevant legislation, common law and within the powers of the Council. Resources will be used carefully, lawfully and in the interests of the community we serve

13.3 Types of decision

- a. **Decisions reserved to full council.** Decisions relating to the functions listed in Article 4.2 will be made by the full council and not delegated.
- b. **Key decisions**, which means an executive decision which is likely:

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The meaning for the purposes of this Council's functions is set out in rule 12 of the Access to Information Rules in Part 4 of this constitution.

A decision maker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules and the Executive Procedure Rules in Part 4 of this constitution.

13.4 Decision making by the full Council

Subject to Article 13.8, the council meeting will follow the Council Procedures Rules set out in Part 4 of this constitution when considering any matter.

13.5 Decision making by the Executive

Decision making in relation to the discharge of executive functions is the responsibility of the Leader. The Leader may discharge executive functions personally, or may arrange for the discharge of those functions by the Cabinet, another Cabinet member, a committee of the Cabinet or an officer of the Council.

13.6 Decision making by officers

The delegation scheme for officers set out in Part 3 of the Constitution provides for the delegation of Council and Executive functions to the Council's chief officers and the Service Director – Legal, Governance and Commissioning as set out in Article 12.16. The chief officers may arrange for their delegated powers to be exercised by an officer of suitable experience and seniority. However the Chief Officer or Service Director – Legal, Governance and Commissioning remains responsible for any decision taken pursuant to the delegation arrangements.

13.7 Decision making by the Overview and Scrutiny Committees and scrutiny panels and commissions

The Overview and Scrutiny Committee and scrutiny panels and commissions will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this constitution when considering any matter.

13.8 Decision making by other committees and sub-committees established by the council

Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this constitution which apply to them

13.9 Decision making by Council bodies acting as tribunals

The council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

13.10 Decision making by boards of council officers

The chief executive has delegated authority to establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. Details of the currently established officer boards together with their terms of reference and decision making powers are set out in Section H of Part 3 of the Constitution.

13.11 Access to Information

The Access to Information Procedure Rules set out in Part 4 of this constitution apply to all decision-making processes as specified in those Rules.

KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES

JUNE 201~~8~~⁷

CONTRACT PROCEDURE RULES

Definitions

Introduction

1. **CONDUCT AND COMPLIANCE AND WAIVER**
2. **PREPARATION AND PROCESS**
3. **CHOICE OF PROCUREMENT PROCESS**
4. **ADVERTISING**
5. **COMPETITION AND SUPPLIER SELECTION**
6. **QUOTATION RECEIPT & EVALUATION**
7. **STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE**
8. **EXCEPTIONS FROM COMPETITION**
9. **RECORD KEEPING AND REPORTING**
10. **INCOME CONTRACTS (INCLUDING NIL VALUE AND DISPOSAL CONTRACTS)**
11. **LAND**
12. **EXECUTING CONTRACTS**
13. **VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS**
14. **MISCELLANEOUS**

DEFINITIONS

Award Criteria	relate directly to the goods, services or works to be provided. Award criteria evaluate supplier's offers made in relation to fulfilling the Council's requirements for the Supply, in particular the Specification.
Chief Executive	The Chief Executive is the head of the Council's paid staff and its principal adviser on policy matters and leads the discharge of Council strategy and responsibilities.
Chief Finance Officer	Means the Service Director – Finance, Professional & Transactional Services
Commissioning	The relationship between commissioning and procurement is described in the diagram in Appendix 4.
Conflict of Interest	Means any interest outside of the Council which may appear to an objective bystander to affect the fair judgment of an Officer or Member or any other person acting on the Council's behalf in the Procurement of a Supply or the disposal of property (including Land). The concept of conflict of interest shall at least cover any situation where relevant person has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise his or her impartiality and independence in the context of a Procurement or sale procedure.
Concession	Is where a Supplier is remunerated mostly through being permitted to run and exploit the work or service and is exposed to a potential loss on its investment.
CPR	Means these Contract Procedure Rules.
Data Protection Legislation	Means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, and all other laws and regulations relating to the processing of personal data and privacy, and also where applicable the guidance and codes of practice issued by the Information Commissioner.
Dynamic Purchasing System	is a procurement tool available for contracts for works, services and goods commonly available on the market. It has its own specific set of requirements (as set out in Regulation 34 of the Public Contracts Regulations 2015); for example, it must be run as a completely electronic process, must remain open to new entrants, all suppliers on the relevant category in the Dynamic Purchasing System must be invited to quote for contracts, and it should be set up using the restricted procedure.
European Single Procurement Document	is a standard electronic document that a tenderer for a contract to which the EU Procurement Rules apply may use to declare that none of the exclusion grounds apply to it and that it meets the necessary regulatory criteria or relevant commercial capability requirements. Only the preferred bidder will be required to submit all documentation to evidence the content of the form.

EU Procurement Rules	The rules on procurement for Supplies above the EU Threshold prescribed by the EU in Directives relating to public contracts - as amended and supplemented by the European Court of Justice. These rules also normally extend to the WTO Government Procurement Agreement signatories, which (in 2016) are Armenia, Aruba, Canada, the EU, Iceland, Israel, Japan, Hong Kong China, Liechtenstein, Montenegro, New Zealand, Norway, Singapore, South Korea, Switzerland, Chinese Taipei, and the US.
EU Threshold (or *)	The financial threshold from time to time at which the EU Procurement Rules are applicable to a Supply. Recent and current EU Thresholds are set out in Appendix 2.
Financial Ratio	Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.
FPR	The Financial Procedure Rules.
Framework Agreement	Means an agreement between the Council and one or more Suppliers which operates as a Procurement tool through which contracts for Supplies can be sourced. Framework Agreements which deal with Supplies that are above, or aggregate above, the EU Threshold are subject to the EU Procurement Rules. They set out the terms for the Supply (often including the price) and the method for calling off orders. 'Framework' and 'Framework Suppliers' shall be construed accordingly.
Grant	<p>A grant is a gift which may be linked to outputs and outcomes, but is not a contract for works, goods or services. A contract for Supplies involves the exchange of works, goods or services for money (or money's worth) or a Concession. The distinction is crucial:</p> <ul style="list-style-type: none"> • for contracts these CPR apply; for grants see FPR 4 for rules about accepting grants and FPR 20 about giving grants; • The remedies in respect of failure are very different; • The EU Procurement Rules do not apply to Grants; • State aid rules may apply to gratuitous benefit but not to purchases at market rate.
Head of Corporate Property Management	Means the officer appointed by the Service Director – Economy, Regeneration & Culture who is responsible for corporate property management functions.
Head of Internal Audit	Means the officer appointed by the Chief Executive who is responsible for internal audit.
Head of Procurement	Means the officer appointed by the Service Director – Legal, Governance & Commissioning who is responsible for Corporate Procurement.
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as [†] the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.
Income Contract	An Income Contract is one where the main object of the contract is that the Council does something listed in CPR 10.1.1 – 10.1.23 in relation to a Council

asset¹ and includes situations where the Council does so at nil value (subject to this not being a Grant – see CPR 10.2).

Official Council Order	A standard form of contract for a Supply for a value of less than £160,000 currently approved by the <u>Head of Legal Services Solicitor to the Council</u> whether attached electronically or by paper to an order for Supplies.
Personal Data	means data which relate to a living individual who can be identified— (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual (e.g. references) and any indication of the intentions of the data controller or any other person in respect of the individual.
Procurement	The purchase, contract hire, lease, rental ² or any other form of acquisition which results in a contract for Supplies where the Council is the buyer (therefore, in the context of the CPR, this does not include the Council providing the Supply to itself or gifts). Procurement also includes the establishment of Standing Lists, Framework Agreements and Dynamic Purchasing Systems. ‘Procurement’ and ‘Procured’ shall be construed accordingly.
Procurement Strategy	The Council’s Corporate Procurement Strategy 2013-2017, which can be found here: http://www.kirklees.gov.uk/business/businessWithCouncil/pdf/procurementStrategy.pdf
Quotation:	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
Service	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director (see Appendix 5).
Senior Manager	Means an officer who reports directly to a Head of Service.
Service Director	Means the most senior officer responsible for the day to day functions of each Service. The Service Directorates as at 1 April 2017 are shown in the Council Structure diagram in Appendix 5.
<u>Head of Legal Services Solicitor to the Council</u>	Means the Service Director – Legal, Governance & Commissioning in her role as legal advisor to the Council.
Specification	A written document detailing the Council’s requirements. This can include things such as definitions, acceptance test methods, material requirements or characteristics, drawings, plans, certifications of compliance with standards, workmanship, data security measures, quality control including performance testing and KPIs, completion, delivery, safety, timing, key

¹ For contracts where the Council provides services to another body, please refer to FPRs 20.4-20.6

² Note: Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources or his delegate [See the FPR].

personnel qualities, communication requirements, returns policies and tolerances.

Special Purpose Vehicle	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 who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 7.
Suitability Criteria	Relate to the assessment or vetting of suppliers' general capability, fidelity, skill, competence, etc. to carry out the contract. ' Suitability ' shall be interpreted accordingly.
Supply	Means the supply of any works, goods, or services; being provided, or to be provided, to or on behalf of the Council (whether by purchase, lease, hire or any other arrangement).
Supplier	Any person, partnership, company, or other organisation, which provides or contractually offers to provide any Supply to the Council or on behalf of the Council.
Value for Money	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.
Whole Life Costing Approach	is an approach which addresses all the elements of a Supply over its life cycle such as:— <ul style="list-style-type: none">• costs relating to acquisition,• costs of use, such as consumption of energy and other resources,• maintenance costs,• end of life costs, such as collection and recycling costs which can be used to produce a spend profile of the Supply over its anticipated lifespan.
YORTender	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.

* In the text a * means the value will track the EU threshold rounded down to the nearest ~~£10,000~~£5,000. Also, see "EU threshold"

† The words "including", "include", "for example", "e.g.", and "such as" in these CPRs indicate examples and are not intended to be limiting

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 and Supplies to the Council. Equally important are the delivery of best value through competitive procedures and the avoidance of practices which may restrict, prevent or distort competition. To that end procurers shall follow the 'Procurement Principles' referred to below.

These Contract Procedure Rules cover the Procurement of all Supplies (goods, works and services) and Income Contracts. Service Directors should recognise the Council's view of the difference between Commissioning and Procurement (see Appendix 4).

These Contract Procedure Rules must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for particular Supplies. However, when designing the Procurement within the parameters of these CPRs, the process and the Specification should be clearly related to and proportional to the need which the Supply fulfils and should appropriately balance the value of and risks associated with any proposed action.

EU Procurement Rules, which are often more onerous, also apply to the procurement of all works, goods and services exceeding the EU Threshold, and where there is a conflict between these Contract Procedure Rules and the EU Procurement Rules, the EU Procurement Rules prevail. The GDPR principles of data protection by design and by default and by minimization should also be taken into consideration in the context of contracts and their award procedures that involve the transfer of personal data.

The Council's Financial Procedure Rules must also be complied with. In particular if you are giving a Grant then FPR 20 will apply.

Procurement Principles:

The aim of every procurement exercise should be value for money. In pursuit of that aim, procurers shall endeavour to treat market operators equally and without discrimination, and to act in a transparent and proportionate manner. Without detracting from those principles, procurers should consider how social value might be enhanced in contracts and procurement processes, including encouraging the participation of local businesses in Council tenders

RULE 1 – CONDUCT AND COMPLIANCE

- 1.1. All Council employees, and any person or organisation working on behalf of the Council in Procuring or managing a Supply, must comply with these CPRs.
- 1.2. Cabinet may waive any parts of these CPRs on a case by case basis following consideration of a detailed report setting out in particular:
 - 1.2.1. the legality of the proposed non-compliant process or action; and
 - 1.2.2. the reputational and financial risks associated with the proposed non-compliant process or action.
- 1.3. Failure to comply with these CPRs without a valid waiver may result in disciplinary action against the officers concerned and may in some cases constitute a criminal offence.
- 1.4. Each Service Director must ensure: -
 - 1.4.1. Compliance with these CPRs and the FPRs, using training, instruction and internal control processes
 - 1.4.2. Appropriate supervision and performance management to ensure that decisions taken are subject to authorisation and quality control procedures
- 1.5. When authorizing staff to procure Supplies on his or her behalf, each Service Director must set a financial (or other) limit on the authority vested in individual officers to procure Supplies. Such limits must be recorded in the relevant Scheme of Officer delegations.
- 1.6. The Head of Procurement may
 - 1.6.1. authorise officers who are not procurement officers under his or her managerial responsibility to act on his or her behalf in respect of any role assigned to the Head of Procurement in these CPRs;
 - 1.6.2. issue waivers in relation to the need to consult him or her under CPR 2.3.

The Head of Procurement must record the precise extent of such authorizations and the officer to which roles have been delegated and share these authorizations with the ~~Head of Legal Services~~Solicitor to the Council and the Head of Internal Audit.

- 1.7. A Service Director has authority to commence any Procurement subject to:
 - compliance with these CPRs and FPRs, and
 - having appropriate delegated authority, and
 - compliance with management processes designed to ensure that proposed projects meet the Council's business needs, and
 - seeking Value for Money
- 1.8. These CPRs are a minimum standard and a more prescriptive procurement regime must be followed where this is required by European and UK law and agreements with Grant funding organisations.
- 1.9. The Head of Procurement, the ~~Head of Legal Services~~Solicitor to the Council and the Head of Internal Audit may each issue Guidance Notes to aid the interpretation of these CPRs, with the following leading responsibilities:

- 1.9.1. The Head of Procurement – Good Procurement Practice;
- 1.9.2. ~~Head of Legal Services~~Solicitor to the Council – The EU Procurement Rules and other laws and Corporate Governance;
- 1.9.3. Head of Internal Audit – Procurement project related financial management, Best Value and Risk.
- 1.10. Any dispute concerning interpretation of these CPRs must be referred to the Head of Internal Audit who, in consultation with the ~~Head of Legal Services~~Solicitor to the Council, may provide clarification and determination.
- 1.11. Subject to Part 3 of the Council’s constitution and without prejudice to the role of the Monitoring Officer or the Chief Finance Officer, the Chief Executive may reassign specific duties delegated in these CPRs to the Head of Procurement, the Head of Internal Audit, ~~the Head of Legal Services,~~ and the ~~Head of Legal Services~~Solicitor to the Council provided that:
- 1.11.1. the post holders to whom these duties are assigned must hold general competencies in respect of:
- Public sector procurement in respect of duties reassigned from the Head of Procurement;
 - Finance in respect of duties reassigned from the Head of Internal Audit;
 - Law and Court procedure in respect of duties reassigned from ~~Head of Legal Services~~Solicitor to the Council.
- 1.11.2. the same degree of separation of officer responsibility for the duties is maintained.
- 1.12. **Conflicts of Interest and Integrity³:**
- 1.12.1. Service Directors shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.
- 1.12.2. Any Officer, Member or other person acting on the Council’s behalf in Procuring a Supply must declare any potential Conflict of Interest as soon as he or she becomes aware of a potential Conflict of Interest and update the declaration in the event of any changes.
- 1.12.3. Service Directors must record such declarations and in each case decide whether safeguards need to be put in place or the Officer or Member concerned should be removed from the Procurement or Disposal process.
- 1.12.4. In exercising the decisions delegated to them, the Head of Procurement, Head of Internal Audit and Solicitor to the Council (or any other persons undertaking their responsibilities by application of CPR 1.11 or CPR 1.6) must reach their decisions independently.

RULE 2 – PREPARATION AND PROCESS

2.1 Each Service Director must ensure:-

- (1) That Supplies of a similar type are procured together where it is sensible to do so. A Procurement must not be subdivided with the effect of preventing it from falling within

³ Officers should also familiarise themselves with the FPRs 17 and 18, Chapter 7 of the Employee Handbook and Part 5.7 of the Council’s Constitution and Members should also refer to Part 5.1 of the Constitution.

the scope of these CPR or the EU Procurement Rules, unless justified by objective reasons.

- (2) Each Procurement complies with the following:
 - a. It is justified by a business case (that includes a risk assessment) approved personally by a Senior Manager with relevant authority to purchase, and
 - b. A Whole Life Costing Approach underpins the specification of the Supply and
 - c. It aligns with the Procurement Strategy, and
 - d. It complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 8.12), consortia and other suppliers (Service Directors should, for example, consult the Head of Procurement about decisions that have been made under CPRs 8.10 & 8.11 and contracted suppliers).
- (3) The Supply is likely to be within budgetary provision (see CPR 12.1).
- (4) An estimate of the full cost of the Supply contract or Framework Agreement which is as accurate as possible is made. Valuations must:
 - a. be estimated by reference to the gross value of the Supply contract (including installation, supplier maintenance, options, and any income gained by all Suppliers involved in the agreement);
 - b. assess the gross value of a Framework Agreement to be the reasonably estimated value of all Supply contracts which might be made through it;
 - c. where the Supply contract includes a fixed duration, cover the entire possible duration of the contract (i.e. including any options, such as for extension or renewal);
 - d. where a maximum contract duration is not certain, treat the contract as if it lasts for 4 years;
 - e. include any Grant funding;
 - f. exclude VAT.
- (5) Where the cost of the Supply is less than the EU Threshold and an approved Framework Agreement or Dynamic Purchasing System is not being used, there must be consultation with the Head of Procurement to see whether the value of the Supply needs to be aggregated with any other similar Supplies for the purposes of the EU Procurement Rules.
- (6) Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.
- (7) The process can be adequately resourced.
- (8) The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.1(10) below) and other procurement documentation. The documents must be likely to be understandable by all reasonably well informed people in the relevant industry in the same way.
- (9) For contracts up to £160,000, other than Land Contracts (as to which see CPR 11); where an appropriate Official Council Order exists, the Service Director shall wherever possible use such contract terms. Otherwise every contract for Supplies or Income Contract must set out:
 - a. Details of the Supply to be made or 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;
- d. Termination provisions and break clauses, if appropriate;
- e. Appropriate data protection clauses where personal data is involved; and
- f. Such other matters as the ~~Head of Legal Services~~Solicitor to the Council considers to be necessary (the ~~Head of Legal Services~~Solicitor to the Council need not be consulted, but guidance must be followed).

- (10) For contracts above £160,000, other than Land Contracts (as to which see CPR 11); the Service Director must consult with the ~~Head of Legal Services~~Solicitor to the Council who will prepare contract documentation appropriate for the contract.
- (11) Where a competitive process is being carried out: a transparent, unambiguous and clearly set out schedule of Award Criteria, which are objectively verifiable and non-discriminatory and are appropriately prioritised, must be prepared and advertised. These criteria must be linked to the subject matter of the contract, must not include unlawful non-commercial considerations or Suitability Criteria (which should be identified separately and must follow CPR 5.2 – 5.7) and must be proportional to the contract’s main objectives.
- (12) Consideration of whether it would be appropriate to divide large procurements into contract Lots⁴ and must record the decision and reasoning.
- (13) The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding ~~£160~~£180,000*.
- (14) The appointment of an officer to carry out supervision of the resulting contract(s) in accordance with Financial Procedure Rule 21.8.
- (15) That (unless Cabinet authorises otherwise) the formal Council policies and/or guides referred to in Appendix 1 are followed.
- (16) All supply contracts in excess of £300,000 will be bonded in the sum of 10% of the Quotation value, except where the ~~Head of Legal Services~~Solicitor to the Council and Head of Internal Audit 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.
- (17) A risk log is maintained during the Procurement process.

2.2 If you are considering conducting interviews or receiving presentations you should discuss this with the Head of Procurement at the preparatory stage (also see CPRs 6.16-6.18)..

2.3 Before commencing any process to obtain any Supply having an estimated cost exceeding £20,000, the Service Director must consult with the Head of Procurement. The Head of Procurement must consider if any issues relating to the procurement may create risks that require

⁴ This is not the same thing as disaggregation. Please contact Corporate Procurement if there is any doubt about what this means.

consultation with the ~~Head of Legal Services~~ Solicitor to the Council and / or the Head of Internal Audit, and undertake these consultations as necessary.

- 2.4 The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with EU Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the Official Journal of the European Union (OJEU) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.
- 2.5 Consultation with suppliers in the relevant market is permitted but it 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.
- 2.6 In preparing a Specification, the Service Director should consider how the procurement activity might meet the Council's wider policy and strategy but subject always to ensuring full compliance with EU and UK procurement legislation. In respect of contracts for services, Service Directors must also consider (a) how what is proposed to be procured might improve the economic, social and environmental well-being of Kirklees, (b) which proportionate actions (which must comply with the EU Procurement Rules) might be taken in the Procurement with a view to securing that improvement, and (c) whether any consultation might be needed to inform them in relation to 2.6(b).
- 2.7 Where any Supplier is given possession of or access to any personal data, the Service Director must have regard to the Council's obligations as regards the Data Protection Legislation, any Information Commissioner's Office directions to the Council and the undertaking which the Chief Executive gave to the Information Commissioner in July 2011. The Service Director must follow the Council's Information Security Policy, in particular regarding contracting with data processors and sharing data, and consult with the Information Governance Team. The Service Director must ensure that:
- A. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
 - B. appropriate guarantees of the security of the personal data are included within a written contract;
 - C. the performance of the contract is appropriately monitored;
 - D. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
 - E. appropriate steps are taken to minimise as far as possible the impact of a breach of data security.
 - F. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.
- All contracts that involve the processing or sharing of personal data must be reported to the Information Governance Team, who will keep a log of these contracts. The log will be reviewed by the Information Governance Board on a six-monthly basis.

Collaboration

- 2.8 The potential for genuine collaboration with other public bodies must be considered when planning a procurement exercise.

2.9 However, the EU Procurement Rules provide for joint liability where one authority procures on behalf another (other than as a central purchasing organisation, e.g. YPO). This increases the risks for the passive partner(s). So when taking any benefit from a procurement in which a third party takes any degree of control, Service Directors must ensure that appropriate due diligence steps are taken to be sure that all arrangements are appropriate and compliant. Apart from in the case of Central Purchasing Organisations (like the Yorkshire Purchasing Organization and the Crown Commercial Service); addition to procurements on a speculative basis (for example, where the Council is added as a user to a third party framework without a likelihood the Council will use it) must be approved by the Head of Procurement.

RULE 3 - CHOICE OF PROCUREMENT PROCESS

3.1 Subject to complying with the law, the process for procurement must comply with the following:

Value of Supplies	Requirement
Up to £200	Any Procurement means is permitted
between £200 and £20,000	<p>Any reasonable means to select the Supply is permitted. Reasons to justify the decision taken must be recorded. Where practicable Supplies from a Supplier within the Council’s area must be considered in addition to Supplies from Suppliers outside the area (although the best value Supply must always be chosen).</p> <p>Reasonable Means to Select; this requires methods of selection which reflect reasonable trade practice. For Supplies below £20,000, it might include informal briefs, supplier written quotations or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet. The Service Director remains responsible for ensuring that the supplier selected is appropriate in terms of Suitability.</p>
above £20,000	<p>One of the following:</p> <ul style="list-style-type: none"> ◆ Quotations (CPRs 4 - 6) ◆ Framework Suppliers, Standing Lists, Etc. (CPR 7) ◆ Exemptions (CPR 8) ◆ Internal, Consortia & Compulsory (CPR 8)

3.2 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.

RULE 4 - ADVERTISING

4.1 The Service Director must advertise for Suppliers and/or quotations as follows.

Estimated Value of Contract ⁵		Advertising Requirement
Works; above £4, 100 <u>550</u> ,000* Goods; above £ 160 <u>180</u> ,000* Services other than 'Light Touch Regime' services; above £ 160 <u>180</u> ,000* 'Light Touch Regime' services; above £ 580 <u>615</u> ,000*		Advertise on YORTender, Contracts Finder and OJEU- and in other media if appropriate (OJEU first); or Use approved Framework Agreement; or Use approved Dynamic Purchasing System
<u>From</u> Works £100,001	<u>Up to</u> Works; £4, 100 <u>550</u> ,000* Goods; £ 160 <u>180</u> ,000*	If Standing List Exists From standing list; or Use approved Framework Agreement; or Use approved Dynamic Purchasing System
Goods £20,001 Services £20,001	Services other than 'Light Touch Regime' services; £ 160 <u>180</u> ,000* 'Light Touch Regime' services; £ 580 <u>615</u> ,000*	If Standing List Does Not Exist Advertise on YORTender, Contracts Finder PLUS other reasonable advertising means; or Use approved Framework Agreement; or Use approved Dynamic Purchasing System
<u>Goods or services from £200 up to £20,000</u> <u>Works from £200 to £100,000</u>		Any reasonable means.
<u>Below £200</u>		Any means (advertising is not necessary)

RULE 5 – COMPETITION AND SUPPLIER SELECTION

Number of Quotations

5.1 A Service Director must invite at least the following number of suppliers to submit a written Quotation:

Estimated Value of Contract	Minimum Number

⁵ Please refer to CPRs 2.1(1) and 2.1(4)

£20,000 to £99,999	3
£100,000 up to EU Threshold or £160 <u>£180</u> ,000* (whichever is lower)	4
Above EU Threshold or £160 <u>£180</u> ,000* (whichever is lower)	5

Unless

- 5.1.1 an **approved**⁶ Framework Agreement or Dynamic Purchasing System is being used (and in which case the rules of the Framework Agreement or the Dynamic Purchasing System must be followed); or
- 5.1.2 it is otherwise agreed with the Head of Internal Audit in consultation with the ~~Head of Legal Services~~Solicitor to the Council,

The Suppliers must have indicated that they are willing to submit a Quotation. If it is not possible to identify the number of willing prospective suppliers indicated above, the Service Director must retain a record of the efforts made and reasons why an appropriate number of suppliers could not be identified.

Supplier Selection

- 5.2 Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of Suitability.
- 5.3 Where the procurement process has an overall value of less than ~~£181,302~~£164,176, a qualification stage must not be used, although key, proportional, Suitability questions linked to the subject matter of the contract should, as appropriate, be used to establish the Suitability of the supplier. The questions (or absence of any) must be approved by the Head of Procurement.
- 5.4 When operating a procurement process with a value of ~~£181,302~~£164,176 or above, and subject to CPR 5.5, the Service Director must use the Council's standard form of Suitability questionnaire (which is based on the 'selection questionnaire' requirements of procurement policy note 8/16) to establish Suitability and/or to establish a shortlist. Any variations to this must be agreed with the Head of Procurement who will notify relevant authorities as necessary (e.g. through mysteryshopper@crownccommercial.gov.uk).
- 5.5 The European Single Procurement Document must be accepted where applicable.
- 5.6 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 Head of Procurement. Selection Criteria must be transparent and financial ratios to be used as part of the evaluation must be disclosed. When conducting a procurement process which is subject to the EU Procurement Rules, minimum standard and/or pass marks must be published in the relevant OJEU contract notice or invitation to confirm interest.

⁶ See CPR 7.17~~8~~

- 5.7 Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the HMRC Employment Status Indicator (ESI) Tool. The results of this should be reported to the Head of Procurement. The Service Director and the Head of Procurement must agree on the approach to procurement if the assessment suggests that the Council faces any risk. Any proposal to engage a self-employed person must be agreed with the Head of Procurement.

RULE 6 – QUOTATION RECEIPT & EVALUATION

- 6.1. For Procurements which are valued above ~~£160~~£180,000*, suppliers must be required to submit Quotations by electronic means of communication unless the Head of Procurement agrees otherwise. This must be through the YORTender system unless the Head of Procurement agrees otherwise.

- 6.2. 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:-

Estimated Value	Returned to
£20,000 to £99,999	Service
£100,000 and above	Head of Procurement

- 6.3. 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.
- 6.4. All of the paper quotations must be kept securely and unopened. If any quotation bears any name or identifying mark of the bidder, this should be removed or obliterated.
- 6.5. All paper and electronic quotations received by the appointed time will be opened at the same time by:

	Estimated Value	Representatives (at least)
A	£20,000 to £99,999	Two Service based officers who are independent of the procurement
B	£100,000 and above	One Internal Audit representative & One Corporate Procurement officer

A Legal Services Officer can act as substitute for one of the officers in C above.

- 6.6. At the quotation opening the Service Director (quotations estimated under £100,000) or Head of Procurement (quotations estimated at £100,000 or over) will maintain a written record of the:-
- 6.6.1. Nature of the Supply
 - 6.6.2. Name of each supplier submitting a Quotation and the date/time of receipt
 - 6.6.3. Name of suppliers failing to submit prices/proposal
 - 6.6.4. Prices from each supplier
 - 6.6.5. Names of the persons present at the opening
 - 6.6.6. Date and time of opening of Quotations
 - 6.6.7. Any reason for rejecting any Quotation

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

- 6.7. Late Quotations must not be accepted unless the lateness is caused by the Council or other matters reasonably outside of the control of the tenderer AND no unfair advantage is given to the bidder which submits the late Quotation. Any decision to accept a late quotation will be made by the Head of Procurement following both (a) such verification as he or she feels appropriate and (b) approval by the Head of Internal Audit. However, deadlines may be extended at any time prior to their arrival so long as this complies with the principle of equal treatment and non-discrimination between tenderers.
- 6.8. Suppliers must always be required to submit bids which comply with the tender documents. Variant bids may be permitted providing that the tender documents:
- Say whether a standard or reference bid is also required;
 - Include the minimum requirements to be met by the variants;
 - set award criteria which can be applied to the variants;
- and the variants which are submitted must conform to the requirements of the tender documents.
- Quotations which do not comply with the above in this CPR 6.8 may be accepted by the Service Director, only after approval by the Head of Internal Audit.
- 6.9. The Service Director will carry out an evaluation of the Quotations received against the pre-set Award Criteria (CPR 2.1(11)) and keep a written record of the analysis and outcome.
- 6.10. The use of or participation in e-auctions to set prices is permitted where:
- I. bids can be ranked automatically and
 - II. the mathematical formula to determine the rankings of the bids (or each variant where variants are permitted) is disclosed, and
 - III. the written agreement of the Head of Internal Audit has been given, and
 - IV. the process is subject to supervision by the Head of Procurement.
- 6.11. The Service Director will require tenderers to explain the price or costs proposed in their tender where tenders appear to be abnormally low.
- 6.12. The Service Director must ensure that, where required by EU procurement rules, 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 tender. The Head of Procurement will supervise the production and issuance of the mandatory debrief letters and inform the ~~Head of Legal Services~~Solicitor to the Council that the debrief process has completed satisfactorily prior to formal acceptance of any quotation.
- 6.13. Any complaint or challenge to the procurement process at any stage must immediately be referred to the Head of Procurement, who must take steps to investigate and (subject to CPR 6.15) take action as necessary, taking guidance from the ~~Head of Legal Services~~Solicitor to the Council and the Head of Internal Audit.
- 6.14. If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the ~~Head of Legal Services~~Solicitor to the Council must be informed immediately with full objective disclosure of the facts relating to the issue(s), who will manage the claim. At this stage information exchange should be restricted and Service Directors must not copy dispute related information to anybody who has not seen it before until the ~~Head of Legal Services~~Solicitor to the Council advises about confidentiality and Legal Privilege.

- 6.15. Where information or documentation submitted by a bidder is or appears to be incomplete (including where specific documents are missing) or erroneous or unclear, Service Directors may request the bidder concerned to submit, supplement, clarify or complete the relevant information or documentation, provided that requests for clarification:
- 6.15.1. Set an appropriate time limit for a reply; and
 - 6.15.2. Do not request changes or otherwise seek to influence the bidder; and
 - 6.15.3. Deal with all of the matters in the Quotation which are incomplete or erroneous or unclear; and
 - 6.15.4. Treat all tenderers equally and fairly and so, for example, the request:
 - 6.15.4.1. Must not occur before all of the bids have been subject to an initial evaluation
 - 6.15.4.2. must not unduly favour or disadvantage the bidder to whom the request is addressed, and
 - 6.15.4.3. must be sent in the same way to all bidders unless there is an objectively verifiable ground justifying different treatment.
- 6.16. Clarity may also be facilitated through planned presentations designed to assist in understanding or verifying submitted bids. Clarification questions may be asked during such presentations and prior scoring may be appropriately moderated (but the presentation itself must not be scored). All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.
- 6.17. Interviews and / or presentations which form part of the bid (rather than clarification of a submission) are discouraged and must be authorized by the Head of Procurement in writing. They must also be:
- 6.17.1. comprehensively recorded; and
 - 6.17.2. assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and
 - 6.17.3. supervised by the Head of Procurement.
- 6.18. Where interviews and / or presentations are to be used, unless the Head of Procurement agrees otherwise, all bidders must be invited to participate.

RULE 7 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE

- 7.1. The Head of Procurement will maintain a list of approved central purchasing organisations, purchasing consortia and Council "trading services".

Standing Lists

- 7.2. The Head of Procurement will determine for which types of Supply Council-wide Standing Lists must be kept (see CPR 8.10). The Head of Procurement will notify the relevant Service Director of such decisions where the Standing List is Service specific and be responsible for creation and maintenance of Standing Lists which will be used Council-wide by any Service Director requiring Supplies of that type.
- 7.3. Standing Lists may be used for Supplies where the aggregated value (in compliance with the EU Procurement Rules) of the Supply in question does not exceed the relevant EU Threshold.

Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant EU Threshold.

- 7.4. Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the YORTender web site, Contracts Finder and one appropriate printed newspaper or journal. Standing Lists will remain valid for five years from creation. During that period the Standing 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. Standing Lists must be renewed every 5 years.
- 7.5. Admission to a Standing List should be on the basis of a transparent, rational, justifiable evaluation, of information submitted by prospective Suppliers relating to technical, financial and any other relevant matters determined by the Head of Procurement.
- 7.6. The Head of Procurement (in consultation with the ~~Head of Legal Services~~Solicitor to the Council) may delete a supplier from a Standing List only where there is appropriate evidence and a written report justifying the action.
- 7.7. If there are insufficient suppliers on a Standing List, or too few are willing to submit Quotations, to meet the CPR's quotation requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 7.8. Each Service Director must establish and advertise a set of fair, proportionate and transparent rules that reflect these CPRs which set out how Supplies will be procured through each Standing List which they are responsible for.

Council Framework Agreements and Dynamic Purchasing Systems

- 7.9. Framework Agreements and Dynamic Purchasing Systems may be used to source contracts for appropriate types of Supplies (subject to compliance with the EU Procurement Rules, as applicable). However they must not be used to attempt to create further Framework Agreements or Dynamic Purchasing Systems.
- 7.10. Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a Supply contract (but must not be procured through a standing list, another framework agreement or a Dynamic purchasing system) and in accordance with the EU Procurement Rules.
- 7.11. All Framework Agreements will be in the form of a written contract detailing the method by which the Council will call off Supplies during the duration of the Framework Agreement and stating that there will be no obligation to order any Supplies of any type from a Framework Supplier.
- 7.12. Framework Agreements above the EU Threshold must be closed to new entrants and must not last longer than 4 years without this being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 7.13. Contracts created through Framework Agreements must not be greater than 4 years in duration without being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 7.14. Dynamic Purchasing Systems must:
 - 7.14.1. be set up by an advertised competitive process which is approved by the Head of Procurement; and

- 7.14.2. remain advertised; and
 - 7.14.3. not limit the number of suppliers admitted to the system (but the system may be split into categories); and
 - 7.14.4. be set up with clear operative rules which involve obtaining quotations from all suppliers on the system, or on the relevant category on the system, as appropriate; and
 - 7.14.5. be operated wholly electronically; and
 - 7.14.6. be open to new entrants; and
 - 7.14.7. not last longer than 5 years.
- 7.15. When using Framework Agreements or Dynamic Purchasing Systems, the Council must follow the procurement rules set out in the Framework Agreement or the Dynamic Purchasing System.
- 7.16. The Head of Procurement will ensure that the use of Framework Suppliers and Dynamic Purchasing Systems provide value for money, considering all procurement costs and alternative approaches.
- 7.17. The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems (noting which of these comply with the EU Procurement Rules) which Service Directors are permitted to use.

Use of Third Party Procurement Facilities

- 7.18. Supplies may be obtained through third party Frameworks Agreements that:
- 7.18.1. Are created by a public body or a private sector party as agent of a public sector body which is approved by the Head of Procurement (see also CPR 7.1);
 - 7.18.2. Have valid mechanisms that exist to enable the Council to use the Framework Agreement (including appropriate transparent referencing in the procurement documents and inclusion in the framework call of conditions);
 - 7.18.3. Comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;
 - 7.18.4. Are included in the CPR 7.1~~7~~⁸ approved list (and, if the Supply which is to be procured is above the EU Threshold, is noted in the list as being compliant with the EU Procurement Rules);
 - 7.18.5. Where the EU procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 8 – EXCEPTIONS FROM COMPETITION

- 8.1 Subject to compliance with the EU Procurement Rules the following are exempted from the competitive requirements of these CPR ⁷:
- 8.1.1 Where there is genuinely only one potential Supplier, such as for works of art and copyrighted material or unique technology, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

⁷ When the EU Procurement Rules apply, these exemptions may not be permitted (Directors must check this)

- 8.1.2 Items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit).
- 8.1.3 The selection of a supplier whose usage is a condition of a Grant funding approval.
- 8.1.4 The selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party.
- 8.1.5 Where CPR 8.10 applies.
- 8.1.6 Counsel or other external legal advice, provided that the ~~Head of Legal Services~~Solicitor to the Council takes steps to ensure that value for money is being obtained.
- 8.1.7 A necessary Supply required extremely urgently, not due to any action or inaction of the Council, with the prior agreement of the Head of Internal Audit.
- 8.1.8 Direct award from an approved Framework Agreement (see CPR 7.18) which has validly been set up to be called off on a non-competitive basis and which was set up in accordance with the requirements of these CPR and the EU Procurement Rules.

The Service Director must make a written record of the justification for the selection of the Supplier. The Service Director must obtain the approval of the Head of Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £100,000.

- 8.2 **Trial Purchases:** Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000, to ascertain if the Supply is of interest to the Council, without competition. Where an exception to competition in CPR 8.1 does not apply, a full competition compliant with the CPR must be held following the trial if the Service Director wishes to continue with the type of Supply. Arrangements must be made to ensure that the Supplier involved in the trial has not acquired any advantage through that involvement when compared to any alternative suppliers of a similar product. The Head of Procurement must approve any proposed trial arrangement exceeding £20,000.

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

- 8.3 The procuring Service Director and the Head of Procurement may decide that;
- 8.3.1 an alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Internal Audit.
 - 8.3.2 Following receipt of Quotations for the Supply, 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.
 - 8.3.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Quotation for the Supply.
 - 8.3.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the council without competition is appropriate (although subject to EU Procurement Rules).

Note in the above, in order to achieve internal check, the Head of Procurement alone cannot reach such decisions. Where the Head of Procurement is making a decision in relation to a Procurement exercise by his or her own Service Director, there must be consultation with the Head of Internal Audit.

- 8.4 Verbal negotiation 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 Head of Procurement.
- 8.5 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 8.6 For any contract valued at above £100,000 the Service Director must obtain the approval of the Head of Internal Audit of the proposed terms of the negotiated Supply including its cost and the reason for choice before the contract is entered into.

Legal Issues

- 8.7 The ~~Head of Legal Services~~Solicitor to the Council must be consulted in advance of any negotiation in respect of any contract estimated to exceed £160,000 (except those in relation to Land where the Head for Corporate Property Management should be consulted irrespective of value).
- 8.8 Before a decision pursuant to CPRs 8.1 to 8.3 is made, the Head of Procurement will determine whether the likely level of interest from suppliers based in other EU Member States is sufficiently low so that the EU Procurement Rules do not require the Procurement to be advertised.
- 8.9 Before a decision pursuant to CPRs 8.1 to 8.3 is made, the Head of Procurement will decide whether the purchase is likely to be on terms which would be acceptable to a private buyer operating under normal market economy conditions. If the Head of Procurement does not think that this is likely to be achieved, he/she must consult with the ~~Head of Legal Services~~Solicitor to the Council about the possibility of state aid before approving the exemption from competition.

MANDATORY SUPPLIERS, FRAMEWORKS AGREEMENTS OR DYNAMIC PURCHASING SYSTEMS

- 8.10 In respect of defined categories of goods, works and services the Head of Procurement may determine (following a written risk assessment which, as appropriate, deals with the EU Procurement Rules and the possibility of state aid) that the use of one (or more) Suppliers is compulsory.
- 8.11 The Head of Procurement may also determine that Supplies of a particular type are to be obtained from Suppliers via a Framework Agreement or a Dynamic Purchasing System or Standing Lists, and set standards to be established in those arrangements.
- 8.12 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:
 - 8.12.1 Where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
 - 8.12.2 In respect of the outsourcing of an activity having a value below £100,000;
 - 8.12.3 In respect of services provided within schools;
 - 8.12.4 In respect of ad hoc services for the design and construction of buildings or parts of buildings.

RULE 9 - RECORD KEEPING AND REPORTING.

- 9.1 Service Directors must keep detailed written records of the progress of all procurement or disposal procedures (including negotiation).

To that end, Service Directors must ensure that they keep sufficient documentation to justify decisions taken in all stages of the procedure, such as documentation on —

- 9.1.1 communications with economic operators and internal deliberations,
- 9.1.2 preparation of the procurement or sale documents,
- 9.1.3 any interviews, other dialogue or negotiation,
- 9.1.4 supplier vetting, and
- 9.1.5 reasons for award of the contract.

The documentation must be kept for a period of at least 3 years from the date of award of the contract.

- 9.2 A full trail of electronic quotations received must be recorded in YORTender or retained in a database approved by the Head of Internal Audit.
- 9.3 All contracts over £5,000 must be reported to the Head of Procurement who will arrange to publish these transactions on the statutory contracts register (also see Appendix 3).
- 9.4 The relevant Service Director must complete the Council's standard 'Regulation 84 Report' template by the end of each procurement process which is subject the EU Procurement Rules.
- 9.5 Each Service Director must promptly provide to the Head of Procurement the information specified in Appendix 3.
- 9.6 The Head of Procurement must ensure that the appropriate publications are made to comply with the Local Government Transparency Requirements (and each Service Director will notify the Head of Procurement of any expenditure above £500; also see CPR 9.3 above).
- 9.7 The Service Director must keep a written record of the reasons for using a negotiated procedure

RULE 10 - INCOME CONTRACTS -& CONCESSIONS

- 10.1. CPRs 10.2 to 10.6 apply when the Council intends to derive income from:
 - 10.1.1. The disposal of property (other than Land);
 - 10.1.2. The sale of a right to exploit a business opportunity;
 - 10.1.3. The operation of business activity.

CPR 10 does not apply to Land (See CPR 11).

- 10.2. Where the Council is proposing to enter into an Income Contract at manifestly less than market value where the market value is estimated at £1,000 or more, the Head of Internal Audit must be consulted and he will decide whether this amounts to a Grant (and so FPR 20 applies instead of CPR 10).

The disposal of an asset

- 10.3. The procedure for the Disposal of assets is;
 - 10.3.1. Assets valued at below £200 may be disposed of by any means.
 - 10.3.2. Assets valued at between £200 and up to £20,000 must be disposed of by a method chosen by the Service Director and a written justification of the choice retained.
 - 10.3.3. 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.

Leased assets must be disposed of only in accordance with the instruction of the lessor.

The sale of a right to exploit a business opportunity

- 10.4. The letting of rights to exploit a business opportunity for the contractor's own benefit (for example, advertisement space on Council Land) (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process as set out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as state aid.
- 10.4.1. A business opportunity contract that will not generate income in excess of £20,000 over the duration of the contract may be sourced by any reasonable means to select (see an explanation of this phrase in respect of Supplies in CPR 3.1) arranged and undertaken by the Service Director responsible for the activity.
- 10.4.2. The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £20,000.

The operation of business activity, beyond that normally undertaken by a local authority.

- 10.5. If ~~the income from~~ an Income Contract (~~e.g. a traded service~~) is intended to be or become profitable or be commercial in nature, advice must be obtained from the ~~Head of Legal Services~~Solicitor to the Council.
- 10.6. If an Income Contract has any potential to distort the relevant market (~~e.g. service provision at below market rate costs~~) advice must be obtained from the ~~Head of Legal Services~~Solicitor to the Council.

Concession Contracts

- 10.7. Concession contracts for works or services are a type of Supply contract and the procurement of all Concessions shall follow the competitive and contracting requirements in these CPRs for Supplies.

Concession contracts for works or services with a value of £4,104,000 or more are subject to the Public Concessions Regulations 2016 and will be subject to such additional procurement process requirement(s) as the Head of Procurement feels are necessary to comply with these Regulations.

Valuation

- 10.8. The value of a Concession contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the Supplies which are the object of the Concession contract and for any ancillary Supplies.
- 10.9. The value of an Income Contracts is the gross income generated by the Council as a result of the rights granted, or goods, works or services supplied by the Council.

- 10.10. When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account: -
- 10.10.1. the value of any form of option and any extension of the duration of the contract;
 - 10.10.2. revenue from the payment of fees and fines by the users of the works or services or public other than those collected on behalf of the Council;
 - 10.10.3. payments or any other financial advantages, in any form, from the Council or any other public authority to the contractor;
 - 10.10.4. the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;
 - 10.10.5. revenue from sales of any assets which are part of the contract;
 - 10.10.6. the value of all the supplies and services that are made available to the contractor by the Council, provided that they are necessary for executing the works or providing the services;
 - 10.10.7. any prizes or payments to candidates or tenderers.

RULE 11 - LAND

- 11.1 Procurement of Land will generally be by the means described in this CPR 11. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the ~~Head of Legal Services~~Solicitor to the Council authorises other nominated officers to deal with tenancies or licences for specific purposes.
- 11.2 The Head of Corporate Property Management (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 Service 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.
- 11.3 Where any proposed land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between the Head of Corporate Property Management and the ~~Head of Legal Services~~Solicitor to the Council, 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.
- 11.4 Where Land is sold at a public auction, the Head of Corporate Property Management 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 Head of Corporate Property Management may accept a lower bid provided that such lower bid is not less than 10% below the professional valuation of the reserve price.

RULE 12 – EXECUTING CONTRACTS

SUPPLIES

- 12.1. A contract may only be awarded where the Service Director has sufficient approved budget to meet the first year costs and is satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost through the anticipated life of the contract.
- 12.2. Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and Framework Agreements up to and including £160,000 must be in writing and can be made by the Service Director either:-

- 12.2.1. where appropriate, by issuing the order through the Council's electronic purchasing system (currently SAP) and incorporating the correct standard terms; or
- 12.2.2. By issuing (electronically or on paper) contract terms which the Service Director has assessed as being appropriate both in terms of suitability and risk.

If the Service Director and ~~Head of Legal Services~~Solicitor to the Council decides that it is appropriate for the contract to be sealed (or if it is required by law), the contract will be executed by the ~~Head of Legal Services~~Solicitor to the Council.

The Head of Procurement must ensure that the Councils electronic procurement systems are set up so that the most appropriate Official Council Order are available to be attached to the supply being purchased.

- 12.3. Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and every Framework Agreement with an estimated value of more than £160,000 must be in writing and must (subject to CPR 12.4) be either:-
 - (a) Made under the corporate common seal of the Council, attested by one legal officer, or
 - (b) Signed by two legal officers

who have been nominated as contract signatories by the ~~Head of Legal Services~~Solicitor to the Council under her Scheme of Officer Delegations.

- 12.4. Notwithstanding CPR 12.3, the ~~Head of Legal Services~~Solicitor to the Council may authorise officers who are not Legal Officers to sign specific or specialist contracts for Supplies of above £160,000. Two authorised officers must sign each such contract.
- 12.5. The ~~Head of Legal Services~~Solicitor to the Council may, subject to including appropriate restrictions and/or instructions designed to achieve valid execution of the relevant contracts and suitable record keeping, provide third parties with a power of attorney to sign Council contracts of £160,000 or below.

LAND

- 12.6. The ~~Head of Legal Services~~Solicitor to the Council 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. The ~~Head of Legal Services~~Solicitor to the Council may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the ~~Head of Legal Services~~Solicitor to the Council.
- 12.7. Any contract for the sale or acquisition of, or any other deed or document relating to, Land must either be signed by, or have the corporate common seal affixed in the presence of, the ~~Head of Legal Services~~Solicitor to the Council (or by a legal officer nominated by him or her).

Additionally, the ~~Head of Legal Services~~Solicitor to the Council may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR11.1.

GENERAL

- 12.8. The ~~Head of Legal Services~~Solicitor to the Council is entitled to sign any agreement in any way related to Procurement, Supplies, Concessions or Income Contracts or any security instrument (regardless of whether another officer including the Chief Executive may sign such things), subject to CPR 12.3 and provided that this is not subject to any contrary direction from the Council or Cabinet.

RULE 13 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS

- 13.1. A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, but with prior consultation with the Head of Procurement if alternative Supplies would be required.
- 13.2. A Service Director, in consultation with the ~~Head of Legal Services~~Solicitor to the Council, 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 £100,000, the reason for termination and any consequences must be reported to the next meeting of the Cabinet.
- 13.3. The ~~Head of Legal Services~~Solicitor to the Council may release any bond held by the Council, on request from the Head of Procurement.
- 13.4. The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the ~~Head of Legal Services~~Solicitor to the Council accept such proposed sums.
- 13.5. Service Directors may vary contracts by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract.
- 13.6. Any variation with a value above £20,000 to a contract which cannot be fulfilled by following CPR 13.5 must be subject to the approval of the Head of Procurement.
- 13.7. Any variation to a contract which cannot be fulfilled by following CPR 13.5 must be made in writing and signed in accordance with CPR 12 even if it does not need a competitive Procurement process.

RULE 14 - MISCELLANEOUS

- 14.1 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 ~~Head of Legal Services~~Solicitor to the Council and the Chief Finance Officer. This does not apply to any purchase of shares or similar for the purpose of investment.

Approved by Council ~~24 May 2017 and Corporate Governance & Audit Committee 12 May 2017~~2018
Apply from 1 June 20187

Contact Officer:
Mark Barnes

Appendix 1

Examples of Policies which are relevant to CPR 2.1(15)

Kirklees Council Social Value Policy Statement (see: http://www.kirklees.gov.uk/business/businessWithCouncil/pdf/socialValuePolicyStatement.pdf)
Information Security Policy
The Council's "Project Management Handbook" and "Framework for Successful Projects" when the Head of Procurement advises that they are relevant
Evaluation Panel Guide

Appendix 2

EU Procurement Rules Thresholds

	EU Thresholds 2014-2015	EU Thresholds 1 Jan 2016 –31 Dec 2017	EU Thresholds 1 Jan 2016 –31 Dec 2017
Supply and service contracts	£172,514	£164,176	<u>£181,302 (£180,000*)</u>
Light Touch Regime Contracts (Annex XIV)	£625,050	£589,148	<u>£615,278 (£615,000*)</u>
Works contracts	£4,322,012	£4,104,394	<u>£4,551,413 (£4,550,000*)</u>
Small lots – supplies & services	£66,672	£62, 842	<u>£65,630 (£65,000*)</u>
Small lots – works	£833,400	£785, 530	<u>£820,370 (£820,000*)</u>

* These are current the values for the purposes of these CPRs.

Appendix 3

Information to be Reported to the Head of Procurement (CPR 11)

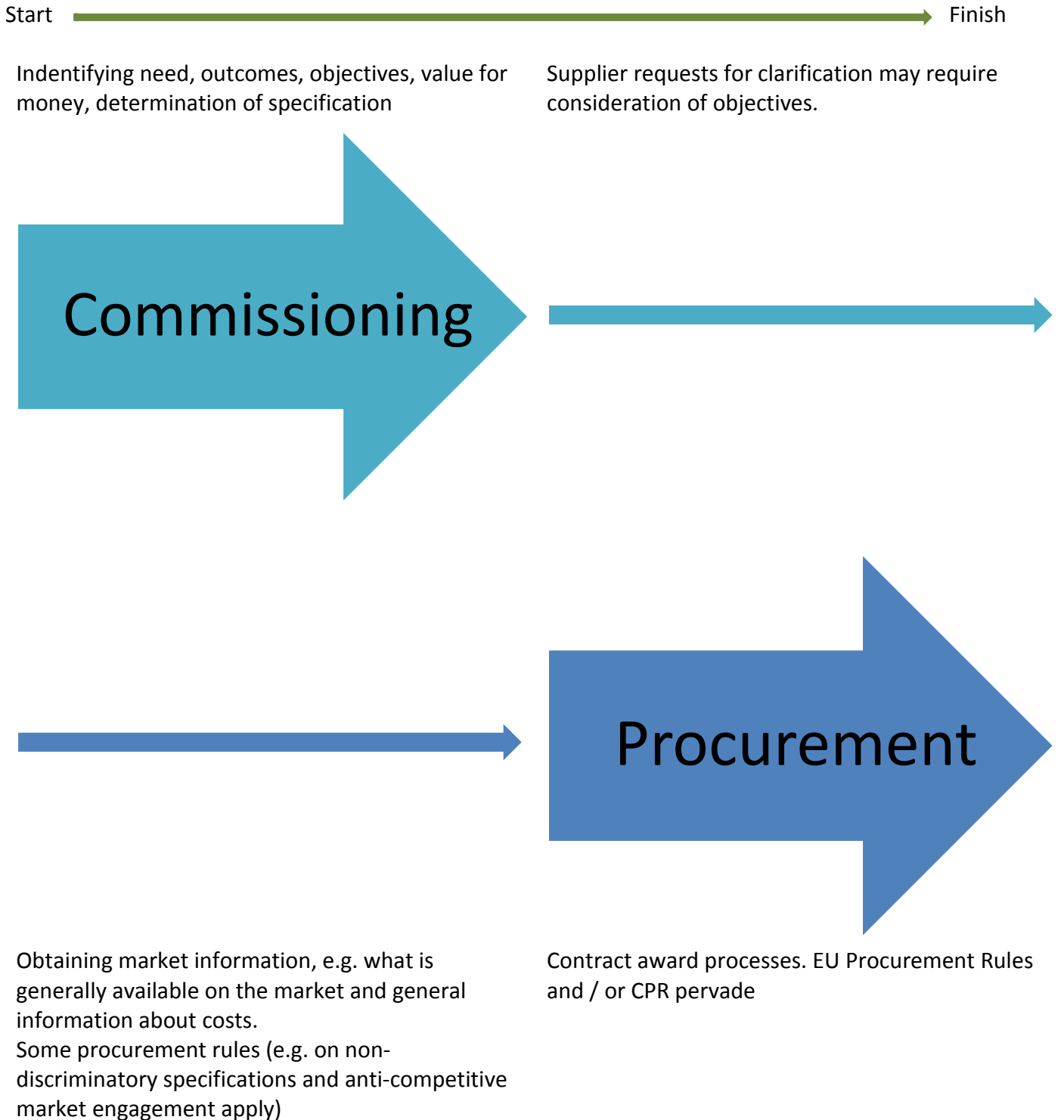
	Information	When
A.	Details of all contracts awarded for Supplies of £100,000 or above following a competitive process including the name of the Supplier, and amount of the Quotation and if the chosen supplier was not the cheapest, then the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.	When Requested

B.	Details of all contracts awarded for Supplies of £100,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.	When Requested
C.	Details of all contracts awarded for supplies of £20,000 or above which a Service Director considered to be exempt from the competitive requirements by virtue of CPR 7.1, including the reason for the exemption.	When Requested
D.	Contracts with a value of £5,000 or more (see CPR 11.1), with the following information: 1. reference number 2. title of agreement 3. local authority department responsible 4. description of the goods and/or services being provided 5. Supplier name and details 6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract) 7. Value Added Tax that cannot be recovered 8. start, end and review dates 9. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and 10. whether or not the Supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number	In All Cases On Contract Award
E.	all other information necessary to enable compliance with the Council's obligations under legislation and regulation to publish data about its contractual arrangements and payments.	In All Cases On Request
F.	Copies of Regulation 84 reports	All cases where the EU Procurement Rules apply On Contract Award

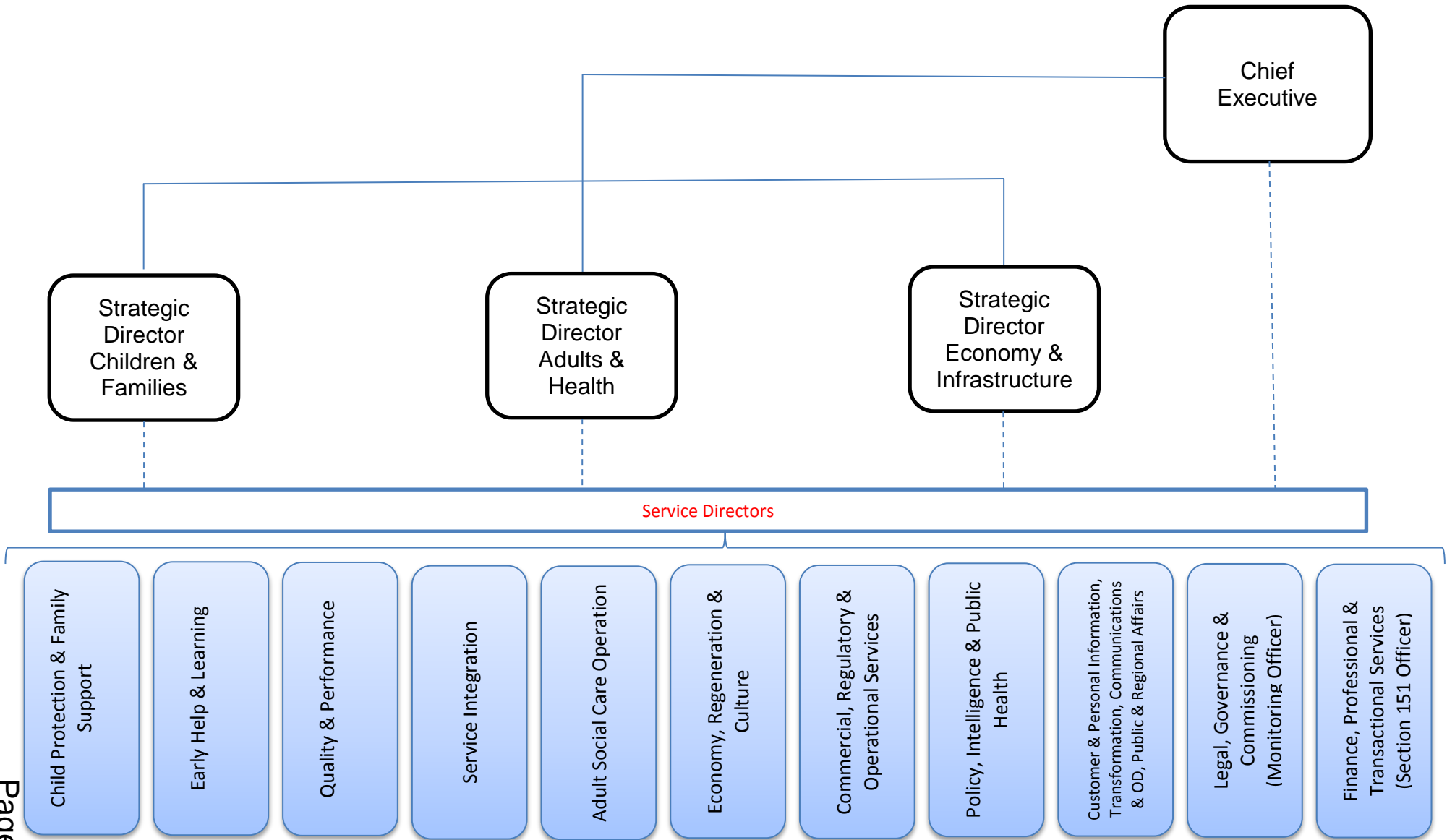
Appendix 4

Relationship between Commissioning and Procurement

The arrows indicate the stages of the whole resourcing process



Appendix 5
Council Structure as at 1 April 2017



This page is intentionally left blank

APPENDIX E

OVERVIEW AND SCRUTINY PROCEDURE RULES

Overview and Scrutiny Procedure Rules

1. The number and arrangements for Overview and Scrutiny Committee and Panels

- 1.1 The Council will appoint the Overview and Scrutiny Management Committee, including the four scrutiny standing panel Lead Members, to oversee the management, co-ordination and development of the overview and scrutiny function. The Committee will appoint Standing Panels, Ad-Hoc Panels, Councillor Call for Action Scrutiny Panels, and members of Joint Health Scrutiny Committees as set out in Article 6 of the Constitution and will appoint to them as it considers appropriate from time to time. The Overview and Scrutiny Management Committee may appoint further sub-committees as may be required.

2. Terms of Reference & Functions of Committee & Panels

2.1 The Overview and Scrutiny Management Committee

2.1.1 The Overview and Scrutiny Management Committee will:

- (i) Have overall responsibility for the management, co-ordination and development of the scrutiny function through which the decisions taken by the Cabinet and by committees and officers of the Council are scrutinised and the use of resources/provision of services are reviewed.
- (ii) Have overall responsibility for the work programme and co-ordinate and monitor progress on the work programmes of any Overview and Scrutiny Panel.
- (iii) Exercise the right to submit a “notice of concern“ on proposed decisions and “call-in” and review Executive decisions (see definition at 2.2.3) as set out in the procedures in these rules, particularly on issues that fall between the responsibilities of the separate panels.
- (iv) Agree arrangements for managing overview and scrutiny business (including the call-in of Executive decisions) within the scope of more than one panel.
- (v) Receive requests from members of the public/Councillors/officers of the Council /co-optees/other organisations for particular topics to be scrutinised and determine the appropriate action.
- (vi) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.
- (vii) Receive proposals from the Scrutiny standing panels for planned in-depth scrutiny reviews, investigations and reports on issues relating to the Council’s functions and determine the appropriate action.

- (viii) Appoint task-orientated, ('ad-hoc') overview and scrutiny panels to review in depth, investigate and report on a particular topic with such terms of reference and duration as it considers appropriate to that topic.
- (ix) Agree terms of reference and work plans of ad-hoc review panels and Councillor Call for Action Scrutiny Panels and monitor their progress.
- (x) Advise ad-hoc review panels and Councillor Call for Action Scrutiny Panels on the contents of reports.
- (xi) Consider and formally agree the reports of all ad-hoc Panels, Councillor Call for Action Scrutiny Panels and standing panel review reports and submit them to Cabinet and/or relevant agencies for response and action.
- (xii) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, local partnership body structures, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xiii) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xiv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xv) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvi) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xvii) Monitor and review the effect of and consequence of the call-in of Executive decisions, including those taken through the scheme of delegation.
- (xviii) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xix) Co-ordinate the production of an annual report to Council at the end of each municipal year on the activity of the overview and scrutiny function.
- (xx) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.
- (xxi) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.

- (xxiii) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function.

2.2 Standing Overview and Scrutiny Panels

2.2.1 Any Overview and Scrutiny panels will:

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated executive decisions, including those taken under the Scheme of Delegation.
- (ii) Scrutinise, advise and contribute to the Cabinet/Cabinet Committee and any relevant Council Committees in relation to issues arising from its work programme;
- (iii) Through the use of pre-decision scrutiny to scrutinise and contribute to the development of strategic proposals prior to decisions being taken by the Cabinet / Cabinet Committee
- (iv) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (v) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions taken by or on behalf of the Executive as set out in the Overview & Scrutiny Procedure Rules.
- (vi) Have an overview of the practice and policy of the relevant service areas;
- (vii) Identify areas of service practice and implementation or of policy that cause concern to members of the public and Councillors and report these to the Overview & Scrutiny Management Committee to determine what action should be taken;
- (viii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;
- (ix) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;
- (x) Promote the work of the panels, including through the local media.
- (xi) Develop focused programmes of work and identify the most appropriate means of progressing such work.
- (xii) Scrutinise the work of the Partnerships and the council's contribution to them, specifically in relation to shared partnership priorities.
- (xii) To scrutinise the effectiveness of the Council's representatives in regional/sub regional and national forums.

- 2.2.2 NOTE: The role of the Health and Adult Social Care Scrutiny Panel will in addition include the specific responsibilities of the Council for the scrutiny of health. Statutory responsibilities in respect of the Community Safety Partnership will be vested in the Overview and Scrutiny Management Committee.
- 2.2.3 Executive decisions: Executive decisions may be discharged by Cabinet/Cabinet Committees/Cabinet member or an officer of the Council in line with Executive Procedure Rule 1.2.5. Scrutiny powers also apply to those decisions taken by officers that are as a result of further delegation of the Cabinet, a Committee of the Cabinet or a member of the Cabinet.

2.3 Ad-hoc Overview & Scrutiny Panels

- 2.3.1 The Overview and Scrutiny Management Committee will appoint task-orientated, ('ad-hoc') scrutiny panels to review in depth, investigate and report on particular topics related to the functions of the Council, with such terms of reference and duration as it considers appropriate to the relevant topic.

2.4 Councillor Call for Action Scrutiny Panel

- 2.4.1 The Overview and Scrutiny Management Committee will appoint time limited Councillor Call for Action Scrutiny Panels to consider issues arising from a Councillor Call for Action request, where the Committee considers it appropriate. Councillor Call for Action Scrutiny Panels shall include a non-executive Councillor from the affected locality and a scrutiny voluntary co-optee (or statutory education co-optees if the issue includes education matters).

2.5 Joint Health Scrutiny Committee

- 2.5.1 The Overview and Scrutiny Management Committee will make the necessary arrangements to establish any Joint Health Scrutiny Committees which may be required with neighbouring authorities including the appointment of members. Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

3. Membership of Overview and Scrutiny

- 3.1 Subject to Article 6.1, any Councillor, except a member of the Cabinet, may be a member of the Overview and Scrutiny Management Committee or its panel(s) or ad-hocs.

- 3.2 No member, however, may be involved in scrutinising a decision in which s/he has been directly involved. In addition, each member of an Overview and Scrutiny Management Committee/Panel is required to consider whether s/he has a personal interest in an issue to be examined by that Committee/Panel and to declare any such interest. If s/he determines that the interest is prejudicial and financial in nature, s/he must not participate in the debate on the issue and must leave the room during that debate. These requirements are set out in detail in paragraphs 11 and 12 of the council's Code of Conduct for members in Part 5 of the Constitution.
- 3.3 The membership of the Overview and Scrutiny Management Committee will comprise the Chair of Overview and Scrutiny and the Lead Members of the scrutiny standing panels and reflect the political composition of the Council, unless the Council decides otherwise in accordance with the appropriate legal procedures.

4. Co-optees

The Overview and Scrutiny Management Committee will agree the appointment of non-voting co-optees for Committee or panels.

5. Education representatives

- 5.1 When the Overview and Scrutiny Management Committee, an ad-hoc panel or a Councillor Call for Action Panel meets to discuss any issue relating to education matters it shall include in its membership the following voting representatives (if appointed by the relevant group):
- (a) 1 Church of England diocese representative;
 - (b) 1 Roman Catholic diocese representative; and
 - (c) 2 parent governor representatives.
- 5.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

6. Meetings of the Overview and Scrutiny Management Committee and Panels

- 6.1 The Overview and Scrutiny Management Committee and its Panel(s) will meet as required to conduct the necessary business efficiently and effectively. There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year. The ad-hoc Panels will meet as required to fulfil the task allocated to them.
- 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Management Committee/Panel, by any 3 members of the body or by the

Service Director Legal, Governance and Commissioning in accordance with Council Procedure rule 40(4) if he/she considers it necessary or appropriate.

7. Quorum

The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the council Procedure Rules in Part 4 of this Constitution.

8. Chairs of Overview and Scrutiny Management Committee/Panels

- 8.1 The council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a Standing Panel.
- 8.2 The Chair of Overview and Scrutiny will be from a different political group to that of the Leader of the council.
- 8.3 The Chair of Overview and Scrutiny will chair the Overview and Scrutiny Management Committee.
- 8.4 The Council will appoint the Lead Members of the Standing Panels who will chair those panels.
- 8.5 The Overview and Scrutiny Management Committee will appoint the Chairs of Ad-Hoc Panels. These may be drawn from the membership of the Overview and Scrutiny Management Committee or from other members of the Council with the necessary expertise . Chairs of Joint Health Overview and Scrutiny Committees may also be drawn from other members of the Council with the necessary expertise.

9. Work programme

- 9.1 The Overview and Scrutiny Management Committee will be responsible for setting its own objectives and work programme and in doing so shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.
- 9.2 The Standing Panels (subject to the agreement and monitoring of the Overview and Scrutiny Management Committee) shall be responsible for setting their own work programme to overview and scrutinise the work of the Cabinet, Cabinet Committees, partnership body structures, relevant Council Committees and services and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.
- 9.3 Ad-hoc Panels will be set up by Overview and Scrutiny Management Committee with specified terms of reference to scrutinise and review in-depth particular issues.

10. Agenda items

- 10.1 Agenda items for the Management Committee and panels shall be set by members identifying issues which they wish to consider in line with the agreed approach to developing scrutiny work programmes, for example through reviewing the Council's priorities, Cabinet's forward work programme of items for consideration or through their overview of service issues and performance, or through calling in particular executive decisions.
- 10.2 Any member of the Overview and Scrutiny Management Committee or panels (including the statutory education representatives) shall be entitled to give notice to Governance and Democratic Services that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Governance Office will ensure that it is included on the next available agenda. The Committee/Panel shall then determine whether it wishes to pursue the item suggested by the member and, if appropriate, whether it should be referred to the Overview & Scrutiny Management Committee.
- 10.3 The Council is keen to encourage members of the public, community and voluntary groups, other agencies, all Councillors, and officers of the Council to suggest issues to be considered by Overview and Scrutiny. All such referrals will usually be considered by the Management Committee who will determine the appropriate action to take.
- 10.4 The Management Committee and Panels shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Cabinet/Cabinet Committee, to review particular areas of Council activity.

11. Policy review and development

- 11.1 The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, partnership body structures and Council and hence to ensure that these views are taken into account in policy development.
- 11.2 The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the Budget and Policy Framework, recommendation to Council.
- 11.3 The minimum role of Overview and Scrutiny in relation to the development of the Council's Budget and Policy Framework is set out in Rule 2 of the Budget and Policy Framework Procedure Rules and in Rule 11.2 above.
- 11.4 In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- 11.5 If there are concerns about the implementation or subsequent outcomes of an agreed policy the Overview and Scrutiny Management Committee may commission standing panels or appoint Ad-Hoc Panels to hold enquiries and investigate the available options to recommend changes/improvements to the policy to make it more effective.

12. Reports from Overview and Scrutiny Management Committee

- 12.1 Once an ad-hoc Panel (or in some instances a Standing Panel) has formed recommendations on proposals for development, a report will be prepared for informal consultation with the Overview and Scrutiny Management Committee.
- 12.2 Once the Overview and Scrutiny Management Committee's comments have been taken into account, the draft report shall be submitted by the Overview and Scrutiny Office, to be considered informally by the relevant officers/Cabinet Member/Cabinet/Cabinet Committee/or partnership body.
- 12.3 The Cabinet member (portfolio holder)/Cabinet/Cabinet Committee/partnership body/officers shall comment on any issues or factual inaccuracy within the report. Scrutiny shall consider the comments and make changes to the report as it considers appropriate. The Cabinet portfolio holder, in consultation with the relevant Strategic Director/Service Director(s) shall prepare a draft response to the scrutiny recommendations in the form of an action plan. For each recommendation that is accepted they shall state when and how it will be implemented. For those that are not accepted the relevant reasons must be set out.
- The draft response to the recommendations, set out in the form of an action plan, should be completed within three weeks of receipt of the Scrutiny report. During that time the portfolio holder, senior officers and the Councillor who chaired the scrutiny investigation, may meet to discuss or clarify any aspects of the report.
- 12.4 The report, together with the portfolio holder's draft response will be submitted to Cabinet for debate and approval of the action plan response to the recommendations. Once the response to the report is approved, the report is considered final and may be submitted to Council and/or any appropriate Committee or partnership body for information or debate, particularly on issues of difference.
- 12.5 The reports of Overview and Scrutiny referred to Cabinet shall be given consideration as soon as practicable following the receipt of the draft portfolio response. If the Cabinet does not consider the report and reach a final agreement on the response to the recommendations within one month, the Overview and Scrutiny Management Committee will have the right to refer the report direct to Council without following the procedure set out above.
- 12.6 If any recommendations would require a departure from or a change to the Budget and Policy Framework these must be considered by Council.
- 12.6 If a significant minority of a Scrutiny Management Committee/Panel cannot agree on the final recommendations of the report to the Cabinet/Cabinet

Committee/Council as appropriate, then the report will indicate where the major differences lie. Minority reports will not be accepted.

- 12.7 The Cabinet/Cabinet Committee and where appropriate Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.

13. Rights of Overview and Scrutiny Management Committee & Panel members to documents

- 13.1 In addition to their rights as Councillors, members of Overview and Scrutiny Management Committee/Panels have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 13.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee and Panels as appropriate depending on the particular matter under consideration. Indeed this liaison is encouraged to enable members of scrutiny panels to develop an effective overview of services, developments, and issues for consideration.
- 13.3 All members of the Council will have access in accordance with the Access to Information Procedure Rules to agendas, reports in support of decisions to be made and notices of decisions (to be posted within 3 working days) through the Intranet.
- 13.4 Overview and Scrutiny Members will also be informed of decisions made by officers under the scheme of delegation.

14. Members and officers giving account

- 14.1 Overview and Scrutiny Management Committee or any panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, senior officers, or other officers if necessary to attend before it to explain in relation to matters within their remit:
- a) any particular decision or series of decisions;
 - b) the extent to which the actions taken implement Council policy; and/or
 - c) their performance.
- 14.2 By virtue of the provisions of the Local Government Act 2000 and the Localism Act 2011, the Overview and Scrutiny Management Committee/Panels can require officers and Cabinet Members to respond to their requests and attend their meetings, and (by virtue of the Act) it is the duty of those persons to attend if so required.
- 14.3 Requests for attendance of officers or the provision of information to Overview and Scrutiny shall generally be channelled through the Council's Directors/Heads of

Service who will identify appropriate officers to respond to the requests. Services shall also identify contact officers for each Overview and Scrutiny Management Committee/Panel.

- 14.4 Such requests will be made in writing by or on behalf of the Chair of the relevant Management Committee/Panel and as much notice of the meeting as practicable will be given allowing for the need to gather information and/or prepare a report.
- 14.5 Where, in exceptional circumstances, a Cabinet Member or officer is unable to attend on the required date, then the Chair of the relevant Overview and Scrutiny Management Committee/panel shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place as soon as practicable from the date of the original request.
- 14.6 Where a Cabinet Member in response to a request from the Overview and Scrutiny Management Committee/Panels refuses to attend or fails to confirm that they will be that they will be present, the Leader will attend to explain the reasons for the Cabinet Member's absence.

15. Attendance by others

- 15.1 Once an issue has been agreed for consideration, terms of reference shall be agreed which identify the aims and objectives of the review, the lines of enquiry to be pursued, how the review will be carried out, and who shall be invited to participate in the consideration of the issue.
- 15.2 The Overview and Scrutiny Management Committee/panels shall be expected to seek to consult widely on the issues which they are considering and this would include inviting people other than those people referred to in section 14 above to discuss issues of concern and/or answer questions. This could include District Committees and Parish/Town Councils where appropriate, other public, private and voluntary/community organisations with an interest in the issue, residents and service users and may involve inviting experienced/knowledgeable individuals to attend meetings. On occasions the Overview and Scrutiny Management Committee/panels may seek the views of members of the public through a variety of consultation methods.
- 15.3 External experts and other persons identified as possible contributors shall be invited to attend meetings to give evidence and advice, but the Overview and Scrutiny Management Committee/panels cannot require them to do so and therefore their participation will be on a voluntary basis.

16. Decision-Making and Call-in

- 16.1 A key function of overview and scrutiny is to hold the Cabinet to account for the discharge of its functions. Two of the principal elements of this are:
 - Scrutinising decisions which are proposed to be taken by or on behalf of the Executive, and

- Scrutinising executive decisions before they are implemented (a so-called 'call-in' mechanism)

16.2 One of the basic principles that has been important to the development of scrutiny in Kirklees is that the Council is one body and it is in the interests of all Councillors and the public that the Council makes the right decision first time. This implies a constructive role for Overview and Scrutiny, as it would be perverse to wait until the point of decision-making (or after) to raise concerns.

16.3 The roles of the Overview and Scrutiny Panels and their Chairs make it clear that they should be working with the Cabinet Member, and the Directors/ Heads of Service that report to her/him, to build up an understanding of the work programme in that portfolio, the issues that are around, and the decisions that are on the horizon.

16.4 This will mean that the Overview and Scrutiny Panel Chair and the panel will be aware at an early stage of the issues that the Cabinet/Cabinet Committee will be addressing. They must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focussed on a particular option and likely decision. Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.

16.5 Through early involvement it should be possible to take on board the concerns of scrutiny and ensure that the right decision is taken first time. However, there may be times when differences will not be resolved, or when an item surfaces at short notice on an agenda. In these circumstances Overview and Scrutiny and non-executive councillors should follow the procedure set out below. This procedure gives Overview and Scrutiny the opportunity before a decision is taken to issue a formal 'notice of concern' which will be recorded, and after a decision is taken, but before it is implemented, to 'call-in' a decision.

16.6 It is fundamental to remember that:

- the Cabinet Member is responsible for the work programme within her/his portfolio and to determine, in consultation with the Leader of the Council, the items that will be on the Cabinet/Cabinet Committee agenda, and
- the Cabinet/Cabinet Committee has the responsibility to make decisions within its remit, and to oversee and be accountable for the taking of decisions on its behalf by officers, joint committees or area committees.

16.7 The procedure set out in this section is designed to give Overview and Scrutiny a proper role in having an overview of decision-making.

17. Notice of Concern - Procedure

17.1 The Overview and Scrutiny Panel Chair will receive the Forward Plan, information about other decisions to be taken, papers in support of a decision to be considered by the Cabinet Member/Cabinet/Cabinet Committee, including the

reports containing the Cabinet Member's recommendation or details of a delegated Executive decision to be made by an officer.

- 17.2 If the Overview and Scrutiny Panel Chair or Chair of Overview and Scrutiny at this stage feels that scrutiny's concerns have not been adequately addressed or it is an item brought forward late at short notice, and the Scrutiny Panel Chair or Chair of Overview and Scrutiny is unhappy with the Cabinet Member or officer's recommendation, the Scrutiny Panel Chair or Chair of Scrutiny should issue a 'notice of concern'. This must be sent in writing to the Service Director Legal, Governance and Commissioning, the main recipient and also for information to the Cabinet Member and, if appropriate, the Chair of Overview and Scrutiny within 3 working days starting the day after the Cabinet/Cabinet Committee agenda is published and finishing at 5.30 pm on the third day.
- 17.3 If possible, all efforts should be made by a Lead Member to consult with panel members before issuing a 'notice of concern'. If not possible, there must at least be consultation with the Chair of the Overview and Scrutiny Management Committee.
- 17.4 All Councillors who are not in the Cabinet can contribute to Overview and Scrutiny and can request Overview and Scrutiny to issue a 'notice of concern'.
- 17.5 The notice must set out the grounds that cause the concern.
- 17.6 The notice will have more strength if it also indicates a proposed course of action and the further considerations that should be taken into account.
- 17.7 The Cabinet Member in consultation with the relevant member of Executive Team and the Leader of the Council will have full discretion on how to proceed. The item could be deferred for further consideration or continue on the agenda.
- 17.8 If the concerns set out in the notice of concern are adequately addressed prior to the meeting, the Overview and Scrutiny Panel Chair/Chair of Overview and Scrutiny may withdraw the notice of concern.
- 17.9 If the item is kept on the agenda for the Cabinet Member/Cabinet/Cabinet Committee, the 'notice of concern' will be indicated on the agenda. At the meeting, when that item is taken, the Service Director Legal, Governance and Commissioning will formally announce that Overview and Scrutiny had placed a 'notice of concern' on that item and the reasons given. The meeting will consider the item in the light of that knowledge.
- 17.10 Under the delegated authority of the Cabinet/Cabinet Committee the decision that is made at the meeting will be the final recorded decision, subject to the call-in procedures below. The minutes though will record the 'notice of concern'.
- 17.11 However, if the Cabinet/Cabinet Committee at its meeting had agreed an amendment to the Chair's recommendation, the Scrutiny Panel Chair/Chair of Overview and Scrutiny in consultation with panel members may, after the meeting and within 5 working days, withdraw the 'notice of concern', if it is felt that the concerns have been adequately addressed. A note will be added to the minutes to this effect.

17.12 If the decision is a delegated executive decision to be made by an officer on a specified date, then consideration must be given to the issues raised in the notice of concern prior to the decision being made. The consideration procedure set out in 17.9 and 17.10 should also be applied to the delegated executive decision. The delegated executive decision is also subject to the call-in procedures.

18. Call-in - procedure

18.1 The decision summary of Cabinet/Cabinet Committee and any other executive decision will be published within 2 working days of the decision and sent to the members of the appropriate Overview and Scrutiny Panel – e.g. this will be the Friday following a Cabinet Meeting on Wednesday.

18.2 There will be a standard period of 5 full working days (commencing the next working day following the day the decision is taken and ending at 5.30 p.m. on the fifth working day) before decisions can be implemented (eg call in period will end at 5.30 p.m. on Tuesday following a Cabinet/Cabinet Committee meeting the previous Tuesday). A decision can be called-in only during this period.

18.3 To call in an executive or a delegated executive decision, the following will apply:-

- (i) written notice must be given to the Service Director Legal, Governance and Commissioning as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma and guidance information will be made available from the Governance Team to make this easier.
- (ii) The notice shall (where possible) include supporting evidence and reasons to illustrate how the decision making principle(s) have been breached
- (iii) the validity of a call in request will be considered and determined by Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny.

18.4 A decision can be called in by:

- either, 5 non-executive Councillors
- or 2 members of the Overview and Scrutiny Management Committee, one of whom should be the Chair
- or 2 Members of the relevant Overview and Scrutiny Panel, one of whom should be the Chair

All efforts should be made to consult with the Chair of the Overview and Scrutiny Management Committee.

18.5 To be valid a call-in must be submitted in writing (on paper or electronically) on the proforma provided signed by all parties to the call in and must state the reasons for the suspension of the decision and request for a review.

18.6 When a valid written notice is received within the period referred to above, all action to implement the decision must be suspended for 2 weeks from the end of the call-in period, during which time the appropriate Overview and Scrutiny Panel must meet. If the issue that has been called-in falls between or overlaps with the responsibility of more than one panel, the Service Director Legal, Governance and

Commissioning Monitoring will take the advice of the Overview and Scrutiny Management Committee, which will determine which Panel to refer the matter to or indeed whether it should be considered by the Overview and Scrutiny Management Committee.

- 18.7 When a valid written notice is received the Service Director Legal, Governance and Commissioning will notify all Cabinet Members and the Leader of the Council. A meeting of the appropriate Overview and Scrutiny Panel will take place within two weeks of the call-in, giving notice required by Rule 4 of the Access to Information Procedure Rules. If the decision has been called-in by 5 non-executive Members they must attend, if possible, the Overview and Scrutiny Panel Meeting. At least one signatory to the call-in notice is required to be present during the call-in hearing. The Service Director Legal, Governance and Commissioning will also notify all Members that this decision has been called-in.
- 18.8 The Service Director of Legal, Governance and Commissioning, and in his/her absence the Chief Executive - shall have discretion to extend the period during which the appropriate Overview and Scrutiny Panel must meet, where in his/her opinion, exceptional circumstances so require.
- 18.9 Once signed and submitted to the Service Director of Legal, Governance and Commissioning, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call-in.
- 18.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the decision maker. The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Service Director of Legal, Governance and Commissioning or in his/her absence the Chief Executive.
- 18.11 In the case of delegated executive decisions, made by an officer, the Leader/Cabinet Member is accountable for the decision (see section 16.6). However the officer who made the decision should also be present at the call-in hearing wherever possible.
- 18.12 Having considered the decision in question, the Overview and Scrutiny Panel must resolve either to
- Free the decision for implementation; or,
 - Refer it back to the Cabinet /Cabinet Committee or decision-maker with a recommendation for amendment; or,
 - In exceptional circumstances, refer the issue to the next Council Meeting if the decision is not consistent with the budget or any policy previously agreed by the council. This can only be done with advice from the relevant senior officers and the Service Director Legal, Governance and Commissioning.

If the Overview and Scrutiny Panel refers the decision back to Cabinet/Cabinet Committee with a recommendation, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may:

- Accept the recommendation in full or in part of the Overview and Scrutiny Panel and amend its decision accordingly;
- Decide that further work needs to be done and defer the item until this is completed. The Overview and Scrutiny Panel/non-executive members should be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;
- Not accept the view of the Overview and Scrutiny Panel and confirm its original decision;
- Refer the issue for discussion at the next appropriate Council meeting.

18.13 If the Cabinet/Cabinet Committee rejects the recommendation from the Overview and Scrutiny Panel and confirms its decision it can be implemented immediately as there is no scope for further review and challenge. Whilst unable to challenge the final decision, the outcome of called-in decisions will be reported to the next Council meeting and Scrutiny can use its time to explain its views to Council.

18.14 A decision may only be reviewed once.

18.15 Urgent decisions that require quick implementation - The right to suspend and review an executive decision cannot be exercised where the Cabinet/Cabinet Committee or the decision-maker, with the agreement of the Chair of the Overview and Scrutiny Management Committee or his/her nominee, resolves that the decision is urgent for reasons stated in the resolution.

18.16 Once decisions have been taken and recorded, and are being implemented Overview and Scrutiny has the subsequent right to programme reviews on any matters decided by the Executive.

18.17 The Chair of the Overview and Scrutiny Management Committee will be responsible in consultation with the Leader and the Chief Executive for monitoring the use of call-in and reviewing the procedure to ensure that it does not unduly defer or disrupt proper decision-making processes but rather plays its proper role in overseeing and holding to account the Cabinet/Cabinet Committee in a constructive and supportive way.

18.18 Delegated executive decisions taken by officers – If an executive decision is to be taken by an officer under the scheme of delegation, all councillors and Overview and Scrutiny will have the same rights to information and to use the procedures set out above for the call-in of decisions.

19. Call-in of decisions outside the budget or policy framework.

19.1 Where the stated reason for a request for call-in made under Rule 19 is that the decision is contrary to the budget or policy framework, the procedure in Rule 19 will apply, but with the following amendments.

19.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the Head of Governance and Democratic Services and any other relevant officer. If that advice is that the decision is not outside the framework, the Panel may either:

- Accept that advice and free the decision for implementation; or
- Decide to follow the procedure set out in Rule 19.3.

19.3 If the advice is that the decision is or may be outside the Budget or Policy Framework, the Overview & Scrutiny Panel must resolve either:

- To refer the decision to the Cabinet/Cabinet Committee, with a recommendation for amendment to comply with the budget and policy framework; or
- Refer the issue to the next Council meeting.

19.4 If the Panel refers the decision back to the Cabinet/Cabinet Committee, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may take any of the actions set out in Rule 18 other than to confirm its original decision.

19.5 If the decision is referred to the Council, it will be considered at the next ordinary Council meeting, or, if urgent, at an additional meeting to be called as early as practicable. The council will receive reports from the Overview & Scrutiny Panel and the Cabinet/Cabinet Committee. The council may either:

- Decide that the decision is within the existing budget and policy framework, in which case it will be freed for implementation;
- Decide that the decision is contrary to the budget and policy framework, but agree to the decision, with immediate effect; or;
- Decide that the decision is contrary to the budget and policy framework; that the council is not prepared to agree to the decision; and require the Cabinet/Cabinet Committee to re-consider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

20. The Group Business Manager

20.1 The Council views whipping as incompatible with overview and scrutiny. Therefore, the political groups shall not give any instruction to any Councillor as to how that Councillor shall speak or vote on any matter before overview and scrutiny, nor apply any sanction in respect of that Councillor should he/she speak or vote in any particular manner.

21. Procedure at overview and scrutiny meetings

21.1 The Overview and Scrutiny Management Committee and its Panels are encouraged to develop less formal approaches to meetings that support the

reflection required by the Overview and Scrutiny role. In doing so the Management Committee and Standing Panels will ensure the inclusion of some basic items, such as minutes of the last meeting; declarations of interest; consideration of any decisions that have been called in; issues from the Cabinet's forward plan and/or of service delivery; responses of the Cabinet to reports of the Overview and Scrutiny Management Committee; and the business otherwise set out on the agenda for the meeting.

21.2 Where ad-hoc Panels or Councillor Call for Action Panels conduct investigations, they or the Overview and Scrutiny Management Committee may also ask people to attend to give evidence at panel meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting the panel by giving evidence be treated with respect and courtesy; and
- iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

21.3 Following any investigation or review, the Panel in consultation with the Overview and Scrutiny Management Committee shall prepare a report for submission to the Cabinet/Cabinet Committee and/or Council as appropriate and shall make its report and findings public.

22. Matters within the remit of more than one overview and scrutiny panel

22.1 Where a matter for consideration by overview and scrutiny falls within the remit of one or more overview and scrutiny panels, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Management Committee.

22.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all panels affected by the issue and to report the outcomes to all such panels.

**PROTOCOL ON THE ROLE OF
REPRESENTATIVES ON KEY OUTSIDE
BODIES IN REPRESENTING THE
INTERESTS OF THE COUNCIL**

The role of representatives on key outside bodies in representing the interests of the Council

The role of Leader of the Council requires that the post holder should represent the interests of the Council and the Kirklees community as a whole through contacts with statutory external agencies and partnerships, neighbouring councils, sub-regional, regional, national and international bodies. The Deputy Leader is expected to fulfil the same role when the Leader is not available or when deputed to do so.

Similar expectations apply to Cabinet Members where the external contacts relate to their portfolios or at the Leader's request and other Members representing the Council.

The prime source of the authority of the Leader, Deputy Leader, Cabinet member and other representatives in these external contacts derives from his or her status as the person elected to the role by the full Council.

The Leaders and portfolio holders of all Groups have a duty to ensure that their Members views are openly and fully expressed in these briefings and meetings.

Steps should be taken by all representatives to make sure that they report as accurately as possible the balance of views across the Council and the community as a whole. They may also wish to indicate a distinct view based on discussions within the Executive.

All representatives must ensure that a record is available of significant discussions with external bodies, either in the form of minutes or meeting notes, or in the form of a personally prepared note, subject to constraints of confidentiality.

Cabinet Committee All-party Briefings on portfolio issues should be used to report back issues which may be of **substantial** interest across the Council.

All representatives will be expected to keep the Council informed of significant issues arising from external contacts and to respond at Cabinet and Cabinet Committee All-party Briefings to questions arising from such contacts.

Process

- As a standard item on Cabinet Committee All-party Briefings this will cover feedback on activity undertaken in the previous period and activity planned in the next period. Depending on timescale this will be written feedback, using an agreed simple template, or a verbal report.
- The Council Meeting procedure rules include provision for Members to ask questions about this activity.
- A feedback form will be required when Members are involved in informal discussions on issues of major concern outside formal meetings and when they are representing the views of Council.
- This process has to be subject to the confidentiality rules of organisations and to the requirements of Company Law.

- When the representatives are not members of the Cabinet they will be expected to attend the appropriate meeting of the Cabinet Committee All-party Briefings when **substantial** issues have been raised. These meetings provide an opportunity for an in-depth assessment of what Kirklees is trying to achieve, how successfully we are doing that and future tactics.
- If there is more than one representative at a meeting they can either all complete a pro-forma to feedback or agree a common collective one (if there is a designated lead member s/he could take the lead on this, if not it should be the cabinet member or other senior member).
- Any members nominated to any associated party (being a public body, or other unincorporated organisation) must follow the principles contained within this document, particularly in ensuring an approach that aligns with council policy, recognises the position of all parts of the council (especially if views are not unanimous) and specifically not represent a personal partisan approach.
- Those nominated to companies and charitable bodies should attempt to achieve broadly the same intentions, but recognise that in acting as a director, or trustee, the needs and interests of the body must be the primary consideration. Any doubts or concerns about an approach to be taken should be discussed with the monitoring officer.
-

This page is intentionally left blank

Name of meeting: Corporate Governance and Audit Committee

Date: 9 March 2018

Title of report: Amendment Options for the Scrutiny Call in Process

Purpose of report:

Following previous discussions at the Committee to consider the findings of more detailed work into options for the call in process in Kirklees.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	
Is it also signed off by the Service Director for Finance IT and Transactional Services?	No – n/a
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes 1 March 2018
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public or private: Public

1. Summary

- 1.1 In 2015, following a number of call in hearings, the Corporate Governance and Audit Committee (CGA) requested that a piece of work be undertaken to examine the approach to Call-in in Kirklees to determine whether any changes or clarification of current arrangements were required.

An initial report to CGA set out a number of recommendations to refine the approach to call in which aimed to address learning from the recent call in meetings whilst ensuring a transparent process going forward. The amendments fell within the remit of the Overview and Scrutiny Management Committee to implement and did not require any amendments to the Constitution.

Whilst officers were working on implementing the decision of CGA there were a number

of changes in relation to the structure of Scrutiny. As a result of these changes there is now a greater emphasis on pre-decision scrutiny. The CGA asked for further detailed work to look at call in practice elsewhere and the development of potential options which linked to the approach to Scrutiny in Kirklees.

This report sets out the findings of benchmarking work and potential options as to how the call in process might be amended in line with the principles that underpin Scrutiny practice in Kirklees.

2. Information required to take a decision

Principles of Scrutiny

2.1 Since its formal establishment in 2000, Overview and Scrutiny in Kirklees has always operated under a number of key principles which include:

- Leave the party politics at the door
- Wherever possible influence the decision before it is made
- Scrutiny findings and recommendations are evidence based

National Government guidance emphasises that the power of call in should be exercised infrequently and only as a last resort when there is a clear and demonstrable breach of the decision making principles. Like any other process, Call in requires Scrutiny to look at the evidence; to look at how a decision has breached the decision making principles; rather than providing a platform to air differing points of view on a decision.

3. Current Position

- 3.1 Officers have considered the approach to call in in light of the above principles. Benchmarking has been undertaken to look at practice elsewhere. Officers have also reviewed the decision making principles to bring them in line with current best practice and provide a clear explanation of the meaning of each.
- 3.2 Research has indicated that in most local authorities in the region there is a more robust approach to determining whether a call in request is valid. A summary is attached at appendix 1. In Kirklees validation has been limited to meeting current process requirements, i.e. number of signatories, submission within the deadline etc. From the research sample it can be seen that the majority have additional considerations as part of the initial call in request. There are also a number of steps required prior to holding a call in meeting, to evidence that there have been efforts to try and resolve concerns before moving to a call in hearing e.g. having discussions with Cabinet portfolio holder(s) and lead Directors.
- 3.3 In an economic climate where delaying an executive decision due to call in can also have financial implications for achieving budgetary savings within necessary timescales, then a process that tries to resolve concerns before the decision is made, is prudent.
- 3.4 In the same way that Scrutiny already has the opportunity to consider the information that Cabinet used to reach its decision, so in a balanced process Scrutiny should also be able to see any evidence that the call in is based on. If a reason for call in refers to specific information, outside of the Cabinet papers, then the Scrutiny Panel / Committee should be able to see that evidence.

- 3.5 It is suggested that one of the measures of validity is that the call in pro forma includes reasons why the signatories to the call in believe the decision making principle (s) have been breached. If reference is made to evidence to support the signatories views then that should be made available for Scrutiny to consider.
- 3.6 Previous call ins illustrated that some of the decision making principles had been open to individual interpretation which led to confusion. It is suggested that it is timely to update the decision making principles in line with good practice and provide a narrative to clarify the legal interpretation. A copy of the revised decision making principles is attached at appendix 2.
- 3.7 The other Scrutiny principle which might form part of the approach to call in, is the principle of trying to influence the decision before it is made. Most call in requests in Kirklees are not generated by the scrutiny panels. All consultees recognised that discussion to try to resolve an issue without the need for call in is desirable. The initial discussion paper suggested that councillors who were considering calling in a Cabinet decision should try to resolve concerns before submitting a call in request by talking to the portfolio holder and the Strategic / Service Director. This could also include speaking at the Cabinet meeting before the decision has been taken and responding to ward member consultation on the proposals. The call in proforma would include a space to summarise actions taken to address concerns prior to call in.

Feedback on this option was mixed, with particular concern that this should not be a barrier to calling in a decision. Some felt it should be a recommended course of action rather than a requirement. It should be noted that previous optional steps in the call in process have not usually been followed.

- 3.8 It is proposed that the decision about the validity of a call in request will be determined by the Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny.

3. Implications for the Council

- 3.1 **Early Intervention and Prevention (EIP)**
None specific
- 3.2 **Economic Resilience (ER)**
None specific
- 3.3 **Improving Outcomes for Children**
None specific
- 3.4 **Reducing demand of services**
None specific
- 3.5 **Other (eg Legal/Financial or Human Resources)**
None specific

4. Consultees and their opinions

In preparing this report, the views of the Overview and Scrutiny Management Committee, the Leadership Management Team and political groups have been sought. A summary of views is set out below:

i. LMT was supportive of a discussion prior to call in to try to resolve the concerns. The clarification of the decision making principles was welcomed to try and ensure consistent interpretation by all parties.

ii The Scrutiny Committee was supportive of a balanced process based on Scrutiny principles. Whilst agreeing that trying to avoid call in by resolving concerns through discussion was desirable, the OSMC had reservations about making it a formal requirement. It was suggested that if there were to be a requirement to try to resolve concerns then consideration should be given to the length of timescale in which to carry out this requirement. The OSMC was keen to ensure that there are no obstructive barriers to legitimate call ins. The OSMC also welcomed the clarification and updating of the decision making principles.

iii The Independent Group: Fine with the proposals

iv The views of the Conservative Group are:

- As there have been no call-ins in the last year, we don't feel the need to change the system for call-in as there is no evidence that it is being used inappropriately. The proposals seem to be geared towards discouraging and disallowing call-in requests, and this is not helpful to the openness or reputation of the scrutiny process.
- We would agree that conversations before the decision are helpful, and that this is one of the purposes of Scrutiny, but that most Cabinet papers are released with only one week's notice. This gives little time to be able to affect the decision, apart from coming to the cabinet meeting to speak. So demonstrating how one has tried to influence a decision will not be useful in most cases.
- We do not agree that call-in lead signatories should have to put their arguments in the call-in papers. That is the purpose of holding a call-in meeting.
- There would be more pressure on the OSMC Chair and Head of Governance to allow/disallow a call-in request.
- We have no problem with up-dating decision-making principles

v. Cllr Andrew Cooper responded:

My own personal view is that we need to stress the 'Critical Friend' role of Scrutiny explicitly so people pursuing a Call in are very clear about the spirit in which they are submitting it.

Perhaps stressing what the overtly party political alternatives are to a Call in might also be of value so members are directed towards more appropriate routes if needed.

5. Next steps

Following discussions at the CGA Committee, any consequential changes to the Council's Constitution will be prepared for consideration at the Annual Council meeting. Any update in practice, including supporting guidance notes, will be implemented from the beginning of the new municipal year.

6. **Officer recommendations and reasons**

That consideration be given to the options set out in the report and pending the outcomes of the discussion, any consequent changes to the constitution be presented to Council for consideration. In summary the options are:

- a. In line with trying to influence the decision before it is made, introduce a requirement for the Lead Councillor (signatory) to the call in to demonstrate the steps taken to raise / resolve concerns prior to the Cabinet decision being called in. This would require a change to the Constitution.
- b. To amend the constitution to clarify that supporting evidence and reasons to illustrate which decision making principle(s) has been breached is included in the call in request.
- c. If a and b above are agreed then the Call in proforma would be amended to introduce a requirement for signatories to provide this information. This would be an administrative change as the proforma is not part to the constitution.
- d. To update the decision making principles in Article 13 of the constitution as set out in appendix 2, to simplify in line with current good practice and ensure clarity of interpretation.
- e. That the decision about the validity of a call in request will be determined by the Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny.

Following discussion any options agreed which require amendments to the Council's constitution will be considered at Annual Council with other changes to the constitution.

7. **Cabinet portfolio holder's recommendations**

Not applicable

8. **Contact officer**

Penny Bunker - Governance and Democratic Engagement Manager
Samantha Lawton - Senior Legal Officer

9. **Background Papers and History of Decisions**

Briefing note "Proposals to Amend the Call In Process"

10. **Service Director responsible**

Julie Muscroft – Service Director for Legal, Governance and Commissioning

This page is intentionally left blank