

Public Document Pack



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

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Thursday 14 April 2022

Notice of Meeting

Dear Member

Corporate Governance and Audit Committee

The **Corporate Governance and Audit Committee** will meet in the **Reception Room - Town Hall, Huddersfield** at **10.00 am** on **Friday 22 April 2022**.

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 Yusra Hussain (Chair)
Councillor Paola Antonia Davies
Councillor Steve Hall
Councillor Susan Lee-Richards
Councillor Kath Pinnock
Councillor Melanie Stephen
Councillor John Taylor

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
A Gregg
V Lees-Hamilton
R Smith
M Thompson
D Hall

Green

K Allison

Independent

C Greaves
T Lyons

Labour

M Akhtar
M Kaushik
J Ramsay
M Sokhal
C Scott E Firth

Liberal Democrat

J Lawson
A Marchington
A Munro
A Pinnock

Ex Officio Members

Councillor Paul Davies
Councillor Erin Hill
Councillor Elizabeth Smaje

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive any apologies for absence, or details of substitutions to the Committee membership.

2: Minutes of Previous Meeting

1 - 4

To approve the Minutes of the meeting of the Committee held on 11 March 2022.

3: Declarations of Interest

5 - 6

Committee Members will be asked to advise if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

Most agenda items will be considered in public session, however, it shall be advised whether Cabinet will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

5: 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.

6: Committee System Proposal - Democracy Commission Update 7 - 16

To consider the progress of the Democracy Commission to date.

Contact: Samantha Lawton, Head of Governance

7: Changes to the Council's Constitution (Reference to Annual Council) 17 - 72

To consider proposed changes to the Council's constitution and receive a summary of changes made by the Monitoring Officer using delegated powers.

Contact: Julie Muscroft, Service Director – Legal, Governance and Commissioning.

8: Proposed Revisions to Contract Procedure Rules (Reference to Annual Council) 73 - 140

To consider proposed changes to Contract Procedure Rules for the municipal year 2022/23.

Contact: Jane Lockwood, Head of Procurement

9: Proposed Revisions to Financial Procedure Rules (Reference to Annual Council) 141 - 186

To consider proposed changes to Financial Procedure Rules for the municipal year 2022/23.

Contact: Martin Dearnley, Head of Risk and Internal Audit

10: Gaining Assurance 187 - 204

To consider the ways that the Committee may gain adequate assurance about the way that council carries out its activities.

Contact: Martin Dearnley, Head of Risk and Internal Audit.

11: Informing the Audit Risk Assessment 205 - 244

To receive an update on the final accounts and audit processes for 2021/22.

Contact: James Anderson, Head of Accountancy

12: Audit Progress Report and Sector Update 245 - 262

To receive the Audit Progress Report and Sector Update.

Contact: Grant Thornton

13: Annual Report of Internal Audit 2021/22 & Issues for 2022/23 263 - 316

To consider the Internal Audit activity and the effectiveness of the system of internal control, and conclusions on the control environment and assurance provided in 2021/22, and on matters that relate to Internal Audit activity in 2022/23.

Contact: Martin Dearnley, Head of Risk and Internal Audit

14: Quarterly Report of Internal Audit Q4 2021/22 January 2022 to March 2022 317 - 320

To receive information about internal audit work in quarter 4 of 2021/22.

Contact: Martin Dearnley, Head of Risk and Internal Audit

15: Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

16: Quarterly Report of Internal Audit Q4 2021/22 January 2022 to March 2022

321 -
330

Exempt information within Part 1 of Schedule 12A of the Local Government Act 1972 namely that the report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.

Exempt appendix in relation to Agenda Item 14.

Contact: Martin Dearnley, Head of Risk and Internal Audit

Contact Officer: Leigh Webb

KIRKLEES COUNCIL

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Friday 11th March 2022

Present: Councillor Yusra Hussain (Chair)
Councillor Paola Antonia Davies
Councillor Steve Hall
Councillor Susan Lee-Richards
Councillor Kath Pinnock
Councillor John Taylor

Apologies: Councillor Melanie Stephen
Councillor Paul Davies (ex-Officio)

1 Membership of the Committee

Apologies for absence were received on behalf of Councillor Paul Davies and Councillor Mel Stephens.

2 Minutes of Previous Meeting

That the Minutes of the previous meeting, held on 11 February 2022 be approved as a correct record.

3 Declarations of Interest

There were no declarations of interest.

4 Admission of the Public

It was noted that all agenda items would be discussed in public.

5 Deputations/Petitions

There were no deputations or petitions received.

6 Public Question Time

No public questions were submitted.

7 Democracy Commission Update

The Committee received an update on behalf of the Chair of the Democracy Commission which advised that the first Democracy Commission meeting had taken place with the following outcomes:

- The terms of reference set by Corporate Governance and Audit were noted,
- A project plan was agreed setting out who the Commission wished to hear from as part of their review. This included Local Authorities who had changed their governance arrangements, partners and internal witnesses.
- Jacqui Gedman would attend Commission meetings on invitation,

Corporate Governance and Audit Committee - 11 March 2022

- Mark Edgell would be invited to evidence-based sessions,
- Councillor Liz Smaje would be invited to attend all Commission meeting as an observer.

Four Local Authorities with a range of governance arrangements had been contacted to arrange evidence-based meetings. The next meeting of the Democracy Commission would be to identify key lines of enquiry in relation to meeting with the Local Authorities.

During discussion of this item, concerns were raised around timescales and work to be completed by the Commission. The Committee also raised concerns with regards to the outcome should the work not be complete by Annual Council May 2022. Councillor John Taylor enquired whether an Extra Ordinary Council meeting could take place which could provide an update of intention, with a decision made at Annual Council in May 2023. Julie Muscroft undertook to provide a response to this issue at the next meeting of the Corporate Governance & Audit Committee in April 2022.

RESOLVED:

- (i) That the Democracy Commission update be received and noted,
- (ii) That Julie Muscroft provides information regarding an update on intention at an Extra Ordinary Council meeting to the Committee in April 2022.

8 Draft Auditors Annual Report

The Committee received the Draft Auditors Annual Report for 2020-21, as submitted by Grant Thornton.

The report highlighted that under the National Audit Officer the auditors were required to consider whether the Authority had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. The auditors were no longer required to give a binary qualified/unqualified value for money conclusion. Instead, auditors reported in more detail on the Authority's overall arrangements, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

Auditors were required to report their commentary on the Authority's arrangements under specified criteria. As part of the work, the auditor considered whether there were any risks of significant weakness in the authority's arrangements for securing economy, efficiency and effectiveness in its use of resources.

It was confirmed that the report had been finalised and was no longer a draft report.

In discussion of this item, concerns were raised around increased inflation costs and interest rates. Concerns were also raised regarding the George Hotel purchase and Dedicated Schools Grant with regards to High Needs.

RESOLVED:

- (i) That the Auditors Annual Report be received and noted.

Corporate Governance and Audit Committee - 11 March 2022

- (ii) That the Finance team be congratulated on the prompt turnaround of the Covid 19 grants.

9 Dates of Council Meetings - 2022 to 2023 Municipal Year

The Committee received a report which set out a provisional schedule of Council meeting dates for the 2022-2023 municipal year. The report sought endorsement of the schedule for submission to the meeting of Annual Council on 25 May 2022.

RESOLVED – That the schedule of Council meetings for the 2022-2023 municipal year be submitted to the meeting of Annual Council on 25 May 2022 with a recommendation of approval.

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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

Date: 22 April 2022

Title of report: Committee System Proposal – Democracy Commission Update

Purpose of report: A motion was received at Annual Council on 19th May 2021 which requested the Corporate Governance and Audit Committee consider a report that would enable the council to make a decision on whether to move from the strong leader and cabinet system to a committee system. This report sets out the progress of the Democracy Commission to date in addressing the terms of reference agreed by Corporate Governance and Audit Committee.

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 <u>Council's Forward Plan (key decisions and private reports)</u> ?	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer Henshall – 6 April 2022
Is it also signed off by the Service Director for Finance?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 12 April 2022
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: No

Public or private: Public

Has GDPR been considered? No GDPR implications

1. Summary

- 1.1 The Corporate Governance and Audit Committee has a clearly defined and important role in ensuring the adequacy of the Corporate Governance arrangements and monitoring and reviewing the operation of the Council's constitution. As a result, the Committee has been central in the oversight of the ongoing work in relation to the review and examination of alternative models of Governance.

2 Information required to take a decision

- 2.1 On 24th September 2021 Council approved the appointment of the Local Government Advisor (LGA), Mark Edgell to advise and work with Councillors on the governance review process. Council further approved that the Corporate Governance and Audit committee be tasked with determining the next steps of the proposal for a committee system arrangement
- 2.2 Subsequently, an informal session was arranged on 13th October 2021 with this Committee to receive further advice from the LGA and discuss the approach to the review of the different governance models available. Mr Edgell attended that session and discussed the various governance models available, the approach to a governance review and the issues specific to Kirklees.
- 2.3 On 4th November 2021 an all-Councillor committee system session was held to discuss the issues together, in a balanced, neutral way and to capture the views of all members. The outcome report of that session was considered by this committee on 26 November 2022. The Committee determined that further work should be undertaken to consider:
- (i) further evidence from LA's who had moved from cabinet and scrutiny model to a committee system
 - (ii) further evidence from LA's who had moved from committee system to cabinet and scrutiny model
 - (iii) further evidence from LA's who had returned to a cabinet and scrutiny system after changing to a committee system
 - (iv) how the evidence base for decision making could be improved
 - (v) how the rationale for decision making could be more effectively communicated
 - (vi) how non-executive members could influence decision making
 - (vii) how pre-scrutiny consideration could be improved.
- 2.4 On 26th November 2021 the Corporate Governance and Audit Committee resolved that the Democracy Commission be convened to undertake this work. The Terms of Reference for the review were set and agreed by the Corporate Governance and Audit Committee on 21st January 2022 and are set out at Appendix 1

- 2.5 An initial meeting of the Democracy Commission was held on 19th January to discuss the terms of reference and proposed methodology for the review work. Further meetings were held on 14th February and 24th March to refine and finalise the local authorities and witnesses that the Commission wishes to hear from, identify research areas and to develop some key lines of enquiry to inform the evidence gathering sessions.
- 2.6 The Commission have identified a number of local authorities they wish to hear from and have looked to achieve a balance between those Council's operating under a Leader and Cabinet Model and those operating under a Committee System model.
- 2.7 Approaches have been made to Brighton and Hove, Wirral and Cambridgeshire (committee system) along with Nottinghamshire County Council, Newark in Sherwood and Plymouth and Basildon (Cabinet and Leader).
- 2.8 The Democracy Commission have recognised that exploring and considering the terms of reference in an arena of considering different avenues of governance is an extremely large piece of work in a complex area and have concluded that it is not realistic to complete this work in advance of the 2022 Annual Meeting.
- 2.9 As such, a draft timeline has been developed that will allow for a comprehensive evidence-based review that will enable the Commission to hear from all relevant stakeholders and partners, including Local Authorities operating under different models of governance. The indicative timeline is set out within the document at Appendix 2 and has been developed to allow for scheduling of a large number of witnesses, set out at Appendix 3. It is envisaged that evidence sessions will take place through the summer, followed by evaluation sessions to inform the final draft report of the Commission. A final report back to this Committee is planned for the late Autumn/Winter.

3 Implications for the Council

3.1 Working with People

The Council's capacity to work effectively and to deliver all aspects of its corporate outcomes is underpinned by ensuring that it takes informed and transparent decisions with openness and accountability. The Council's choice of governance arrangements is fundamental to this. The decision-making structure of the Council should provide a framework of transparent accountability to users, stakeholders, and the wider community.

3.2 Working with Partners

No implications

3.3 Place Based Working

No implications

3.4 Climate Change and Air Quality

No implications

3.5 Improving outcomes for children

No implications

3.6 Other (e.g. Legal/Financial or Human Resources) Consultees and their opinions

There are likely to be resource implications to the review due to the scope of reviewing governance models, complexity and timeframe involved. It may be necessary to instruct external support such as an expert advisor or additional legal support. The committee may recommend actions that have a financial implication, including an impact on the Members' Allowances Scheme, and these should be contained within the committee's findings.

A review of governance arrangements will need to ensure that the recommendations are in accordance with the Localism Act 2011 and other relevant legislation, particularly the Local Government Acts and the timeframes included therein.

Next steps and timelines

The Democracy Commission will progress its work in line with the methodology and timelines set out in the report and appendices, with updates provided at each Corporate, Governance and Audit Committee meeting.

4 Officer recommendations and reasons

That Corporate Governance and Audit committee notes the work of the Democracy Commission to date along with the timelines set out in the report.

5 Cabinet Portfolio Holder's recommendations

Not applicable

6 Contact officer

Samantha Lawton, Head of Governance
01484 221000
Samantha.lawton@kirklees.gov.uk

7. Background Papers and History of Decisions

AGM: 19 May 2021

[Agenda for Annual Council on Wednesday 19th May 2021, 12.30 pm | Kirklees Council](#)

Council: 8 September 2021

[Agenda for Council on Wednesday 8th September 2021, 5.30 pm | Kirklees Council](#)

Corporate, Governance and Audit: 24 September 2021

[Agenda for Corporate Governance and Audit Committee on Friday 24th September 2021, 10.00 am | Kirklees Council](#)

Corporate, Governance and Audit: 26 November 2021

[Agenda for Corporate Governance and Audit Committee on Friday 26th November 2021, 10.00 am | Kirklees Council](#)

Corporate, Governance and Audit: 21 January 2022

[Agenda for Corporate Governance and Audit Committee on Friday 21st January 2022, 10.00 am | Kirklees Council](#)

7 Service Director responsible

Julie Muscroft, Legal, Governance and Commissioning

01484 221 000

Julie.muscroft@kirklees.gov.uk

Terms of Ref for Democracy Commission:

1. To review the advice, conclusions and recommendations of the LGA Independent Advisor.
2. To consider evidence from other Local Authorities operating under alternative models of governance such as those who have changed from:
 - Leader and Cabinet model to a Committee System.
 - Committee System to Leader and Cabinet model.
 - Leader and Cabinet and changed to Committee system and back to a Leader and Cabinet model
3. To review the current model in light of evidence from other Councils/Models and consider whether more inclusive decision making can be achieved through:
 - Strengthening the impact of scrutiny – Increased member involvement and focus on pre-decision scrutiny
 - Increased understanding of evidence, openness and transparency in relation to Cabinet Decision Making
 - Improved flow of information and processes in place
4. To submit a report to Corporate Governance and Audit Committee setting out findings and recommendations arising from the review.
5. The Commission will report back to Corporate Governance & Audit committee at every meeting.

Meeting Dates/Timelines

Appendix 2

Date	Agenda items
19/01/2022	<ul style="list-style-type: none"> • Consider and Approve Project Plan • Agree Terms of Reference
14/02/2022	<ul style="list-style-type: none"> • Identify Local Authorities • Identify Witnesses • Discuss timeline • Scheduling and running order – Group sessions/individual
24/03/2022	<ul style="list-style-type: none"> • Update on contact with Local Authorities • Update on witnesses/groups • Agree Timelines • Agree key line of enquiry/questions for evidence sessions
18/5/2022	<ul style="list-style-type: none"> • Finalise and agree key lines of enquiry • Agree communications and invites for written submissions
Summer 2022 (dates tbc)	<p>Evidence Sessions</p> <ul style="list-style-type: none"> • Witnesses/contributors tbc
Early Autumn 2022 (date tbc)	<p>Evaluation Session</p> <ul style="list-style-type: none"> • Meet to discuss outline/key areas for inclusion in final report and potential recommendations based on evidence sessions
Late Autumn/Winter 2022 (date tbc)	<p>Consideration of Final Draft Report</p> <ul style="list-style-type: none"> • Meet to agree report in advance of submission to CGA

List of Witnesses – Democracy Commission

- Local Authorities (x 6)
- Group Leaders
- Former Cabinet Members
- Cabinet Members
- Former Scrutiny Chairs
- Scrutiny Chairs
- WYCA/Regeneration Partners
- West Yorkshire Monitoring Officers
- Local Government Association
- Any additional witnesses (from written submissions inc ward members)
- Senior Officers

Written Submissions

- Ward Members
- Member of Public
- Report writers

Partners

- Youth Council
- Civic Society
- 3rd Sector
- Health
- Education
- Police

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Name of meeting: Corporate Governance and Audit Committee (Reference to Annual Council)

Date: 22nd April 2022

Title of report: 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.

To also provide a summary of changes to the Constitution made by the Monitoring Officer using delegated powers.

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 <u>Council’s Forward Plan (key decisions and private reports)?</u>	NO
The Decision - Is it eligible for call in by Scrutiny?	NO
Date signed off by <u>Strategic Director</u> & name	Yes – Rachel Spencer-Henshall
Is it also signed off by the Service Director for Finance?	Yes – Eamonn Croston
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Yes – Julie Muscroft
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: NO

Public or private: Public

Has GDPR been considered? YES

1. Summary

- 1.1 This report will cover any changes proposed as well as any amendments made since 2021, both on the authority of Council and by the Monitoring Officer using delegated powers.
- 1.2 The report will set out, in section 2, the proposed changes in relation to the different parts of the Constitution and to seek approval by members of those proposed changes. Each section of the Constitution is set out below with information setting out details of the proposed change for which approval and/or comment is sought.
- 1.3 There have been some changes using delegated authority granted to the Monitoring Officer by Council on 20th 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 1 for information and members are asked to note those changes.

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 current proposed changes.

PART 2 – ARTICLES

- 2.02 There are 16 articles that set out how the council operates.
- 2.03 There is a planned review of the references to legislation and any updates will be made using Monitoring Officer powers of delegation.
- 2.04 Members are asked to note that Cabinet approved the Cross Council Corporate Safeguarding Policy on the 8th of March, with the recommendation that this be added to the Policy Framework in Article 4 and that Council consider this. [2022-03-08 Cabinet Report Corporate Safeguarding Policy.pdf \(kirklees.gov.uk\)](#). Members are asked to agree that in the event that the Policy is adopted by Council that Article 4 be amended to add the Policy into the Policy Framework.

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.
- 2.06 There are a number of references to Kirklees Neighbourhood Housing in Part 4 of Section C as well as elsewhere in the constitution which need to be tidied up. These are drafting amendments which the Monitoring

Officer will continue to pick up using delegated authority.

- 2.07 There have been three amendments made by the Monitoring Officer and by Council to address changes required. These are detailed in Appendix 1 and include an amendment to the scheme of delegation (Section F) to reflect the changes following the appointment of two new strategic directors replacing the former Strategic Director – Economy and Infrastructure.
- 2.08 It is proposed that the wording of Section F be clarified to remove any ambiguities about references within it to 'Section A'. This can be done by way of note in the introduction that links to 'Section A'.
- 2.09 The proposed wording would add an extra paragraph in the 'Introduction' to Section F as follows:

13. For the purposes of this Scheme of Delegation, any reference to 'Section A' are references to Part 3.2 of the Constitution – Responsibility for Functions [Constitution Section A \(kirklees.gov.uk\)](http://kirklees.gov.uk)

PART 4 – RULES OF PROCEDURE

- 2.10 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters. There have been four amendments made during the year to address changes required, and these are detailed in Appendix 1.

Council Procedure Rules

- 2.11 It is proposed that **CPR 9a** be amended to raise the number of signatures to a petition required for a debate to be held from 3000 to 5000. The 3000 figure has been in place now for a number of years. A comparison with others suggests that this may be low and 5000 may be more appropriate.
- 2.12 It is proposed that **CPR 11(1)** be amended by the addition of a new paragraph (d), as follows:

(d) All public questions must be submitted at least 24 hours prior to the meeting

This is to assist Governance in managing the administration of the meeting.

- 2.13 It is proposed that **CPR 13(2)(v)** be removed and replaced with the following:

The Cabinet Portfolios will be listed on the agenda. This item will provide the

opportunity for questions to be asked of the Cabinet Members listed.

This is to simplify the current CPR, which is impractical to apply. The current CPR does not provide an opportunity to ask questions to portfolio holders.

- 2.14 As with paragraph 2.06 above it is proposed that **CPR 13(4)** be amended to remove the reference to Kirklees Neighbourhood Housing at (ii)(a).

This is to reflect the fact that Kirklees Neighbourhood Housing is no longer in existence.

- 2.15 It is proposed that **CPR 13(4)(iii)** be amended to remove the words '*in alphabetical order*'.

This is to remove any presumption that questions will be dealt with in alphabetical order. This agenda item is very often only considered late in Council meetings and as a result is not always allowed the full time allowed for questions. This will give Councillors the ability to ask questions of all Chairs without being tied to alphabetical order in what may be a short period of time allowed for questions.

- 2.16 It is proposed that **CPR 14(1)** be amended to require submission of motions to Council to be made by 9:00 am on the 8th working day before the meeting of Council. This would be a change from the current requirement of the 6th working day.

When there are a large number of motions and/ or complex motions submitted which require some work to ensure that they meet the criteria for acceptance set out, the current time period (6 days) causes difficulties for Governance, Legal and other officers. This will assist officers to have more time to better work with Councillors and will assist Governance in issuing agenda papers / meeting administration.

- 2.17 In addition, it is proposed to divide **CPR 14(1)** into two paragraphs and to then renumber the remaining ones.

The proposed amendment is as follows:

Submission of Motions

- (1) *Every notice of motion (with the exception of those proposed in accordance with Rules 15, 18(16) and (19) shall be submitted in writing and delivered to the Service Director - Legal, Governance and Commissioning by 9.00 a.m. on the **eighth** working day before the date of the Council meeting. Each motion must be signed by not less than two Members of the Council. Motions (including re-submitted Motions pursuant to CPR 16(5)) will only be accepted for the next scheduled Council meeting (except Annual and Budget*

Councils) from 10.00am onwards following the day of the previous Council meeting.

- (2) *Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) motions will be listed after re-submitted Motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.*

This is to make the CPR easier to follow.

- 2.18 It is proposed that **CPR 16(5)** be moved to CPR 14, as 14(3).

This CPR fits better in rule 14. CPR 16(5) says :

(5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director – Legal, Governance and Commissioning Revised June 2021 receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.

- 2.19 It is proposed that **CPR 14(9)** be amended to require amendments to motions to be submitted by 10.00 am the day prior to the meeting of Council. This would be a change from the present requirement of submission by 10.00 am on the day of the meeting.

The proposed amendment would be as follows:

Receipt of Amendments

- (9) *Any proposed amendment to a motion which has been included in the summons for a meeting, shall be delivered to the Service Director - Legal, Governance and Commissioning by 10.00am on the day before Council is meeting.*

This is for the same reason as the change proposed at paragraph 2.16 – it allows officers slightly more time to work with Councillors on any changes rather than being required to do that on the day of Council itself.

- 2.20 It is proposed that **CPR 35(7)** be amended to clarify that substitute members need to be from the same political group.

The proposed amendment would add the wording in bold to the existing CPR:

- (7) *At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members **of the same political group** on Committees, and Sub-Committees, (except the Health and Well-being Board, the Overview and Scrutiny Management Committee, the Overview and Scrutiny Panels, District Committees, Employee Relations Sub Committee, the Standards Committee and the Standards Sub-Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.*

This is to provide clarity on the substitution process, to make it clear that a substitute must be from the same political group.

- 2.21 **CPR 51** was previously added to permit the Council to hold meetings remotely, following the implementation of *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*.
- 2.22 The new Protocol is referred to in CPR 51 and was included as a new part of the Constitution at the same time as the new CPR 51.
- 2.23 It is proposed that, although the Regulations that permitted remote meetings are no longer in force, this CPR be retained, as some meetings are still held remotely, such as Licensing Panel meetings. There is also an on-going debate about Local Authorities and others having the ability to hold meetings remotely.
- 2.24 The proposed amendments to the Council Procedure Rules are shown in track change in Appendix 2.

Access to Information Procedure Rules

- 2.25 There has been a minor amendment to the Rules, under the delegated powers of the Monitoring Officer, and this is detailed in Appendix 1.
- 2.26 It is proposed that the wording at 26.1(c) is amended from:

(c) the member has a prejudicial interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

to:

(c) the member has an interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

2.27 Budget and Policy Framework Rules

There are no proposed amendments to these rules.

2.28 Executive Procedure Rules

There are no proposed amendments to these rules.

2.29 Financial Procedure Rules

There are proposed amendments and these will be the subject of a separate report to Council.

2.30 Contract Procedure Rules

There are proposed amendments and these will be the subject of a separate report to Council.

2.31 Overview and Scrutiny Procedure Rules

There are no proposed amendments to these rules.

2.32 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

PART 5 – CODES and PROTOCOLS

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

2.34 Three amendments have been made to Part 5 which are set out in Appendix 1.

2.35 The members of Code of Conduct was updated and approved by Council.

2.36 A protocol for the Exercise of Concurrent Functions was introduced in June 2021 and was later amended by the Monitoring Officer using delegated powers.

2.37 Members Code of Conduct

There are presently no proposed amendments to the Code of Conduct, but there is some ongoing work resulting from the consultation survey and the subsequent workshops that were held.

Should this result in any proposed amendments, these will be considered by Standards Committee, before being considered at Corporate Governance and Audit. One current proposal to introduce a

'fast track' route into the standards process is currently being considered, with a view to reporting to the Standards Committee initially on any proposals for change.

2.38 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.39 Protocol for Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.42 Officers Code of Conduct

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.44 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

However, the working relationship between members and officers was a significant theme that came up in the Standards consultation survey and was explored in more detail at the recent workshops.

It is proposed that this protocol is reviewed and any proposed amendments will be considered by Standards Committee, before being considered at Corporate Governance and Audit.

2.46 Safeguarding Protocol

There are no proposed amendments to this protocol.

2.47 Protocol for Online Meetings

This Protocol was added to the Constitution as a result of the legislative changes on remote meetings made in response to the Covid 19 lockdown, so that Council business could still be transacted.

Whilst the protocol is no longer applicable to many meetings, some are still held remotely, such as Licensing Panel meetings (which are held using different legislation), and it is proposed to retain this, rather than remove it.

2.48 Concurrent Functions Protocol

There are no proposed amendments to this protocol.

3. Implications for the Council

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.

3.1 Working with people

N/A

3.2 Working with Partners

N/A

3.3 Place Based Working

N/A

3.4 Climate Change and Air Quality

N/A

3.5 Improving Outcomes for Children

N/A

3.6 Other implications (eg Legal/Financial or Human Resources)

N/A

4. Consultees and their opinions

Various officers have been consulted.

5. Next steps and timelines

- 5.1 This will be considered by Annual Council on May 25th May 2022. Any feedback, comments or recommendations from this committee will be included in the report to Annual Council.

5.2 Any amendments agreed by Council will be made to the Constitution.

6. Officer recommendations and reasons

That it be recommended that CGA:-

- a. Notes the changes made to the Constitution in 2021-2022 listed in Appendix 1 and notes the Cabinet approval of the Safeguarding Policy, set out in paragraph 2.04.
- b. Approves the amendment to the Policy Framework at paragraph 2.04 in the event that Council considers and adopts the Council Corporate Safeguarding Policy referred to in that paragraph.
- c. Approves the proposed changes to the Councils constitution as set out in paragraphs 2.08, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, and 2.26 and the accompanying relevant Appendices.
- d. Notes the further work proposed to keep the Council's Constitution under review.
- e. Notes the proposed further work in respect of standards.
- f. Recommends to Council that they note and approve (as applicable) the above recommendations and delegate authority to the Service Director – Legal, Governance and Commissioning to make appropriate amendments to the constitution which may be agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed.

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

10. Service Director responsible

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

11. Appendices

Appendix 1 - Amendments 2021-2022 (Information only)

Appendix 2 – Track change copy of the Council Procedure Rules

APPENDIX 1

Constitutional amendments 2021-2022

Changes made to the Constitution authorised by Council or by the Monitoring Officer under the delegation provided to her are set out in the table below.

Amendment	Authorisation	Date amended
PART 3 Responsibility for Functions		
Part 3.3 Section B amended – HWB ToR amended	Approved at Annual Council	16 th June 2021
Part 3.4 Section C amended – changes to portfolio responsibilities	Approved at Annual Council	8 th June 2021
Part 3.7 Scheme of Delegation to Officers – Section F	Monitoring Officer Delegation	9 th February 2022
PART 4 Rules of Procedure		
Part 4.1 Council Procedure Rules amended	Approved at Annual Council	16 th June 2021
Part 4.2 Access to Information Procedure Rules	Monitoring Officer Delegation	13 th July 2021
Part 4.6 Financial Procedure Rules amended	Approved at Annual Council	8 th June 2021
Part 4.7 Contract Procedure Rules amended	Monitoring Officer Delegation	8 th June 2021
PART 5 Codes and Protocols		
Part 5.1 Code of Conduct – LGA model code	Approved at Council	15 th December 2021
Part 5.12 – Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents introduced	Approved by CGA	16 th June 2021
Part 5.12 – Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents amended	Monitoring Officer Delegation	14 th July 2021

COUNCIL PROCEDURE RULES

(Amended by Service Director, Legal Governance and Commissioning using delegated powers on 1st, 14th, 20th, 21st May, 7th July 2020 and 19 May 2021 (Annual Council))

Introduction

Following the introduction of *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* meetings of the Council or any committees may now be held remotely.

Any references to being present at any meeting in these rules is now to be interpreted as including being in remote attendance at any meeting.

A new procedure rule, Rule 51, has been inserted and the existing rules should be interpreted in light of the provisions of that rule.

(A) Meetings of the Council

1. Annual Meeting of the Council

(1) Timing and Business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, provide that the Annual Meeting will take place in May. Within those limits the date, time and venue may be proposed by the Corporate Governance and Audit Committee and will be determined by the Council.

At the Annual Meeting the agenda will be as follows:

CIVIC AND PROCEDURAL

- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) elect the Mayor;
- (c) appoint the Deputy Mayor;
- (d) approve as a correct record the Minutes of the previous meeting of the Council;
- (e) receive any announcements from the Mayor and the Chief Executive
- (f) following a local election (other than a by-election) receive the report of the Chief Executive upon:
 - a) The result of the elections of Councillors to the Wards of the Council
 - b) The acceptance of office of Councillors elected

ELECTION OF THE EXECUTIVE

- (g) elect the Leader of the Council and determine his/her term of office (as necessary);

CONSTITUTIONAL BUSINESS

- (h) appoint, in accordance with paragraph (2) of this Rule the Overview and Scrutiny Management Committee, the Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, of this Constitution);
- (i) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (j) approve a programme of ordinary meetings of the Council for the year;
- (k) consider any other business set out in the notice convening the meeting; and
- (l) no other business will be considered at the Annual Meeting other than in exceptional circumstances to be determined by the Mayor in consultation with the Chief Executive.

(2) Selection of Councillors on Committees

At the Annual Meeting, the Council will:

- (i) decide the size and terms of reference for those Committees to be established for the municipal year;
- (ii) decide, when relevant, the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iii) receive nominations from Group Business Managers of Councillors to serve on each Committee;
- (iv) determine representation on outside bodies and where appropriate political ratios;
- (v) elect Chairs and appoint Deputy Chairs (where appropriate) of the Council's Committees for the ensuing municipal year. If the Council does not make these appointments, Committees may appoint their own Chair and Deputy Chair (where appropriate) subject to confirmation at the next meeting of the Council;
- (vi) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

2. Ordinary and Additional Meetings of Council, Notice of and Summons to Meetings

Dates of Council Meetings

- (1) All meetings of the Council, with the exception of:
 - any called as Extraordinary Meetings; or

- changes made to meeting dates as proposed by the Corporate Governance and Audit Committee and agreed by Council during the municipal year,

shall be held on dates fixed by the Council at the Annual Meeting on the recommendation of the Corporate Governance and Audit Committee.

Extraordinary Meetings

- (2) Those listed below may request the Service Director - Legal, Governance and Commissioning to call Council meetings in addition to ordinary meetings:
- (a) the Council by resolution;
 - (b) the Mayor, following consultation with the Chief Executive or following a written requisition signed by five Members of the Council;
 - (c) the Chief Executive, the monitoring officer and section 151 officer;
or
 - (d) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition;

Venue and Start Time

- (3) All ordinary meetings of the Council will be held at 5.30 p.m. in the Town Hall, Huddersfield, or at such other times and places as may be agreed in respect of particular meetings by the Mayor and the Leader of the Council or on the recommendation of the Corporate Governance and Audit Committee.

Council Summons

- (4) The date, time and venue for each Council meeting will be shown in the summons for the meeting which will be issued by the Service Director - Legal, Governance and Commissioning at least 5 clear days before a meeting. The summons will specify the business to be transacted and will be accompanied by reports where appropriate.

Chair of Meeting

- (5) Any power or duty of the Mayor in relation to the conduct of a meeting shall be exercised by the Deputy Mayor or in their absence the person elected to preside at the meeting.

3. Budget Meeting

The Council may specify that one meeting will solely be the Council's budget meeting. At that meeting the only items will be to agree the budget, the capital programme and the level of Council tax for the following financial year, together

with any issues connected with the budget and anything else which the Mayor in consultation with the Chief Executive considers appropriate for inclusion.

4. Quorum of Council

- (1) The quorum for a Council meeting shall be one quarter of the total number of the Members of the Council, rounded up to the nearest whole number.
- (2) If there is not a quorum at a meeting, then consideration of any items of business not dealt with shall be adjourned to a date and time to be chosen by the Mayor at the time when the meeting is adjourned **or** to the next meeting of the Council.

5. Order of Business

- (1) There shall be two types of ordinary meeting of the Council,
 - one which focuses on **Holding the Executive to Account** and
 - one which focuses on **Key Discussions**.

The designation of each Council meeting shall be set (and published) at the start of the municipal year by the Chief Executive in consultation with the Group Leaders, but may be changed during the course of the year by the Chief Executive in consultation with the Group Leaders if it is considered necessary for the efficient operation of the Council, provided that no less than four ordinary meetings are designated as **Holding the Executive to Account**.

The content and running order of the business to be transacted at each ordinary meeting of Council may be altered in advance by the Chief Executive in consultation with the Mayor and Group Leaders if it is considered necessary or appropriate for the efficient operation of the Council.

The following items shall be included in all ordinary meetings of the Council in the order shown:

PROCEDURAL

- a) To choose a person to preside if the Mayor and Deputy Mayor are absent.
- b) Announcements by the Mayor or the Chief Executive.
- c) To receive apologies.
- d) To approve as a correct record and sign the Minutes of the previous meeting of the Council.
- e) To receive declarations of interest.
- f) To receive petitions submitted by Members of the Council.
- g) To receive any petitions/hear deputations from Members of the Public.

- h) To receive any public questions.
- i) To receive and consider any petitions referred in accordance with the Council's Petitions Scheme.
- j) To receive Minutes of meetings of the West Yorkshire Combined Authority.

DECISION MAKING

- k) To deal with any matters expressly referred by Cabinet or a Committee to Council for approval.

WRITTEN QUESTIONS BY MEMBERS OF THE COUNCIL

- l) To deal with written questions by Members to the following under Rule 12:
 - The Leader, Deputy Leader and Cabinet Members
 - Chairs of Committees, Sub Committees and Panels
 - Spokespersons of Joint Authorities and External Bodies (as defined at Rule 13)
- (2) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Holding the Executive to Account** meetings (provided that there is sufficient such business at any one meeting), and such business shall follow on from that set out in (1) of this Rule as follows:

CABINET AND COMMITTEES

- m) To receive reports from Cabinet members in accordance with Rule 13.
- n) To deal with questions to Cabinet members generally, or in relation to minutes of Cabinet put to Council for information or to hear statements from Cabinet members in accordance with Rule 13.

MEMBER MOTIONS

- o) To receive responses to Motions agreed at previous meetings of Council
- p) To consider motions issued under Rule 14, if any, in the order which they have been received by the Service Director – Legal, Governance and Commissioning.

GENERAL

- q) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
 - r) To deal with any business expressly required by statute to be dealt with by the Council
- (3) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Key Discussion Meetings** (provided that there is

sufficient such business at any one meeting) and such business shall follow on from that set out in (1) of this Rule as follows:

KEY ISSUES

- s) To receive presentations and/or reports on key issues and debate the same in accordance with Rule 18 (23).

OVERVIEW & SCRUTINY

- t) To receive reports from Overview & Scrutiny Management Committee and its panels and to hold a debate in accordance with Rule (18 (22)) (Move before key discussion).

MEMBER MOTIONS

- u) To receive responses to Motions agreed at previous meetings of Council.
- v) To consider motions issued under Rule 14, if any, in the order which they have been received by the Service Director – Legal, Governance and Commissioning.

GENERAL

- w) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
 - x) To deal with any business expressly required by statute to be dealt with by the Council.
- (4) The order of items (k) to (m) or (o) (as appropriate) or (k) to (s) or (t) (as appropriate in the case of Key Discussion Meetings) may be changed or any of the items omitted at any one meeting:
- a) by the meeting by means of a motion passed without discussion;
 - b) by the Chief Executive in consultation with the Mayor.
- (5) Any discussion falling within (s) above shall begin no later than 7:00 pm irrespective of whether the business before it on the agenda has concluded, such other business shall resume once the key discussion issue is complete.
- (6) *“In addition to the Annual Meeting of the Council (CPR1) and the ordinary meetings (CPR5 (1)) there shall be [at least] one meeting of Council convened each Municipal Year at which the mayor from time to time of the West Yorkshire Combined Authority (WYCA) shall attend to meet with Kirklees Councillors as an opportunity to discuss and report back on their work programme and outcomes.*

The meeting will cover procedural items at (a) - (c), as well as (e) and (j), listed at CPR 5 (1) and will set aside a period of at least 45 minutes for questions from members to the WYCA Mayor. Questions will be allocated on a proportional basis between groups, in a manner to be determined by the Kirklees Mayor and the

Chief Executive. In addition any agenda items agreed by the Kirklees Mayor and Chief Executive of Kirklees Council with the Mayor of WYCA will be discussed.”

6. Limitation of Business

The items of business for consideration at the Council meeting will be limited to those set out in the agenda for the meeting, with the exception of:-

- (a) items of business required by these Rules to be dealt with at the meeting or
- (b) items of urgent business for which the Mayor and Chief Executive shall have prior notice and which the Mayor in consultation with the Chief Executive considers appropriate for discussion at the meeting.

7. Minutes

Correct Record

- (1) The Mayor shall put the motion "that the Minutes of the previous meeting or meetings be approved and signed as a correct record."

Accuracy

- (2) No discussion shall take place on those Minutes except on their accuracy, and any questions on their accuracy shall be raised by motion. After any questions on the Minutes have been dealt with the Mayor shall sign the Minutes.

Submission to Council

- (3) The Minutes of each Council meeting (including Extraordinary Council meetings convened in accordance with paragraph 3 of Schedule 12 to the Local Government Act 1972) shall be presented to the next scheduled Council meeting for approval.

8. Announcements by the Mayor, Leader of the Council, Cabinet Members and Chief Executive

- (1) No discussion shall take place on any announcement made by the Mayor or Chief Executive.
- (2) Any Member may propose that the subject matter of any announcement be referred to Cabinet or an appropriate Committee, Sub-Committee, or Panel and such a motion, on being seconded, shall be put to the vote immediately.

9. Presentation of Petitions by Members of the Council and Members of the Public

Presentation of Petitions

- (1) Petitions on issues on which the Council has powers or duties or which affect the area of Kirklees may be presented by a Member or any member of the public to any meeting of the Council (except the meetings of Annual, Budget or Extra-ordinary Council) or an appropriate Committee, Sub-Committee or Panel meeting.
- (2) When a petition is received at a Council meeting no discussion shall take place on the item.

Referral of Subject Matter

- (3) The Mayor may direct that the subject matter of a petition be referred to an appropriate Service Director for investigation and report to Cabinet or an appropriate Committee.

9a. Council's Petition Scheme – Council Debates

In accordance with the Council's Petition Scheme (as approved by Cabinet on 6 June 2012), if a validated petition contains more than ~~3000~~5000 signatures, the
Petition

Organiser (or their representative) will be permitted five minutes to present their petition to Council and the subject matter will then be debated by Council for a maximum of 15 minutes.

10. Deputations

Receiving of Deputations

- (1) Deputations on issues on which the Council has powers or duties or which affect the area of Kirklees may be received at any meeting of the Council (except the meetings of Annual, Budget or Extra-Ordinary Council) or at any meeting of an appropriate Committee, or Sub-Committee relevant to its terms of reference. The Mayor/Chair in consultation with the Chief Executive shall have discretion to decide whether or not to hear the deputation.
- (2) All deputations should be submitted at least 24 hours prior to the meeting.

Deputations which will not be received

- (3) A deputation will not be received if the Chief Executive considers that it includes references to the following:
 - (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.
 - (b) Information relating to complaints made under statutory provisions which have not been finally dealt with.
 - (c) Information concerning the merit of applications or other matters currently before the Council, Cabinet or a Committee, Sub-committee, Panel or Officers for determination in respect of which the Council is under a duty to act quasi judicially.
 - (d) Information of a personal nature or which is defamatory, offensive, frivolous, repetitive or vexatious.
- (4) Deputations with the sole or predominant purpose of promoting any company's or individual's own business interests or financial position will not be permitted.

Size of Deputation and Speech

- (5) The deputation shall not exceed five persons and the speech shall not exceed five minutes.
- (6) When a deputation is received at a Council meeting, no discussion shall take place on the item but the relevant Cabinet Member shall respond to the deputation. The Cabinet Member's response shall not exceed five minutes.
- (7) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in exceptional circumstances. For example, in

order to respond to personal attacks made during the course of a deputation. Such response shall not exceed five minutes.

Referral of Subject Matter

- (8) The Mayor may direct that the subject matter of a deputation be referred to an appropriate Service Director for investigation and report to Cabinet or an appropriate Committee.

11. Questions by Members of the Public at Council, Committee, Sub-Committee and Panel meetings

Who Can Ask A Question?

- (1) (a) Any Member of the public resident in Kirklees may, subject to the provisions of this Rule, ask the Leader, or any Members of Cabinet, a question on any issue which comes within that individual's area of responsibility and which affects the area of Kirklees.
- (b) The Cabinet Member may, subject to the provisions of this Rule, ask that a question be referred to the Mayor or any Chairs of a Committee or any joint authority spokesperson and the Mayor, Chair or joint authority spokesperson shall respond within a reasonable period of time to such question.
- (c) At any Committee, Sub-Committee or Panel meeting, any such Member of the public may similarly ask the Chair of that body a question on any issue over which that body has any powers or duties.

[\(d\) All public questions must be submitted at least 24 hours prior to the meeting](#)

When Questions Cannot Be Asked

- (2) Questions may not be asked at:
- (a) the Annual Council Meeting;
- (b) the Budget Council Meeting;
- or during the period from:
- (c) the announcement of a General Election to polling day (inclusive); or
- (d) the publication of the notice of ordinary elections for the Council to polling day (inclusive).

Questions Which Will Not Be Answered

- (3) Questions will not be answered if the Chief Executive considers that they include references to the following:

- (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.
- (b) Questions relating to complaints made under statutory provisions which have not been finally dealt with.
- (c) Questions about the merit of applications or other matters currently before the Council, Cabinet or a Committee, Sub-Committee, Panel or Officers for determination in respect of which the Council is under a duty to act quasi judicially.
- (d) Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious.

Questions To Be Within Terms of Reference

- (4) The Chair or Leader may decline to answer a proposed question if in his or her opinion it is not within the terms of reference of the Cabinet, Committee, Sub-Committee or Panel concerned or is not relevant to the functions of the Cabinet, Committee, Sub-Committee or Panel concerned.

Time Allowed for Questions

- (5) The period allowed for the asking and answering of public questions at any one meeting shall not exceed 15 minutes. Any Member of the Cabinet, Committee or Panel may move an extension of this period should there be questions unanswered. Such a motion shall be moved and seconded and be put without discussion. At any one meeting no person may ask more than two questions and no more than two questions may be asked on behalf of one organisation. A questioner may also put one supplementary question to the Member for each original question asked. Any question which cannot be dealt with during public question time will be dealt with by a written answer.

Answers to Questions

- (6) The Member to whom the question has been put may nominate another Member to answer (if that Member agrees).

The Member to whom the question has been put may not refuse to answer the question.

An answer may take the form of:

- (a) a direct oral answer; or
- (b) a reference to a publication, where the desired information is contained in a publication of the Council, the Cabinet or a Committee, Sub-Committee or Panel; or
- (c) a written answer where the reply to the question cannot conveniently be given orally.

Recording in Minutes

- (7) The Service Director - Legal, Governance and Commissioning shall record in the Minutes of the meeting the question(s) and the name of the respondent.

Questions Ruled Out of Order

- (8) If the Chair is of the opinion that the question is of a personal nature, or that in the interests of the Council it is undesirable or is otherwise out of order, he or she shall not allow the question to be put. This right of refusal also applies to the Chair at a Committee, Sub-Committee or Panel meeting.

Referral of Subject Matter

- (9) In the case of public questions presented to Council meetings, there shall be no discussion on the question or the answer but a Member may propose that the subject matter of the question be placed on the Agenda for the next ordinary meeting of Cabinet or an appropriate Committee, Sub-Committee or Panel. Such a motion shall be moved and seconded and put without discussion.

12. Written Questions by Members

The exemptions as set out at CPR 11 (3) also apply to this Rule (CPR 12).

The following provisions shall apply to written questions by Members which must be received by the Service Director - Legal, Governance and Commissioning by 10.00 a.m. on the working day before the Council meeting.

- (1) Any member of Council may put a written question to the Leader of the Council, a member of the Cabinet, a Chair of a Committee, Sub-Committee or Panel or a spokesperson of a Joint Committee or External Body, as defined at Rule 13 (4). Subject to the Mayor's/Chair's discretion, a 3 minute time limit applies for individual questions to be put.
- (2) The Mayor/Chair in consultation with the Chief Executive may determine that a question shall not be put where the question appears defamatory, vexatious or requires the disclosure of confidential or exempt information.
- (3) Following consideration of any questions arising from Rule 12 (1) above, questions will be timetabled in the order which they are received by the Governance Team.
- (4) If a Member who has submitted a question in accordance with Rule 12 is not present at the meeting at the time when the question(s) submitted is/are due to be put to a Member the question(s) will fall.
- (5) The Member to whom the question has been put shall give an oral answer at the Council meeting or may nominate at any time before or during a meeting another Member to answer if that Member agrees.
- (6) An answer may take the form of:

- (a) a direct oral answer; or
 - (b) a reference to a publication of the Council which contains the desired information; or
 - (c) a written answer circulated to all Members within 7 days of the Council meeting.
- (7) The period allowed for written questions at any one meeting shall not exceed 30 minutes. A 5 minute time limit shall apply for individual responses to questions. The same time limit shall also apply to individual responses to supplementary questions, subject in both cases to the Mayor's discretion to increase the time allowed for responses in appropriate circumstances.
- (8) Where written questions are not addressed within the above timescale, then the question will be answered by written reply, and the response shall be copied to all Members of the Council, unless the Member asking the question specifically requests (within 48 hours of the meeting concluding) that the question is referred to the next relevant Cabinet / Committee / Sub-Committee / Panel meeting for reply. Any such questions will only be responded to if the Member who put forward the original question to the Council meeting is in attendance at the Cabinet / Committee / Sub-Committee / Panel meeting to ask the question.

Written questions to spokespersons of Joint Authorities or any Other Bodies not dealt with within the above timescale will be answered by means of a written reply within 7 days of the meeting and be circulated to all Members of the Council.

- (9) When an answer to a written question has been given, the Member who asked it may ask one supplementary question relating to the same topic. Such a supplementary question must follow straight on from the Member's answer to the original question. In circumstances where the responding Councillor has elected, pursuant to Rule 12(6)(c), to provide a written answer to a question, no supplementary question will be permitted.
- (10) A written question, as well as any supplementary question, must be relevant to the Terms of Reference or powers or duties of Cabinet or of the relevant Committee / Sub-Committee / Panel / Joint Committee or External Body or affect the area of Kirklees and should not be of a personal nature or one which is defamatory, offensive, frivolous, repetitive or vexatious.
- (11) The Service Director - Legal, Governance and Commissioning shall record in the Minutes of the meeting the question(s) and the name of the respondent. This will not include any supplementary question and the answer thereto. Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility for a period of 12 months.

13. Procedure at Council Meetings in Relation to Reports and/or Minutes of Cabinet and Committees

- (1) *Minutes for Information / Reports which require approval*
- (i) Any matter expressly referred to Council by Cabinet or a Committee for determination shall be dealt with first.
 - (ii) Minutes of meetings of Cabinet, Committees, and WYCA meetings shall be presented to Council meetings for information and as a basis for questioning and comment. There shall be no need for any motion or vote to receive them. If the minutes are not considered due to lack of time they shall be deemed to have been presented to Council and will not, therefore, require resubmission.
- (2) *Questions / Comments on Cabinet Minutes*
- (i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those of the Cabinet Committee – Local Issues.
 - (ii) Prior to the start of questions to Cabinet Members, Portfolio Holders may make a report, not exceeding 10 minutes in length per Cabinet Member, setting out his / her Portfolio Plan for the municipal year, or on progress against that Plan. Comments and statements by Cabinet Members shall not exceed 30 minutes in duration including any questions arising from the information provided. All Cabinet Members will be required to make Council aware of their Portfolio Plan at the start of the municipal year either verbally or in writing circulated to all Members and to report on progress against that Plan at least once in the municipal year.
 - (iii) Questions may be asked by any Member of any Cabinet Members whether on a specific matter contained within the minutes or any matter generally which is in the portfolio of the Cabinet Member. There is no restriction on the number of questions Members may ask within the allotted time but each individual Member is only permitted to ask one question together with one supplementary question at any one time.
 - (iv) Any member may, in addition to or instead of exercising their rights under Rule 13(2)(iii), comment once for a maximum of five minutes on any item within the Cabinet minutes presented to the meeting.
 - (v) The Cabinet Portfolios will be listed on the agenda. This item will provide the opportunity for questions to be asked of the Cabinet Members listed. The portfolios will appear in alphabetical order on the Agenda and questions will be addressed to the Cabinet Member whose portfolio is at the top of the list. Once questions to that Cabinet Member have been completed, his or her portfolio will fall to the bottom of the list and questions will be addressed to the second, third etc., until the allotted time is completed whereupon the portfolio of the Cabinet Member being questioned will fall to the bottom of the list. At the next meeting the list will begin where it ended at the previous meeting, subject to the portfolio which is the subject of a progress report to the meeting being at the top of the list. During this item Members will have the opportunity to question Cabinet Members (and other Members appearing on the schedule) on meetings/discussions with external

~~organisations. Any such question will be answered immediately in the manner provided for in Rule 13(4).~~

- (vi) Subject to 5(i) of this Rule, Cabinet members will have a right of reply before questions are put to the Cabinet member next in alphabetical order.
- (vii) In circumstances where the Leader has no specific portfolio allocated to him/her the Agenda will provide that he/she heads the list of Cabinet Members for the purposes of Rule 13(2)(v). Once questions to the Leader have been completed he/she will fall to the bottom of the list and questions to Cabinet Members with specific portfolios will proceed in accordance with the provisions of Rule 13(2)(v).

(3) *Questions / Comments on Committee Minutes*

- (i) The Minutes of other Committees submitted to Ordinary meetings of the Council shall be set out in alphabetical order.
- (ii) Any Member may comment on any item within the Committee minutes presented to the meeting
- (iii) Any Member may ask the chair of the relevant Committee a question upon any item within that Committee's Terms of Reference.
- (iv) The Chair of Cabinet, a Cabinet Committee or Cabinet Member or the Chair of a Committee may make a statement at the time that the report/Minutes is/are considered on any matter within the Terms of Reference or which is relevant to the function of Cabinet or that Committee, or which is a matter of importance.

(4) *Questions to Chairs of Committees/Sub-Committees/Panels, Lead Members of Standing Scrutiny Panels and Spokespersons of Joint Committees and External Bodies*

(The exemptions as set out at CPR 11 (3) also apply to this Rule (CPR 13))

- (i) Any Member may ask the Chair of the relevant Committee/Sub-Committee/Panel or the Lead Member of a Standing Scrutiny Panel a question upon any item within the Terms of Reference of that Committee/Sub-Committee/ Panel or Standing Scrutiny Panel (as applicable). Any Member may also ask a question of the relevant spokesperson for any of the Joint Committees or external bodies (including regional and sub-regional bodies) identified in Rule 13(4)(ii).
- (ii) For the purposes of this Rule, questions may be asked of spokespersons or representatives of the following Joint Committees or External Bodies:

~~(a) Kirklees Neighbourhood Housing~~

- (b) Kirklees Active Leisure
- (c) West Yorkshire Combined Authority (and its Committees)
- (d) West Yorkshire Fire and Rescue Authority
- (e) West Yorkshire Police and Crime Panel

(f) West Yorkshire Joint Services Committee

(The Council's Monitoring Officer may update the above list as appropriate).

(iii) The list to persons (by virtue of position) to whom questions can be asked will be set out in the agenda ~~in alphabetical order~~ and questions will be addressed in the order listed. At the next meeting, the list will begin where it ended at the previous meeting.

(5) *Time Permitted*

(i) Subject to the time limit for speaking set out in CPR 13 (2) the maximum time permitted for consideration of matters in CPR (1) – (3) including comments and questions on Minutes to Cabinet Members shall be a maximum of 60 minutes, and the time permitted for comments and questions to Chairs of Committees/Sub Committees/Panels and representatives on outside bodies shall be a maximum of 30 minutes, provided that there is provision under Rule 5 for consideration of issues under CPR 13.

14. Notices of Motion

Submission of Motions

~~(1)~~ ~~(1)~~ ————— Every notice of motion (with the exception of those proposed in accordance with Rules 15, 18(16) and (19) shall be submitted in writing and delivered to the Service Director - Legal, Governance and Commissioning by 9.00 a.m. on the ~~sixth~~ eighth working day before the date of the Council meeting.

~~(2)~~ Each motion must be signed by not less than two Members of the Council. Motions (including re-submitted Motions pursuant to CPR 16(5)) will only be accepted for the next scheduled Council meeting (except Annual and Budget Councils) from 10.00am onwards following the day of the previous Council meeting. Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) motions will be listed after re-submitted Motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.

~~(4)~~~~(3)~~ Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director – Legal, Governance and Commissioning receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.

Recording of Motions

~~(24)~~ The Service Director - Legal, Governance and Commissioning will record

the date and time of receipt of each motion in a register. This register shall be open to inspection to every Member of the Council.

Motions Which Have Revenue Effects

- (35) No Motion may have the effect of increasing the expenditure or reducing the revenue of the Council other than in the form of a reference to Cabinet or the appropriate Committee for consideration. (This provision does not apply for the setting of the Council Tax).

Relevance

- (46) Every motion shall be relevant to some matter in relation to which the Council has powers or duties and which affects the area of Kirklees.

Motions Not Accepted

- (57) If notice is given of any motion which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper, the Chief Executive in consultation with the Mayor shall determine whether to accept its inclusion on the agenda. If a motion is not deemed acceptable the Chief Executive shall inform the Members who gave notice of the item.

Withdrawal

- (68) A Member who has given notice of motion may subsequently withdraw by writing to the Service Director - Legal, Governance and Commissioning.

Inclusion on Council Agenda

- (79) The Service Director - Legal, Governance and Commissioning shall set out in the agenda for each Council meeting the motions received and accepted in the order they were received.

Moving of Motions

- (810) If a motion set out in the summons is not moved either by the Member who gave notice or by another Member on their behalf, it shall be treated as withdrawn and shall not be considered again without fresh notice. Alternatively, the Council may consent to postpone consideration of a motion to the next meeting.

Receipt of Amendments

- (911) Any proposed amendment to a motion which has been included in the summons for a meeting, shall be delivered to the Service Director - Legal, Governance and Commissioning ~~in accordance with the following timescales:~~ by 10.00 am on the day before Council is meeting.

- ~~(a) by 10.00am on the day of Council if the meeting is to start at 5.30 p.m. or~~

~~(b) by 2.00 p.m. on the day before a Council meeting which is to start in a morning.~~

Motions on Identical Subjects

~~(1012)~~ Where motions have been submitted to Council by different groups which relate to the same subject matter, then the movers shall be given the opportunity to agree a composite motion by 2.00 p.m. on the second working day before the date of the Council meeting. Notice of the composite shall be given to the Service Director - Legal, Governance and Commissioning who will notify the groups or individual Members to allow them to consider the proposals.

Alterations to Motions and Amendments

~~(1113)~~ Alterations to the wording of any motion or amendment (made in accordance with Council Procedure Rule 18(11) may be made with the agreement of the Members moving and seconding the motion or amendment and with the meeting's consent' provided that when such alterations are agreed copies shall be made available. Only alterations which could be made as an amendment may be made.

Need for Debate

~~(1214)~~ With the exception of those moved under (5) of this Rule, no motion made under this Rule may be voted on unless there has been a debate.

15. Motions and Amendments Which May Be Moved Without Notice

The following motions and amendments may be moved without notice:

- (1) Appointment of a Chair of the meeting at which the motion is moved.
- (2) Questioning the accuracy of the Minutes of the previous meeting of the Council.
- (3) To change the order of business in the Agenda.
- (4) Reference to Cabinet a Committee, Sub-Committee or Panel for further consideration.
- (5) Appointment of Leader or a Committee, or Member thereof arising from an item on the Agenda for the meeting.
- (6) That leave be given to withdraw a motion.
- (7) Motions and amendments in respect of urgent business under Rule 6.
- (8) That the Council proceed to the next business.
- (9) Motions under Rule 11(5) and 11(9) as to questions by electors at Council Meetings.

- (10) Amendments to any motion to approve the recommendations of Cabinet or a Committee.
- (11) That the question be now put.
- (12) Amendments to any Motion except amendments to notices of motion pursuant to Rule 14(8) and (9) or where notice is required under Rule 19.
- (13) That the debate be now adjourned.
- (14) That the Council do now adjourn.
- (15) Adoption of reports of Officers and any consequent resolutions.
- (16) Suspending these Rules in accordance with Rule 47.
- (17) Motion to exclude the public.
- (18) That a Member named under Rule 21 be not heard further or leave the meeting.
- (19) Giving consent or leave of the Council where the consent or leave of the Council is required by these Rules.
- (20) That the subject matter of an announcement made by the Mayor, or the Chief Executive under Rule 8 be referred to Cabinet or the appropriate Committee, Sub-Committee or Panel.
- (21) Motions under Rule 16 to continue a Council meeting after 9.00 p.m.
- (22) That the Council do now adjourn for discussion in smaller groups or in some other form.

16. Termination and Adjournment of Meeting

- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time and may incorporate a scheduled break of the meeting as required.
- (2) A meeting of the Council (except the Annual Meeting and Budget Council) shall terminate at 9.00 p.m. unless a Member moves, prior to 9.00pm, a motion that the meeting shall continue until (i) a later time (to be specified in the motion) or (ii) the conclusion of the business of the meeting. If the motion is seconded it shall be put to the meeting without comment.
- (3) If the motion is passed the meeting shall continue until the time specified or until the conclusion of the business of the meeting.
- (4) At 9.00 p.m. or such later time as the Council has agreed, the Mayor shall have discretion to grant an additional period of time to allow the item under consideration at that time to be concluded. Otherwise, the Mayor shall

- a) allow no further points of order to be raised by any other Member.
- (b) interrupt the discussion of the item being considered by the meeting.
- (c) allow the proposer of the motion then under consideration a maximum of five minutes to reply to the debate unless he/she seeks leave to withdraw the motion.
- (d) put (without discussion) all of the questions necessary to dispose of that motion, unless the motion is withdrawn.
- (e) put (without discussion) all of the questions necessary to complete the consideration of any reports of Cabinet or any Committee, which are on the Agenda for the meeting, unless the Member appointed to preside in any such body (or a person on his/her behalf) indicates a wish to the contrary.

~~(5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director - Legal, Governance and Commissioning receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.~~

- (6) Where proceedings are in progress either at 9.00 p.m. or at a later time (specifically agreed by the Council in accordance with a motion to that effect), the provisions of Rule 24(3) as to recorded votes shall not apply.
- (7) Following any processes outlined above, the Mayor shall finally close the meeting.

17. Opposition Priority Business

- (1) This Rule applies where there is a majority group of members of the Council.
- (2) A minority group may require that any one item of business placed on the Agenda for any Council meeting be treated as opposition priority business. Such a requirement will only be considered if the Leader of that Group has submitted it in writing to the Chief Executive at least seven days before the Council meeting.
- (3) Where the Chief Executive receives more than one such request for a meeting, he/she shall decide which shall be selected so as to ensure that as far as is possible each minority group's share of opposition priority business reflects the relative size of those groups in the period from the last Annual Meeting of the Council.
- (4) Service Director - Legal, Governance and Commissioning shall indicate on the Agenda which item of business (if any) is to be treated as opposition priority business.
- (5) If consideration of an item of opposition priority business has not begun two

hours after the start of the meeting it will be brought forward and considered immediately after the conclusion of the item of business then under discussion.

18. Rules of Debate

Motions and Amendments

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded. Unless notice of the motion or amendment has already been submitted in accordance with Rules 14 and 19, the Mayor may also require that it be written out and handed to him/her before it is discussed further or put to the meeting.
- (2) Members when seconding a motion or amendment may, if they then declare their intention to do so, reserve their right to speak until a later period in the debate on the motion or any amendment.

Seconders Speech

- (3) The Member seconding the motion or amendment and reserving the right to speak shall further indicate to the Mayor during the debate when he/she wishes to speak.

List of Names of Those Wishing to Speak

- (4) During the debate Members should indicate their wish to speak by use of their individual voting console. The Mayor shall have absolute discretion to alter the order of those wishing to speak and may close the list at any time. This provision does not apply to:
 - the Mayor
 - the mover of the original motion
 - the seconder of the original motion who has reserved the right to speak
 - Members rising on a point of order or to provide a personal explanation
 - persons moving motions and amendments under Rule 15

Addressing the Mayor

- (5) Unless the Mayor indicates otherwise, a Member must stand and address the Mayor while speaking. If two or more Members rise, the Mayor shall request one to speak and the other(s) to be seated. While a Member is speaking the other Members shall remain seated and be silent, unless rising on a point of order or in personal explanation.

Content and Length of Speeches

- (6) 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's annual budget speech on the setting of the amounts of Council Tax.

Additional Time For Speeches

- (7) If the Mayor is of the opinion that the subject matter is of special importance or the Member requests additional time, the Mayor may permit the Member to continue for as long as he/she allows.

When a Member May Speak Again - Adoption of Reports

- (8) On a motion to adopt the report of Cabinet or a Committee, a Member may speak once in general regarding the report. In addition, he/she may move or

second or speak to one amendment only on each item in the report requiring a decision by the Council.

When a Member May Speak Again - Other Motions

- (9) On any other motion a Member shall speak only once whilst the motion is the subject of debate. A Member may also move, second or speak to one amendment. If consideration of an amendment begins before a Member has had the opportunity to speak on the motion he/she may still exercise the right to speak on the motion.

Exceptions to Speaking Only Once

- (10) The requirement that a Member shall only speak once shall not prevent a Member from speaking:
- (i) in exercise of a right to reply,
 - (ii) on a point of order,
 - (iii) by way of personal explanation.

Amendments to Motions

- (11) An amendment shall be relevant to the motion and shall be either:
- (a) to refer a subject of debate to Cabinet or a Committee, for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others;
 - (d) to insert or add words;

The omission, insertion or addition of words must not have the effect of blocking the motion which is under consideration by the Council. In addition the amendment must not have the effect of increasing the expenditure or reducing the revenue of the Council other than in the form of a referral to Cabinet or the relevant Committee for consideration. (This provision does not apply for the setting of the Council Tax).

Discussion of Amendments

- (12) Except where the voting procedure in Rule 24(6) applies only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.

Motion as Amended

- (13) If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

Withdrawal of Motion/Amendment

- (14) A motion or an amendment may be withdrawn by the proposer with the consent of the seconder and of the Council (which shall be decided upon without debate). No Member may speak on it after the proposer has been granted permission for its withdrawal.

Right of Reply

- (15) The proposer of a motion shall have the right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the proposer of the original motion shall have also the right to reply at the close of such debate on the amendment and shall not otherwise speak on the amendment. Such a reply shall be confined to matters raised in the debate on the motion or amendment, as the case may be. The proposer of an amendment shall have no right to reply to the debate on the amendment. However where an amendment is carried the proposer of that amendment (now the substantive motion) shall have a right of reply at the close of the debate and on any subsequent amendment.

Motions which may be moved during debate

- (16) When a motion is under debate no other motion shall be moved except the following:-
- (a) to amend or withdraw the motion;
 - (b) to adjourn the meeting;
 - (c) to adjourn the debate;
 - (d) to proceed to the next business
 - (e) that the question be now put;
 - (f) that a Member be not further heard on the item of business before the Council;
 - (g) by the Mayor under Rule 21(2);
 - (h) to exclude the public;
 - (i) to withdraw or amend proceedings in accordance with paragraph (14) of this Rule.

Closure Motion

- (17) A Member may move without comment at the conclusion of a speech of another Member "That the question be now put", "That the debate be now adjourned" or "That the Council do now adjourn". If such a motion is seconded, the Mayor shall proceed as follows:-
- (a) On a motion "that the question be now put", the Mayor shall put this motion to the vote, unless he or she is of the opinion that the matter

before the meeting has not been discussed sufficiently. If the motion 'that the question be now put' is voted on and carried, the Mayor will allow the proposer of the original motion the right to reply under paragraph (15) above before putting the motion under discussion to the vote.

- (b) On a motion "to adjourn the debate or meeting". The Mayor shall put the motion for an adjournment to the vote without giving the mover of the original motion the right to reply, if he or she is of the opinion that the matter before the meeting has not been sufficiently discussed and cannot reasonably be discussed at that meeting.

Point of Order and Personal Explanation

- (18) A Member may rise on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of one of these Rules or the law and the Member shall specify the Rule or the law and the way in which it has been broken. A personal explanation shall be confined to some material part of a speech by the Member in the Council meeting which may appear to have been misunderstood in the present debate. A personal explanation may not be made in any other circumstances and in particular reference in a speech to another Member does not give that Member any right of personal explanation except in circumstances specified above.
- (19) The ruling of the Mayor on a point of order or on the admissibility of a personal explanation will be final.

Relaxation by the Mayor of Rules of Debate

- (20) Before the start of the debate on any item or motion the Mayor may determine, after consultation with the Chief Executive, that any of the requirements of this Rule shall be relaxed or waived during the debate on that item or motion.

Mayor's Authority

- (21) Whenever the Mayor rises during a debate, a Member who is standing and speaking shall sit down and the Council shall be silent. Afterwards, a Member may continue his or her speech unless the Mayor determines otherwise.
- (22) The time permitted for consideration of scrutiny reports under Rule 5 (3) (n) shall be a maximum of 60 minutes.
- (23) The time permitted for consideration of key issues shall be a maximum of 60 minutes
- (24) The time permitted under (22) and (23) of this Rule may be extended at the discretion of the Mayor in consultation with the Chief Executive.

Mayor's Casting Vote

- (25) The Mayor, or in their absence, the person presiding at the Council meeting,

shall have a second or casting vote in the case of an equality of votes.

19. Motion to Make Statutory Calculations and to set Amounts of Council Tax

Motion referred from Cabinet

- (1) At least 14 days before the date fixed for calculating the amounts required under Sections 32 to 36 of the Local Government Finance Act, 1992, and setting the amounts of Council Tax, the Chief Executive shall distribute to all Members of the Council the motion which has been proposed by the Cabinet for the Council, together with the draft Revenue Budget.

Motion distributed by the Leader

- (2) If the Cabinet is not able to recommend a motion to the Council meeting, the Leader shall distribute to all Members of the Council at least 14 days in advance a motion to be presented to the Council meeting together with the draft Revenue Budget. This motion must be presented in the names of the Chair of the Cabinet and be supported by at least two other Members of the Council.

Amendments

- (3) 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, that the proposed amendment is financially sound and sustainable.

Notification of Amendments

- (4) The Chief Executive shall inform all Members of the Council of any amendments 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.

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.

(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 in the Budget debate, to the Budget Motion and / or any amendments submitted by a political group related to the budget during their contribution to the debate whether that be when speaking on the Budget Motion or an amendment to it.

Limitations

- (6) The introduction of a new motion or amendment on the day of the Council meeting by a Political Group represented on the Council will not be permitted unless it gave notice of a motion or an amendment under paragraph (1), (2) and (3) above for inclusion on the summons for the meeting.

Recording of Votes relating to Council Tax etc.

- (7) Immediately after any vote is taken at a Budget Decision Meeting of the Council on any decision or amendment relating to the approval of the General Fund, or the statutory calculation for the setting of the Council Tax, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting,
- (8) For the purposes of Rule 19 (7)
- a) "Budget Decision" means a meeting of the Council at which it:
- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(b); or
 - (ii) issues a precept under Chapter 4 of the Part 1 of that Act;

and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.

20. Motion affecting persons employed by the Council

If a question arises at a meeting of the Council on the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, it shall not be considered until the Council has determined whether or not the public and press shall be excluded.

21. Members Conduct

Member not be heard

- (1) If at a Council meeting any Member of the Council (in the opinion of the

Mayor) persistently disregards the ruling of the Mayor or behaves irregularly, improperly, offensively or obstructs the business of the Council, the Mayor or any other Member may move "That the Member named be not heard further on the item of business before the Council". If the motion is seconded it shall be determined without discussion.

Member to leave the meeting

- (2) If the named Member continues his or her misconduct after a motion under paragraph (1) above has been carried, the Mayor shall either move "That the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion), or adjourn the meeting for as long as he/she considers necessary.

General Disturbance

- (3) In the event of general disturbance which in the opinion of the Mayor renders the despatch of business impossible, the Mayor may decide to adjourn the meeting of the Council for as long as he/she considers necessary.

Mayor's Power to Adjourn

- (4) The provisions of this Rule do not limit the Mayor's power to adjourn the meeting at any time under Rule 16(1).

22. Disturbance by the Public

If members of the public interrupt the proceedings of any meeting, the Mayor shall warn them regarding their conduct. If they continue the interruption, the Mayor shall order their removal from the room. In case of general disturbance in any part of the room open to the public, the Mayor shall order that part to be cleared.

23. Previous Decisions and Motions

Motion to rescind a previous decision

- (1) No motion to rescind any decision taken within the preceding six months, and no motion or amendment with the same effect as one which has been rejected within the preceding six months, shall be proposed unless notice has been given in accordance with Rule 14 and has been signed by at least 10 Members of the Council. When any such motion or amendment has been disposed of by the Council, no similar motion may be proposed within a further period of six months.

Motion similar to the one previously rejected - exceptions

- (2) This Rule shall not apply to motions moved on a recommendation of Cabinet or a Committee, or to motions or amendments moved in accordance with Rule 19.

24. Voting

Show of Hands / Voting Equipment

- (1) Voting at Council meetings shall be as directed by the Mayor, either by a show of hands or by use of the electronic voting equipment unless a Ballot is agreed under paragraph (4).

Casting Vote

- (2) The Mayor, or in his/her absence the Deputy Mayor or the Chair at the time the vote is taken shall have a second or casting vote.

Recorded Vote

- (3) Any Member of the Council may request that a recorded vote be taken on an item to record how each Member present at the meeting intended or decided to vote. This request for a recorded vote will only be acceptable if it is supported by at least five other Members and is made before the Mayor has announced the result of the vote.

Ballots

- (4) The vote will take place by ballot at the request of any Member supported by at least five other Members. The Mayor/Chair will announce the numerical result of the ballot immediately the result is known.

Right to require individual votes to be recorded

- (5) At any meeting of the Council a Member may require that his or her decision in voting for or against or abstaining on an item on the Agenda be recorded in the Minutes of the meeting. This will be effective only if it is proposed by the Member before the Mayor has announced the result of the vote.

Voting on Appointments (including Mayor and Leader)

- (6) If there are more than two persons nominated for any appointment to be filled by the Council (including the election of the Mayor and the Leader) and there is no overall majority vote in favour of one person, the following procedure will apply. The name of the person who has received the least number of votes will be struck off the list of nominations and a fresh vote will be taken. This procedure will continue until a majority vote is given in support of one of the persons nominated.

25. Failure to Attend Meetings

- (1) In accordance with the Local Government Act 1972, if a Councillor attends no meetings of the Authority for six months the Chief Executive will tell the Council (unless the Member has been granted leave of absence by the Council). The Council will consider whether the absence was caused by some reason approved by them. If they are not satisfied about the cause of the failure, the Member will cease to be a Member of the Council.

- (2) For the purpose of this Rule a meeting of the Authority shall include:-
- * the Council, Cabinet or any Committee, Sub-Committee or Panel; or
 - * any Joint Committee or Joint Board which has Council functions delegated to it;
 - * any other body at which the Member represents the Council.

26. Interests of Members which are not Disclosable Pecuniary Interests

- (1) Any Member who has an interest which is not a Disclosable Pecuniary Interest as described in paragraph 5 of the Council's Code of Conduct in any matter shall comply with the requirements of that Code in respect of that interest ("Other Interest").
- (2) A Member of the Council may declare in a register kept by the Service Director - Legal, Governance and Commissioning his/her membership of any organisation which requires details of its aims, duties or membership to be kept secret. This register will be open to public inspection during office hours.

27. Interpretation of these Rules

The ruling of the Mayor, after consultation with the Chief Executive, as to the construction or application of any of these Rules, or as to any proceedings of the Council shall be final.

(B) Members and Officers Etc

28. Leaders and Business Managers

- (1) Members of the Council may be chosen by each of the political groups on the Council to act as the Leaders, Deputy Leaders and Business Managers of those groups.
- (2) The names of the Leader, Deputy Leader and Business Manager appointed by a political group represented on the Council shall be notified to the Chief Executive. The powers of a Leader shall also be exercisable by the Deputy Leader in the absence of the Leader.

29. Inspection of Documents

- (1) A Member of the Council may, for the purposes of his/her duty as a Councillor, on application to the Service Director – Legal, Governance and Commissioning, inspect any document which has been considered by the following subject to the provisions of the Local Government (Access to Information) Act 1985 and the Local Government Act 2000 being met in relation to items determined as exempt information:

Council
a Committee
a Sub-Committee
a Panel

For the same purposes a Member may also request that he or she be supplied with a copy of the document. This will be provided if it is practicable.

- (2) Members should not inspect or request a copy of any document relating to a matter in which they have an interest, either a disclosable pecuniary interest or an other interest, as defined in the Council's Code of Conduct. The Service Director – Legal, Governance and Commissioning may decline an application from a Member to inspect a document which would be protected by privilege arising from the relationship of solicitor and client in the event of legal proceedings.
- (3) Copies of all reports and minutes associated with the following meetings shall be kept by the Service Director – Legal, Governance and Commissioning in accordance with the requirements of the Local Government (Access to Information) Act 1985 and the Local Government Act 2000.

Council
a Committee
a Sub-Committee
a Panel

These shall be open to inspection by any Member of the Council during office hours subject to the provisions of those Acts being met in relation to items determined as exempt information.

- (4) The Chief Executive or any Officer of the Council may decline a Member's request to inspect a document, if it contains confidential information. The only exceptions to this rule will be if the Member has a legal right to inspect a document or has obtained the consent of the Cabinet (for matters within its remit) or the Corporate Governance & Audit Committee (for all other matters).
- (5) All requests to inspect documents will be dealt with in accordance with the Council's Access to Information Procedure Rules. Rights in respect of documents under the control of the Cabinet are set out in Rules 26 and 27 of the rules.

30. Orders Regarding Works; Inspection of Lands, Premises, etc.

A Member of the Council shall not issue any order regarding any works which are being carried out by or on behalf of the Council. In addition he or she shall not claim, by virtue of being a Member of the Council, any right to inspect or to enter upon any land or premises which the Council has the power or duty to inspect or enter.

31. Representation of the Council on Other Bodies

If any Member of the Council is nominated or appointed by or on behalf of the Council to serve as a Member of another body, the appointment shall stand until the next Annual Meeting of the Council or until the first meeting thereafter of the Cabinet or Committee making the nomination or appointment unless:

- (a) the constitution of the other body makes different provisions

- (b) the Council (or the Cabinet, in the case of nominations made by it) at any other time resolves otherwise
- (c) the Member resigns from the outside body by the method required by the body or, if none, by notifying in writing to the Service Director - Legal, Governance and Commissioning.

32. Interest of Officers in Contracts

The Service Director - Legal, Governance and Commissioning shall keep a register to record the details of any Officer of the Council who has given notice of a pecuniary interest in a contract as described by Section 117 of the Local Government Act 1972. This register shall be open to inspection by any Member of the Council during office hours.

33. Third Party Recording¹ of Committees, Boards and Panels

- (1) The Council wants to be open and transparent in the way in which it conducts its decision-making.
- (2) Recording is allowed at all meetings of the authority² to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- (3) Filming or other recording of all meetings of the authority, whilst those meetings are to the public, is permitted^{3 4}.
- (4) Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the meeting of their intentions to record prior to the commencement of the meeting.
- (5) Recordings may only be taken overtly from the area designated for the public and;
 - a. Recording devices must be in silent mode;
 - b. No flash or additional lighting is permitted;
 - c. Recordings must be taken from one fixed position and must not obstruct others from observing proceedings.
- (6) The Chair of a meeting has the authority to instruct that recordings be stopped where⁵:
 - a. The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed;
 - b. There is public disturbance or a suspension/ adjournment of a meeting;

¹ This includes both video and audio recording.

² Including full Council, committees (boards and panels) established by full Council.

³ In accordance with any regulations relating to such matters.

⁴ All agendas will indicate that records may be made at the meeting by third parties; signage will also be displayed indicating this.

⁵ In all cases recording equipment must be switched off.

- c. The recording has become disruptive or distracting to the good order and conduct of the meeting;
- d. Continued recording is against the wishes of an individual⁶.

34. Confidentiality of Meetings and Recording of Proceedings

- (1) The Council's meetings will be held in public unless the Access to Information Procedure Rules permit the public to be excluded. Those Rules also deal with public access to documents.
- (2) Any person attending a meeting may take written notes of the proceedings.
- (3) A Member or employee of the Council shall not disclose to any person any document or any matter contained in any document which is marked "Confidential" or "not for publication" except with the permission of the Council, Cabinet, Committee, Sub-Committee, or Panel which considered the item, or if the person concerned has a legal right to inspect the document.

(C) Relating To Committees, Sub-Committees, Panels Etc

35. Appointment of Committees, Sub-Committees and Panels

- (1) The Council at its Annual Meeting will establish those Committees which are required by law and such other Committees as are deemed necessary to carry out the work of the Council during the municipal year. The Council may at any other time establish new Committees, which are considered necessary to carry out the work of the Council.
- (2) The Council subject to any statutory provision:-
 - (i) shall not appoint any Member of a 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;
 - (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. The Monitoring Officer may require other members to undertake an enhanced DBS check at her discretion where such checks are justified.

Appointment of Sub-Committees, Panels etc.

- (3) At the first meeting of a Committee in the municipal year, it shall establish such Sub-Committees or Panels as are considered necessary. Committees subject to any statutory provision,

⁶ Where members of the public raise an objection to being recorded, then those individuals will not be filmed. However continued audio recording will be permitted where the contributions are material to the resolutions to be made.

- (i) shall not appoint any Member of a Sub-Committee or Panel so as to hold office later than the next Annual Meeting of the Council.
 - (ii) may at any time dissolve a Sub-Committee or Panel or alter its membership, and
 - (iii) may delegate to any such Sub-Committee or Panel any power or duty delegated to the Committee by the Council.
- (4) A Committee may establish other Sub-Committees or Panels at any time in the municipal year.

Membership of Committees, Sub-Committees, Panels etc.

- (5) The Members on each Committee, or Sub-Committee or Panel shall (so far as legally required) be selected by each of the Political Groups represented on the Council, on the basis of their proportional representation at the date that the Committee, or Sub-Committee, or Panel is appointed.

Proportional Representation of Political Groups not to apply

- (6) The Council may determine that proportional representation shall not apply to any Committee, and any Committee may make a similar determination with respect to any of its Sub-Committees or Panels subject to compliance with the requirements of Section 17 of the Local Government and Housing Act 1989.

Substitute Members

- (7) At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members of [the same political group on](#) Committees, and Sub-Committees, (except the Health and Well-being Board, the Overview and Scrutiny Management Committee, the Overview and Scrutiny Panels, District Committees, Employee Relations Sub Committee, the Standards Committee and the Standards Sub-Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.

Changes to the Substitute Panel and Members of a Committee, Sub-Committee and Panel

- (8) The Business Manager to each Group shall provide the Service Director - Legal, Governance and Commissioning within six clear working days of notice of
- (i) any change(s) to the names of those Members included on the panel of substitutes approved by the Annual Council Meeting; and
 - (ii) any change(s) to the membership of a Committee or Sub-Committee, which do not involve a member of that substitutes panel.

Notice of Substitutes cannot be revoked

- (9) After notice of a substitution has been given for a Committee, Sub-Committee, or Panel meeting it cannot be revoked. Once a Committee or Sub-Committee, or Panel has begun the Member who has been substituted will only be entitled to attend the meeting as an observer. If a Committee or Sub-Committee or Panel meeting is adjourned the change(s) in membership will stand for the purpose of the reconvened meeting.

Membership of a Sub-Committee or Panel to include persons who are not Members of the parent Committee

- (10) The membership of a Sub-Committee or Panel may include persons who are not Members of the Committee by which the Sub-Committee or Panel was appointed.
- (11) Except in cases required by law or permitted by law and agreed by the appointing body, no co-opted member of any Committee, Sub-Committee or Panel shall be entitled to vote on any matter considered by it.

36. Observer Attendance by Councillors at Committees, Sub-Committees or Panels

- (1) Subject to paragraphs (2) and (3) below a Councillor who is not a Member of a Committee, Sub-Committee, or Panel may attend any meeting as an observer. That Councillor shall have the same speaking rights as any Member of that Committee Sub-Committee or Panel. The Councillor cannot:-
- (a) attend for any item of business in which he or she has a disclosable pecuniary interest as defined in the Council's Code of Conduct for Members and Co-optees ("the Code") unless an appropriate dispensation has been granted by the Council's Monitoring Officer.
 - (b) attend for any item of business on the Committee, Sub-Committee or Panel agenda which personally relates to them as a Councillor or otherwise.
 - (c) remain in a meeting of the Committee, Sub-Committee, or Panel after receiving advice from the Service Director – Legal, Governance and Commissioning that he or she should be excluded from the meeting.
 - (d) remain with a Committee, Sub-Committee, or Panel which is exercising a quasi- judicial or administrative function when it is considering its decision.
- (2) Any Member attending a meeting of a Committee, Sub-Committee, or Panel shall under the Agenda Item of "Membership of Committees, Sub-Committees etc." identify themselves as an observer.
- (3) Councillors who attend a Planning Committee or Sub-Committee but who:
- (a) Are not members of that Planning Committee or Sub-Committee; or

- (b) Are members of that Planning Committee or Sub-Committee but who have indicated that they will not be voting on an application because, for example, they believe that they may have predetermined it or wish to make representations rather than participate in the determination of the application, shall be entitled to speak once for a maximum of five minutes.

37. Attendance by Members of the Public - Permission to Speak

Any member of the public attending 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.

38. Appointment of Chairs and Deputy Chairs of Committees and Sub-Committees/Panels, Lead Members of Scrutiny Panels and Appointments to Outside Bodies, etc.

- (1) At the Annual Meeting of the Council, the Council will -
 - (i) appoint the Chairs and if considered appropriate the Deputy Chairs of Committees. In default of such appointments by the Council, every Committee, shall be empowered to make the appointment subject to confirmation by the Council;
 - (ii) appoint the Lead Members of the Standing Overview and Scrutiny Panels;
 - (iii) appoint the Members of Outside Bodies, except where membership is appointable by the Cabinet or a Committee, and
 - (iv) agree the dates of meetings of Committees, Sub-Committees, and Panels for the Municipal Year. The alteration of a date may be determined by the respective Chair in consultation with the Service Director - Legal, Governance and Commissioning provided that 7 days' notice of the revised date can be given.
- (2) The Council may at any other time appoint the Chairs (and if considered appropriate the Deputy Chairs of Committees) and the Lead Members of Scrutiny Panels, for the remainder of the Municipal Year.
- (3) At the first meeting of each Committee in the Municipal Year the Chair and if considered appropriate Deputy Chair of its Sub-Committees or Panels shall be appointed for that year.
- (4) Any Committee shall when appointing a Sub-Committee, or Panel under Rule 35(4), also appoint a Chair and if considered necessary a Deputy Chair.
- (5) In the absence of the Chair and Deputy Chair or Lead Member of the Scrutiny Panel (where appropriate) from a meeting, a Chair shall be chosen for the duration of that particular meeting or until the official Chair, Deputy or

Lead Member (as recognised by Council) arrives. The Chair, Deputy Chair or Lead Member (as appropriate) will then assume the Chair when the item under discussion at the time of his or her arrival has been dealt with.

- (6) The Chair and Deputy Chair of every Committee, Sub-Committee/ Panel and the Lead Member of each Scrutiny Panel shall be a Member of the Council and a Member of the Committee/ Sub-Committee/ Panel which they are appointed to Chair.
- (7) A Member of a Committee, Sub-Committee, or Panel may resign membership and the Chair or Deputy Chair of a Committee, Sub-Committee/Panel/ Sub-Group or the Lead Member of a Scrutiny Panel, may resign office by giving notice in writing to the Chief Executive. Any such resignation shall take effect on the date of receipt of the notice.
- (8) The removal from office of the Chair or Deputy Chair of a Committee may only be agreed by the Council on the recommendation of the Corporate Governance & Audit Committee. The removal from office of the Chair of the Overview and Scrutiny Management Committee or any Lead Member of a Scrutiny Panel may only be agreed by Council on the recommendation of that Committee. Only the Committee which appointed a Sub-Committee or Panel may remove the Chair or Deputy Chair of that Sub-Committee or Panel from office.
- (9) No Member of the Cabinet may be appointed as Chair of Appeals Panel, Corporate Governance and Audit Committee, Licensing and Safety Committee, a Planning Area Sub-Committee, Overview and Scrutiny Management Committee (or as the Chair of Health Scrutiny Panel), or Standards Committee.

39. Quorum of Committees, Management Boards, Sub-Committees and Panels

- (1) Except where ordered by the Council, or authorised by statute, business shall not be transacted at a meeting of any Committee, unless at least one third of the number of the body are present, rounded up to the next whole number if one third is not a whole number.
- (2) Except where ordered by the Council, or authorised by statute or by the Committee which has appointed it, business shall not be transacted at a meeting of any Sub-Committee or Panel unless at least one third of the number of the Sub-Committee or Panel are present, rounded up to the next whole number if one third is not a whole number.
- (3) If the Chair declares there is not a quorum present then the meeting will adjourn immediately. Remaining business will be considered at a date and time fixed by the Chair. If no such date is fixed the business will be considered at the next meeting.
- (4) Where a Committee or Sub-Committee sits to consider an appeal, only those Members who are eligible to attend shall count for the purpose of a quorum.
- (5) No quorum may be less than two Members.

- (6) Committees, Sub-Committees and Panels shall be entitled to meet and transact business prior to the appointment of Co-opted Members.
- (7) Co-opted Members of a Committee, Sub-Committee or Panel shall only be counted for the purposes of a quorum at a meeting, if the Committee, Sub-Committee or Panel has no delegated powers and can only make recommendations.

40. Meetings of Committees, Sub-Committees and Panels and Agenda Papers

- (1) Every scheduled meeting of a Committee, Sub-Committee or Panel shall be summoned by the Service Director - Legal, Governance and Commissioning through the issue of a notice for the meeting where practical at least 7 days prior to the meeting. The items of business for consideration at the meeting will be set out in the Agenda for the meeting. No additional items of business will be allowed unless the Chair for the meeting determines that they are urgent.
- (2) The Leader of each Political Group (or in his/her absence the Deputy Leader of each Group) shall notify the Chief Executive, in writing, not less than 14 days before the date of the intended meeting to which the item should be submitted of any item(s) which he/she wishes to include on the Agenda of any Committee, Sub-Committee or Panel of the Council. The notification shall include such information as is necessary to enable the Chief Executive to determine whether the subject matter requires consideration by the Committee, Sub-Committee or Panel. The Chief Executive shall determine the appropriate body to which the item shall be referred and notify the Group Leader (Deputy Group Leader) of the date of that meeting which shall be the next available meeting. Any item which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper shall not be accepted and the decision of the Chief Executive shall be final.
- (3) The Chair (or Deputy Chair) of a Committee, Sub-Committee or Panel with the approval of the Leader of the Council, may instruct the Service Director – Legal, Governance and Commissioning to call a meeting of a Committee, Sub-Committee or Panel at any time.
- (4) An additional meeting of a Committee, Sub-Committee or Panel can be summoned if the Service Director - Legal, Governance and Commissioning receives a request in writing from at least half of the Members of the Committee, Sub-Committee or Panel to do so. Service Director - Legal, Governance and Commissioning in consultation with the Chair may also summon a special meeting upon any emergency. The summons for such meetings shall set out the business for the meeting and no other items of business will be considered.

41. Procedure Rules to apply to Committees, Sub-Committees and Panels

Procedure Rules 9, 10, 11, 15 and 18 (except those parts which relate to speaking more than once) 20, 21, 22, 25, 26, 27 and 34 shall, with any necessary modifications, apply to meetings of Committees, Sub-Committees and Panels.

42. Voting in Committees, Sub-Committees or Panels

- (1) Voting at a meeting of a Committee, Sub-Committee or Panel shall be by a show of hands or by use of the electronic voting equipment, where appropriate. Alternatively the Committee, Sub-Committee or Panel may require the Service Director - Legal, Governance and Commissioning to take a vote by ballot on any motion or amendment which is put to the meeting.
- (2) The Chair at a Committee, Sub-Committee or Panel meeting shall have a second or casting vote in the case of an equality of votes.
- (3) If there are more than two persons nominated for any appointment to be filled and there is no overall majority in favour of one person the following procedure will apply. The name of the person (or persons, if equal) who has received the least number of votes will be struck off the list of nominations and a fresh vote will be taken. This procedure will continue until a majority vote is given in support of one of the persons nominated.
- (4) At any meeting of a Committee, Sub-Committee or Panel (including joint bodies etc.) a Member may require that his or her decision in voting for or against a question (or his or her abstention from voting) be recorded in the Minutes of the meeting. Such a requirement must be proposed by the Member immediately after the vote is taken.
- (5) At any meeting of a Strategic Planning Committee or a Planning Sub-Committee a recorded vote of decisions on Planning Applications shall take place.

43. Working Parties, etc

- (1) Any Committee, Sub-Committee or Panel may establish a Working Party or Sub-Group (which may include Officers) to undertake a detailed study of any matter(s). A Working Party or Sub-Group shall not have delegated powers and shall not constitute a formal Sub-Committee.
- (2) The terms of reference for any Working Party or Sub-Group shall state their objectives and dates etc. for reporting on their findings.
- (3) The Chair (and Deputy Chair) of a Committee, Sub-Committee or Panel responsible for establishing a Working Party or Sub-Group if not appointed in their own right, shall be entitled to attend and speak at all meetings.

44. Reports to Council

- (1) The Chair may request the Service Director - Legal, Governance and Commissioning to include in the report of a Committee, a reference to any particular matters which were considered in the meeting.
- (2) In accordance with the Agenda for the Council meeting.
 - (a) The Chair of a Committee, (or in their absence any other Member of the Committee) shall propose a motion to seek the Council's approval on

any matter expressly referred by the Committee, to Council for determination.

- (b) The Mayor (or in his/her absence the Deputy Mayor or any other Member of the Council) shall propose a motion to seek the Council's approval to the receipt of any report of a meeting of Cabinet or any Committee.

45. Reports of Sub-Committees and Panels

A report of the proceedings of a Sub-Committee or Panel meeting shall be presented to the next convenient meeting of the parent Committee or Cabinet.

(D) Miscellaneous

46. Variation and Revocation of Procedure Rules

- (1) Any motion to add to, vary or revoke these or any other Procedure Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
- (2) Paragraph (1) of this Rule shall not apply to any review of Procedure Rules proposed at the Annual Meeting of the Council or to a specific recommendation by the Cabinet or a Committee to the Council to add to, vary or revoke any Procedure Rules.

47. Suspension of Procedure Rules

- (1) At any meeting a motion may be moved to suspend the use of any of the preceding Procedure Rules for any item(s) of business included on the Agenda for that meeting. The Motion should specify the relevant Council Procedure Rule/s to be suspended.
- (2) A motion to suspend Procedure Rules shall not be moved without notice unless at least one half of the Members of the Council, Committee, Sub-Committee or Panel are present.

48. Standards of Conduct in Public when representing the Council

Members have an obligation when taking part in Council and Committee meetings etc, held in public to comply with the protocol on standards of conduct in public approved by the Standards Committee and incorporated in Part 5 of the Constitution.

49. Appointment of Leader or Mayor Other than at Annual Meetings of Council

- (1) In the event that the Leader of the Council resigns part way through his or her term of office, or is incapacitated (to such an extent that they are no longer able to reasonably carry out their duties and responsibilities as Leader) or otherwise dies in office the Deputy Leader will act as Leader of the Council in accordance with Article 7 of the Council Constitution until such time as an election takes place and a new Leader of the Council is successfully elected. Such an election shall take

place at the next possible meeting of Council or at an Extraordinary Meeting of Council convened for such a purpose.

- (2) In the event that the Mayor resigns from office part way through his or her term of office or otherwise dies in office the Deputy Mayor shall act in his or her place for the remainder of the Mayors term of office.

50. Relevant Definitions

“Municipal Year” defines the period between each meeting of Annual Council, which normally take place during May.

“Group Leaders” is the term referring to the Leader of each political group which is represented on the Council.

“Key Discussion” is the description of format for a presentation followed by a discussion and debate which takes place over 60 minutes at ordinary meetings of the Council which are designated as Key Discussion meetings.

“Council Petitions Debate” is the description of part of the Council’s Petition Scheme as referred to in CPR 9a, which provides that if a petition is validated to be containing 3000 signatures (or more) from different persons on a subject matter that is relevant to the powers and duties of Kirklees, a debate on the matter shall be scheduled at a meeting of Council.

51. Remote Meetings

- (1) *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* make provision for remote attendance at, and remote access to, council meetings held on or before 7 May 2021.
- (2) The regulations enable the council to hold meetings without all, or any, of the members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing.
- (3) The ‘place’ at which the meeting is held may be a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address, or a conference call telephone number.
- (4) In order for members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard (and, where possible, see and be seen by) other councillors and members of the public attending remotely or in person.
- (5) The procedure rules in this constitution apply to remote meetings in the same way as they do for other meetings of the council except where they conflict, in which case this procedure rule takes precedence over other procedure rules in relation to the governance of remote meetings.

Process

- (6) The council facilitates remote attendance and access to its meetings through the medium of Microsoft Teams Live, which enables the following to take place:
 - (a) Contributions to be received from people using a wide variety of devices, not all of whom are on the council network;
 - (b) Being accessible to both participants and members of the public who are not taking an active role but just observing;
 - (c) Presentations and documents (maps, plans, etc) to be displayed and spoken to.
- (7) Before the meeting, any document to be referred to during the meeting should be shared with participants and published (where appropriate) in advance on the council's website, and those presenting should ensure that every page and slide is numbered, wherever possible.
- (8) All participants should refer separately to Part 5.11 of the Constitution, the Protocol for Online Meetings.
- (9) The Chair and the Officer of the Council assisting the meeting may:
 - (a) Pause (adjourn) the meeting by taking down the stream (live feed) from public viewing and then resuming it when needed.
 - (b) Mute someone speaking at any time.
 - (c) Mute everyone speaking except themselves at any time.
 - (d) Allocate different levels of access to people logging in
 - (e) Allow the committee to deliberate in private by using available technology to ensure only those members and officers can participate. The live stream can then be resumed when needed.

Questions by members of the public

- (10) Only written questions from the public may be considered at remote meetings. Any questions should be submitted in accordance with the deadline as set out on the published agenda. The Leader or relevant Cabinet Member will provide an oral response to any questions received, or if they are not able to do so, a written response will be provided. A maximum of 4 written questions may be submitted per person.

Voting

- (11) To undertake a vote at a remote meeting, the Chair, or an Officer of the Council supporting the meeting, will perform a roll-call of all Members present and ask them to state their voting intention (For, Against or Abstain). At the conclusion of the vote the Chair or Officer shall announce whether the motion has been passed or lost.

Access to information

- (13) The requirement to ensure meetings are open to the public includes access by remote means, including video conferencing, live webcast

and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

- (14) Any requirements for the authority to ensure publication, posting or making available a document for inspection at offices of the council include publication on the council's website.

Name of meeting: Corporate Governance & Audit Committee

Date: 22nd April 2022

Title of report: Proposed Revisions to Contract Procedure Rules

Purpose of report; To provide information on proposed changes to Contract Procedure Rules for the municipal year 2022/23

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	J Muscroft Service Director - Legal Governance and Commissioning
Is it also signed off by the Service Director for Finance, IT & Transactional Services	Yes
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Yes
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Have you considered GDPR; Yes

Public

1. Summary

- 1.1 This report sets out information on proposed changes to Contract Procedure Rules for the year 2022/23
- 1.2 The CPRs ensure that the Council is acting in line with current legislation and other developments in public law when conducting procurements. A more fundamental review of the CPRs will be undertaken at the appropriate time in line with any legislative changes relating to the outcome of Green Paper; Transforming Public Procurement.
- 1.3 The proposed changes relate to; some restructuring to make it easier to follow and locate appropriate rules in relation to preparation and process; an updated table on procurement process to reflect UK procurement thresholds and highlighting the requirement to engage with other corporate services as appropriate, a refreshed section on tender receipt following a review of our tender opening process, an addition to include novation of contracts and updated procurement thresholds.

2. Information required to take a decision

- 2.1 The detail relating to all changes is contained within a summary schedule, Appendix 1.
- 2.2 All the text changes are marked in Appendix 2 by track changes.

- 2.3 A clean copy of the revised contract procedure rules can be seen at Appendix 3
- 3. Implications for the Council**
- 3.1 **Working with People** – None directly
- 3.2 **Working with Partners** – None directly
- 3.3 **Place Based Working** – None directly
- 3.4 **Improving outcomes for children**– None directly
- 3.5 **Climate change and air quality**- None directly
- 3.6 **Other (e.g. Legal/Financial or Human Resources)**- Although each of the sub categorisations above suggest no direct implications, these Contract Procedure Rules covers all aspects of the councils operations. These updated CPRs reflect good procurement practice which in turn supports the Council Plan by using procurement activity to help achieve the Council’s wider objectives and outcomes. The legal obligation to have CPR’s is to comply with Section 135 Local Government Act 1972 and the Public Contracts Regulations 2015
- 4. Consultees and their opinions**
- 4.1 Consultation has been carried out with the Head of Audit and Risk, Head of Corporate-Legal and officers in the Procurement Service. All Heads of Service have had the opportunity to comment and feedback via a short survey.
- 5. Next steps & Timelines**
- 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 Contract Procedure Rules and recommend them to Annual Council for approval.
- 7. Cabinet portfolio holder recommendation**
- 7.1 Not applicable.
- 8. Contact officer**
Jane Lockwood, Head of Procurement (01484 221000)
- 9. Background Papers and History of Decisions**
The attached document includes track changes. The 2021 version of CPRs is available as a part of the council constitution
- 10. Service Director responsible**
Julie Muscroft, Service Director- Legal, Governance and Commissioning
Eamonn Croston, Service Director-Finance

Paragraph / Section	Proposed Changes
Rule 2 Preparation & Process	The detail within this section has not changed (with exception of moving text to 7.1.3 & 7.1.5 as described below). The order and flow of this section has been reviewed and restructured with the addition of headings to make it easier to follow and locate appropriate rules in relation to preparation and process.
Rule 3 Procurement Process	<ul style="list-style-type: none"> • 3.1 Table; Values have been removed and replaced with “threshold” (thresholds are updated and located at Appendix 1). • Supplies £0-£24,999 – Advertising; this section has been updated to make clearer the requirements for notify Corporate Procurement of contracts awarded in excess of £5,000 and below £24,999 using the contract award notification form which is available on the intranet. • Procurement Process £25,000 – Threshold, and Above Threshold; these sections have additional wording to remind services of the need to consult with of corporate services more broadly as appropriate, for example Information Governance where contracts involve processing of personal data.
Rule 4 Tender Receipt & Evaluation	<p>4.4 Following an internal review of our tender opening process and the implementation of a new eProcurement system some adjustments are noted in this section;</p> <p>4.4.1 – Updated to reflect that the unique procurement reference and title will be recorded</p> <p>4.4.2 – Updated to reflect that the system records the time of submission</p> <p>4.4.3 – Updated to reflect that this applies to restricted tender opportunities</p> <p>4.4.5 – Is an addition to record the name of the individual from the procurement team opening the tender</p> <p>4.4.6 – Updated to reflect that this applies to any tenders submitted outside of the eProcurement Portal</p> <p>4.4.7 – “any reason for rejecting any tender” This sentence has been removed as tenders cannot be rejected at this point in the eProcurement Portal / process.</p>
Rule 7 Record Keeping & Recording	<p>7.1 This section has been updated. Text has moved from section 2;</p> <p>7.1.3 the dividing of large procurement into Lots</p> <p>7.1.5 a risk log</p> <p>7.1.4. is a new addition; this is in relation to recording of consideration of social value in the commissioning and procurement activities</p>

Rule 8 Income Contracts & Concessions	8.10 value has been removed and replaced with “threshold”
Rule 11 Variation & Termination of Contracts	11.9 is a new addition to include novation of contracts
Definitions	
eProcurement Portal (Yortender)	Link has been updated to the new eProcurement Portal; <u>YORtender (eu-supply.com)</u>
Land	Definition of land has been added
Appendix 1 Thresholds	This section has been updated to reflect the most up to date UK Procurement Thresholds

**KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES**

MAY~~JUNE~~ 2022~~1~~

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INTRODUCTION

These Contract Procedure Rules (CPRs) 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.

These Contract Procedure Rules cover the Procurement of all Supplies (goods, works and services) and Income Contracts.

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 proportionate and relative to the need which the Supply fulfils and should appropriately balance the value of, and risks associated with, any proposed action.

Where the council wishes to obtain the delivery of goods, works, or services, the use of procurement is the usual method. Grants should only be used to assist or support objectives of another organisation. In some instances, CPRs will apply to grants (see [Appendix 4](#) [Appendix 4](#)).

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 take every opportunity to consider how improvements to the economic, social and environmental wellbeing of the district (social value) can be generated and enhanced in contracts and procurement processes, including encouraging the participation of local businesses in Council tenders.

RULE 1 – CONDUCT AND COMPLIANCE AND WAIVER

- 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.
 - 1.4.3 a suitably experienced and trained officer is identified to adequately manage the Contract for every contractual relationship the Council enters into.
- 1.5 When authorising staff to procure Supplies on their behalf, each Service Director must set a financial (or other) limit on the authority vested in individual officers to procure the Supplies. Such limits must be recorded in the relevant Scheme of Officer delegations. An officer wishing to commence a procurement exercise and/or commit the council to contractual obligations must ensure that:
 - 1.5.1 they have the Cabinet authority or a written approval of the delegated decision by an authorised officer under the Scheme of Officer Delegation to incur the expenditure and provide details to the Head of Corporate Procurement.
 - 1.5.2 officer executive decisions are recorded accurately and promptly including the relevant information required, such as the context in which the decision was taken, the reasons for the decision and alternative options considered.
 - 1.5.3 all significant officer decisions taken relating to the procurement exercise (i.e. decisions which may be of interest to councillors and/or the public) are recorded
 - 1.5.4 where a Supply is a Key Decision, a Key Decision Notice (KDN) has been published in a Notice of Forthcoming Key Decisions.
- 1.6 The Head of Procurement may:-
 - 1.6.1 authorise officers who are not procurement officers under their managerial responsibility to act on their 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 them under CPR 1.3;
 - 1.6.3 undertake a review of procurement arrangements and practices, and value for money within any service area, in consultation, as appropriate, with the Service Director, Solicitor to the Council, Chief Finance Officer and Head of Internal Audit.

- 1.7 The Head of Procurement must record the precise extent of such authorisations and the officer to which roles have been delegated and share these authorisations with the Solicitor to the Council and the Head of Internal Audit.
- 1.8 A Service Director has authority to commence any Procurement subject to:
- 1.8.1 compliance with these CPRs and FPRs; and
 - 1.8.2 having appropriate delegated authority; and
 - 1.8.3 compliance with management processes designed to ensure that proposed projects meet the Council's business needs; and
 - 1.8.4 seeking Value for Money.
- 1.9 These CPRs are a minimum standard and a more prescriptive procurement regime must be followed where this is required by UK law and agreements with Grant funding organisations.
- 1.10 The Head of Procurement, the 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:
- 1.10.1 the Head of Procurement – Good Procurement Practice;
 - 1.10.2 Solicitor to the Council – UK Procurement Rules and other laws and Corporate Governance;
 - 1.10.3 Head of Internal Audit – Procurement project related financial management, Best Value and Risk.
- 1.11 Any dispute concerning interpretation of these CPRs must be referred to the Head of Internal Audit who, in consultation with the Solicitor to the Council, may provide clarification and determination.
- 1.12 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, and the Solicitor to the Council provided that:-
- 1.12.1 the post holders to whom these duties are assigned must hold general competencies as follows:-
- 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 Solicitor to the Council.
 - the same degree of separation of officer responsibility for the duties is maintained.

Conflicts of Interest and Integrity¹

- 1.13 Service Directors shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all economic operators.

¹ Officers should also familiarise themselves with the FPRs 17 and 18, Chapter 7 of the Employee Handbook and Part 5.6 of the Council's Constitution and Members should also refer to Part 5.1 of the Constitution.

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- 1.14 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 they become aware of a potential Conflict of Interest and update the declaration in the event of any changes.
- 1.15 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.
- 1.16 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. Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000, 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 consultation with the Solicitor to the Council and/or the Head of Internal Audit, and undertake these consultations as necessary.
- 2.2. The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with UK Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service, Find A Tender Service (FTS) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.
- 2.3. Each Service Director must ensure:
 - 2.3.1. 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 the scope of these CPRs or the UK Procurement Rules, unless justified by objective reasons.
 - 2.3.2. Where the cost of the Supply is less than the UK 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 UK Procurement Rules.
 - 2.3.3. The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding the UK supplies and services threshold.
 - 2.3.4. The process can be adequately resourced.
 - 2.3.5. The appointment of an officer to carry out supervision of the resulting contract(s) in accordance with Financial Procedure Rule 21.8.

Compliance

~~2.3.5-2.3.6~~ 2.3.6. Each Procurement complies with the following:-

- a. it is justified by a business case (that includes a risk assessment) approved by a Senior Manager with relevant authority to purchase; and
- b. a Whole Life Costing Approach underpins the specification of the Supply;

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- 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 6.14), consortia and other suppliers (Service Director should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.12 & 6.13).

~~2.3.6.2.3.7. The Supply is likely to be within budgetary provision (see CPR 10.14)~~

Estimated Value

~~2.3.7.2.3.7. Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.~~

~~2.3.7.2.3.8. 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.

~~2.3.8. Where the cost of the Supply is less than the UK 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 UK Procurement Rules.~~

~~2.3.9. The Supply is likely to be within budgetary provision (see CPR 10.14)~~

~~2.3.0.1.1.1. Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.~~

~~2.3.10.1.1.1. The process can be adequately resourced.~~

Bonds

2.3.10. All supply contracts relating to:

- a. capital construction works in excess of £300,000
- b. any IT contracts that involve pre operational payments in excess of £300,000
- c. any contracts with a total consideration in excess of £3m

will be bonded in the sum of 10% of the Tender value, except where the Solicitor to the Council and Head of Internal Audit agree either:-

- i. No bond is necessary; or
- ii. A different value (or percentage) is appropriate; and or
- iii. A parent company guarantee or other form of surety can be accepted instead.

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The Specification

- 2.4. In preparing a Specification, the Service Director should consider how the procurement activity might meet the Councils wider policy and strategy but subject always to ensuring full compliance with UK procurement legislation. Service Directors must also consider how what is proposed to be procured might improve the economic, social and environmental wellbeing of Kirklees.
- 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. The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.102-102-4-10) and other procurement documentation must be created. The documents by must be likely to be understandable by all reasonably well informed people in the relevant industry in the same way.

Award Criteria

- 2.7. 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 3.53-5-3.93-9) and must be proportional to the contract's main objectives.
- 2.8. The Head of Procurement is consulted at the preparatory stage if conducting interviews or receiving presentations is considered to be beneficial to the process (also see CPRs 4.164-16-4.174-17).

Contracting

2.8-2.9. For contracts up to the UK supplies and services threshold, other than Land Contracts, the Service Director shall wherever possible use appropriate standard 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 Solicitor to the Council considers to be necessary (the Solicitor to the Council need not be consulted, but guidance must be followed).

2.9-2.10. For contracts above the UK-supplies and services threshold, other than Land Contracts the Service Director must consult with the Solicitor to the Council who will prepare contract documentation appropriate for the contract.

~~2.9.1. Where a competitive process is being carried out, a transparent, unambiguous and clearly~~

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~~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 3.5–3.9) and must be proportional to the contract's main objectives.~~

~~2.9.2. Consideration of whether it would be appropriate to divide large procurements into contract Lots² and must record the decision and reasoning.~~

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~~2.9.3. The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding the UK supplies and services threshold.~~

~~2.9.4.1.1.1. The appointment of an officer to carry out supervision of the resulting contract(s) in accordance with Financial Procedure Rule 21.8.~~

~~2.9.5.1.1.1. All supply contracts relating to:~~

- ~~a. capital construction works in excess of £300,000~~
- ~~b. any IT contracts that involve pre-operational payments in excess of £300,000~~
- ~~c. any contracts with a total consideration in excess of £3m~~

~~will be bonded in the sum of 10% of the Tender value, except where the Solicitor to the Council and Head of Internal Audit agree either:~~

- ~~i. No bond is necessary; or~~
- ~~ii. A different value (or percentage) is appropriate; and or~~
- ~~iii. A parent company guarantee or other form of surety can be accepted instead.~~

~~2.9.6. A risk log is maintained during the Procurement process.~~

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~~2.10. The Head of Procurement is consulted at the preparatory stage if conducting interviews or receiving presentations is considered to be beneficial to the process (also see CPRs 4.16-4.17).~~

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~~2.11. Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000, 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 consultation with the Solicitor to the Council and/or the Head of Internal Audit, and undertake these consultations as necessary.~~

~~2.12. The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with UK Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service, Find A Tender Service (FTS) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.~~

²This is not the same thing as disaggregation. Please contact Corporate Procurement if there is any doubt about what this means.
craker@windsor.gov.uk or procurement@windsor.gov.uk or procurement@windsor.gov.uk

~~2.13. 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.~~

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Data Processing

~~2.14-2.11. 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.~~

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2.15-2.12. Where any Supplier is given possession of, or access to, any personal data, the Service Directormust have regard to the Council’s obligations as regards the Data Protection Legislation. The Service Director must follow the Council’s Information Security Policy, in particular regarding contracting with data processors, sharing data and consulting with the Information Governance Team. The Service Director must ensure that:

- 2.15-1-2.12.1. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
- 2.15-2-2.12.2. appropriate guarantees of the security of the personal data are included within a written contract;
- 2.15-3-2.12.3. the performance of the contract is appropriately monitored;
- 2.15-4-2.12.4. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
- 2.15-5-2.12.5. appropriate steps are taken to minimise as far as possible the impact of a breach of data security;
- 2.15-6-2.12.6. 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.~~

Collaboration

2.16-2.13. The potential for genuine collaboration with other public bodies must be considered when planning a procurement exercise.

2.17-2.14. 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 Organisation and the Crown Commercial Service); any 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 - PROCUREMENT PROCESS

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

Value of Supplies	Requirement		
	Procurement Process	Advertising	Min no. of Suppliers
£0 - £24,999.99	<p>Any Reasonable Means to select are permitted. Reasons to justify the decision taken must be recorded,</p> <ul style="list-style-type: none"> Where practicable, suppliers from Kirklees (and/or West Yorkshire) area are encouraged and should be invited to submit quotes. Officers need to ensure that purchases achieve best value for the Council and an audit trail is maintained to demonstrate this. 	<p><u>1. Any reasonable means</u></p> <p><u>2. A Contract Award notification form needs to be completed for values in excess of £5,000 and up to £24,999. This must be reported to Corporate Procurement</u></p>	3
£25,000 – £180,000 Threshold	<p>One of the following:-</p> <ul style="list-style-type: none"> Quotations (CPRs 3-4) Framework Suppliers, Standing Lists, etc. (CPR 5) Exceptions (CPR 6) Internal, Consortia & Compulsory(CPR 6) <p><u>In addition;</u></p> <ul style="list-style-type: none"> <u>Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary</u> 	<p>As the Head of Procurement determines</p> <ol style="list-style-type: none"> From a standing list An approved Framework Agreement An approved Dynamic Purchasing System Advertise on eProcurement Portal, ContractsFinder PLUS other reasonable advertising means 	<p>Below £100,000 – 3</p> <p>Above £100,000 – 4</p>
Above £180,000 Threshold	<p>One of the following:-</p> <ul style="list-style-type: none"> Tenders (CPRs 3 - 4) Framework Suppliers, Standing Lists, etc. (CPR 5) Exceptions (CPR 6) <u>Internal, Consortia & Compulsory(CPR 6)</u> <p><u>In addition</u></p> <ul style="list-style-type: none"> <u>Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary</u> <u>The Legal Service will perform the execution of any contract(s).</u> 	<p>Advertise on eProcurement Portal, Contracts Finder, FTS and in other media if appropriate; or</p> <p>Use approved Framework Agreement; or</p> <p>Use approved Dynamic Purchasing System</p>	5

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- 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.
- 3.3. A Service Director must invite at least the number above of suppliers to submit a written Tender, unless:-
 - 3.1.1 an **approved**³ 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
 - 3.1.2 it is otherwise agreed with the Head of Internal Audit in consultation with the Solicitor to the Council.
- 3.4. The Suppliers must be reasonably capable of, or have indicated that they are willing to, submit a Tender. If it is not possible to identify the number of suitable and/or 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

- 3.5. Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of Suitability.
- 3.6. Where the procurement process has an overall value of less than the supplies and services UK threshold, 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.
- 3.7. When operating a procurement process with a value above the supplies and services UK threshold, the Service Director must use the Council's standard selection questionnaire 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.
- 3.8. The selection of any potential Supplier to submit a Tender 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 UK Procurement Rules, minimum standard and/or pass marks must be published in the relevant FTS contract notice or invitation to confirm interest.
- 3.9. 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.

³ See CPR 5.17

<https://www.councilofwindsor.gov.uk/procurement/procurement-2022-23/procurement-2022-23-4ajix-cpr-2022>

- 4.10.2 the mathematical formula to determine the rankings of the bids (or each variant where variants are permitted) is disclosed; and
 - 4.10.3 the written agreement of the Head of Internal Audit has been given; and
 - 4.10.4 the process is subject to supervision by the Head of Procurement.
- 4.11 The Service Director will require tenderers to explain the price or costs proposed in their tender where tenders appear to be abnormally low.
- 4.12 The Service Director must ensure that, where required by UK 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 Solicitor to the Council that the debrief process has completed satisfactorily prior to formal acceptance of any Tender.
- 4.13 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 4.15) take action as necessary, taking guidance from the Solicitor to the Council and the Head of Internal Audit.
- 4.14 If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the 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 Solicitor to the Council advises about confidentiality and Legal Privilege.

Clarifications, Presentations and Interviews

- 4.15 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:
- 4.15.1 set an appropriate time limit for a reply; and
 - 4.15.2 do not request changes or otherwise seek to influence the bidder; and
 - 4.15.3 deal with all of the matters in the Tender which are incomplete or erroneous or unclear; and
 - 4.15.4 treat all tenderers equally and fairly and so, for example, the request:-
 - a. must not occur before all of the bids have been subject to an initial evaluation;
 - b. must not unduly favour or disadvantage the bidder to whom the request is addressed; and
 - c. must be sent in the same way to all bidders unless there is an objectively verifiable ground justifying different treatment.
- 4.16 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. All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.
- 4.17 Interviews and/or presentations which form part of the bid must be authorised by the Head of Procurement in writing. They must also be:

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- 4.17.1 Comprehensively recorded; and
- 4.17.2 assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and
- 4.17.3 supervised by the Head of Procurement.

RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE

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

Standing Lists

- 5.2 The Head of Procurement will determine for which types of Supply Council-wide Standing Lists must be kept (see CPR 6.12). 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.
- 5.3 Standing Lists may be used for Supplies where the aggregated value (in compliance with the UK Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant UK Threshold.
- 5.4 Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the eProcurement Portal, Contracts Finder and other appropriate media as the Head of Procurement may determine. 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.
- 5.5 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.
- 5.6 The Head of Procurement (in consultation with the 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.
- 5.7 If there are insufficient suppliers on a Standing List, or too few are willing to submit Tenders, to meet the CPRs Tender requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 5.8 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

- 5.9 Framework Agreements and Dynamic Purchasing Systems may be used to source contracts for appropriate types of Supplies (subject to compliance with the UK Procurement Rules, as applicable).

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- 5.10 Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a Supply contract and in accordance with the UK Procurement Rules.
- 5.11 All Framework Agreements will be in the form of a written agreement 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.
- 5.12 Framework Agreements above the UK 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.
- 5.13 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.
- 5.14 Dynamic Purchasing Systems must:
 - 5.14.1 be set up by an advertised competitive process which is approved by the Head of Procurement; and
 - 5.14.2 remain advertised; and
 - 5.14.3 not limit the number of suppliers admitted to the system (but the system may be split into categories); and
 - 5.14.4 be set up with clear operative rules which involve obtaining Tenders from all suppliers on the system, or on the relevant category on the system, as appropriate; and
 - 5.14.5 be operated wholly electronically; and
 - 5.14.6 be open to new entrants; and
 - 5.14.7 be subject to consistent due diligence assessments of DPS participants
- 5.15 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.
- 5.16 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.
- 5.17 The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems which Service Directors are permitted to use.

Use of Third Party Procurement Facilities

- 5.18 Supplies may be obtained through third party Frameworks Agreements (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:
 - 5.18.1 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 5.1);
 - 5.18.2 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);
 - 5.18.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;
 - 5.18.4 where the UK procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 6 – EXCEPTIONS FROM COMPETITION

- 6.1 Subject to compliance with the UK Procurement Rules the following are exempted from the competitive requirements of these CPRs⁴:
- 6.1.1 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;
 - 6.1.2 items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit);
 - 6.1.3 the selection of a supplier whose usage is a condition of a Grant funding approval;
 - 6.1.4 the selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party;
 - 6.1.5 where CPR 6.12 applies;
 - 6.1.6 counsel or other external legal advice, provided that the Solicitor to the Council takes steps to ensure that value for money is being obtained;
 - 6.1.7 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;
 - 6.1.8 direct award from an approved Framework Agreement (see CPR 5.18) 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 UK Procurement Rules;
- 6.2 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. Value for money must be evidenced and recorded.
- 6.3 Trial Purchases**
- 6.4 Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000 without competition in order to ascertain if the Supply is of interest to the Council. Where an exception to competition in CPR 6.1 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.
- 6.5 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 £25,000.
- 6.6 The procuring Service Director and the Head of Procurement may decide that;
- 6.6.1 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.
 - 6.6.2 Following receipt of Tenders 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 Tenders.

⁴ When the UK Procurement Rules apply, these exemptions may not be permitted (Directors must check this)

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- 6.6.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
- 6.6.4 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 UK 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 their own Service Director, there must be consultation with the Head of Internal Audit.

Negotiated Contracts

- 6.7 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.
- 6.8 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 6.9 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

- 6.10 The Solicitor to the Council must be consulted in advance of any negotiation in respect of any contract estimated to exceed the UK threshold (except those in relation to Land where the Head for Corporate Property Management should be consulted irrespective of value).
- 6.11 Before a decision pursuant to CPRs 6.1 to 6.3 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, they must consult with the Solicitor to the Council about the possibility of subsidy control before approving the exemption from competition.

Mandatory suppliers, frameworks agreements or dynamic purchasing systems

- 6.12 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 UK Procurement Rules and the possibility of state aid) that the use of one (or more) Suppliers is compulsory.
- 6.13 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.
- 6.14 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:-
 - 6.14.1 where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
 - 6.14.2 in respect of the outsourcing of an activity having a value below £100,000;
 - 6.14.3 in respect of services provided within schools;

6.14.4 in respect of ad hoc services for the design and construction of buildings or parts of buildings.

RULE 7 - RECORD KEEPING AND REPORTING

7.1 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:-

- 7.1.1 communications with economic operators and internal deliberations;
- 7.1.2 preparation of the procurement or sale documents;
- 7.1.3 the dividing large procurements into contract Lots;
- 7.1.4 consideration of social value in the commissioning and procurement process
- 7.1.5 any interviews, other dialogue or negotiation;
- 7.1.6 A risk log;
- 7.1.7 supplier vetting; and
- 7.1.8 reasons for award of the contract.

The documentation must be kept for a period as defined within the Councils relevant retention schedule.

- 7.2 A full trail of electronic Tenders received must be recorded on the eProcurement Portal or retained in a database approved by the Head of Internal Audit.
- 7.3 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 2).
- 7.4 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 UK Procurement Rules.
- 7.5 Each Service Director must promptly provide to the Head of Procurement the information specified in Appendix 2.
- 7.6 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 7.3 above).
- 7.7 The Service Director must keep a written record of the reasons for using a negotiated procedure

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RULE 8 - INCOME CONTRACTS & CONCESSIONS

- 8.1 CPR 8 Includes nil value and disposal contracts but excludes Land.
- 8.2 CPRs 8.2 to 8.8 apply when the Council intends to derive income from:-
 - 8.2.1 the disposal of property (other than Land);
 - 8.2.2 the sale of a right to exploit a business opportunity;
 - 8.2.3 the operation of business activity.
- 8.3 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

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consulted and they will decide whether this amounts to a Grant (and so FPR 4 applies instead of CPR 8).

The disposal of an asset

8.4 The procedure for the disposal of assets is:-

- 8.4.1 assets valued up to £25,000 must be disposed of by a method chosen by the Service Director and a written justification of the choice retained;
- 8.4.2 assets valued above £25,000 must be disposed of following public notice either by open Tender process, closed Tender process involving at least 3 prospective purchasers or public auction. The use of the Council web site is permissible for this purpose.

8.5 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

8.6 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 asset 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.

- 8.6.1 A business opportunity contract that will not generate income in excess of £25,000 over the duration of the contract may be sourced by any reasonable means and should be arranged and undertaken by the Service Director responsible for the activity.
- 8.6.2 The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £25,000.

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

8.7 If an Income Contract is intended to be or become profitable or be commercial in nature, advice must be obtained from the Solicitor to the Council.

8.8 If an Income Contract has any potential to distort the relevant market advice must be obtained from the Solicitor to the Council.

Concession Contracts

8.9 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.

8.10 Concession contracts for works or services ~~above UK thresholds 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

8.11 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.

- 8.12 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.
- 8.13 When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account:-
- 8.13.1 the value of any form of option and any extension of the duration of the contract;
 - 8.13.2 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;
 - 8.13.3 payments or any other financial advantages, in any form, from the Council or any other public authority to the contractor;
 - 8.13.4 the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;
 - 8.13.5 revenue from sales of any assets which are part of the contract;
 - 8.13.6 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;
 - 8.13.7 any prizes or payments to candidates or tenderers.

RULE 9 - LAND

- 9.1 Procurement of Land will generally be by the means described in this CPR 9. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the Solicitor to the Council authorises other nominated officers to deal with tenancies or licences for specific purposes.
- 9.2 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.
- 9.3 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 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.
- 9.4 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 10 – EXECUTING CONTRACTS

Supplies

- 10.1 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.

10.2 Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and Framework Agreements up to the UK supplies and services threshold must be in writing and can be made by the Service Director either:

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

10.3 If the Service Director and Solicitor to the Council decide that it is appropriate for the contract to be sealed (or if it is required by law), the contract will be executed by the Solicitor to the Council.

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

10.5 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 above the UK supplies and services threshold must be in writing and must (subject to CPR 10.6) be either:

- made under the corporate common seal of the Council, attested by one legal officer; or
- signed by two legal officers;

who have been nominated as contract signatories by the Solicitor to the Council under their Scheme of Officer Delegations.

10.6 Notwithstanding CPR 10.5, the Solicitor to the Council may authorise officers who are not Legal Officers to sign specific or specialist contracts for Supplies above the UK supplies and services threshold. Two authorised officers must sign each such contract.

10.7 The 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 values below the EU supplies and services threshold.

Land

10.8 The 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 and other deeds and documents associated with Land. The Solicitor to the Council may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Solicitor to the Council.

10.9 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 Solicitor to the Council (or by a legal officer nominated by him or her). Additionally, the Solicitor to the Council may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.

General

- 10.10 The 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 10.5 and provided that this is not subject to any contrary direction from the Council or Cabinet.

RULE 11 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS

- 11.1 It is recognised that during the term of a Contract, modifications may be proposed, which if adopted would result in additional Works, Goods and/or Services, which were not considered when the original procurement took place, being procured or otherwise would alter the overall nature of the Contract. There are significant limitations upon the Council being able to make such modifications, especially where the Regulations apply. When considering a variation, modification or the termination of an existing Contract, advice must be sought in advance from the Corporate Procurement Service and with the Solicitor to the Council.
- 11.2 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.
- 11.3 A Service Director, in consultation with the 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.
- 11.4 The Solicitor to the Council may release any bond held by the Council, on request from the Head of Procurement.
- 11.5 The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Solicitor to the Council accept such proposed sums.
- 11.6 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.
- 11.7 Any variation with a value above £25,000 to a contract which cannot be fulfilled by following CPR 11.6 must be subject to the approval of the Head of Procurement.
- 11.8 Any variation to a contract which cannot be fulfilled by following CPR 11.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.
- 11.811.9 Subject to approval of the Solicitor to the Council and the Head of Procurement contracts may be novated to another Supplier where permitted by an express provision to novate in the terms and conditions of contract; or in the event of a successor due to the original Supplier carrying out a corporate restructuring, merger, acquisition, takeover or insolvency. The new Supplier must comply with the requirements under the original contract.

RULE 12 - MISCELLANEOUS

- 12.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially

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owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the 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
 Apply from 25th May 2022

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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
Commissioning	The relationship between commissioning and procurement is described in the diagram in Appendix 3.
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.
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 the relevant person has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a Procurement or sale procedure.
Contract	Means any form of contract, agreement for the supply of any works, goods, or services that the Council enters into (whether by purchase, lease, hire or any other arrangement).
Contract Procedure Rules (CPRs)	Means these Contract Procedure Rules.
Data Protection Legislation	Means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority.

Dynamic Purchasing System (DPS)	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 all contracts and it should be set up using the restricted procedure.
eProcurement Portal (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. Currently available at www.yortender.co.uk https://yortender.eu-supply.com
Financial Ratio	Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.
Find A Tender Service (FTS)	"Find a Tender" means the UK e-notification service where notices for new procurements are required to be published;
Financial Procedure Rules (FPRs)	The Financial Procedure Rules.
Framework Agreement	Means an agreement between a Contracting Authority 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 UK Threshold are subject to the Public 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.
Head of Corporate Property Management	Means the officer appointed by the Service Director 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.
Income Contract	An Income Contract is one where the main object of the contract is that the Council does something in relation to a Council asset ⁵ and includes situations where the Council does so at nil value (subject to this not being a Grant – see Appendix 4 Appendix 4).
<u>Land</u>	<u>"Land" includes any interest in land (including buildings) and any easement or right in or over land</u>
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as ⁶ the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.

⁵ For contracts where the Council provides services to another body, please refer to FPRs 20.4-20.6

⁶ The words "including", "include", "for example", "e.g.", and "such as" in these CPRs indicate examples and are not intended to be exhaustive. <https://www.wickel.com/content/outlook/09vo4aix/cpr-2022-tracked.docx#wip-2021-04-20>

Official Council Order	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Solicitor to the Council 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 ⁷ 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.
Public Procurement Rules	The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations).
Reasonable Means	Methods of selection or advertising which reflect reasonable trade practice. This might include informal briefs, supplier written Tenders or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet.
Senior Manager	Means an officer who reports directly to a Head of Service.
Service	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.
Service Director	Means the most senior officer responsible for the day to day functions of each Service.
Social Value	Means The Public Services (Social Value) Act 2012 ('Social Value Act') that requires the Council to consider how a procurement over the relevant thresholds could improve the economic, social and environmental wellbeing of the district
Solicitor to the Council	Means the Service Director – Legal, Governance & Commissioning in the role as legal advisor to the Council.
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

limiting

⁷ Note: Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources or their delegate [See the FPR].

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	others to provide specific Supplies 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 personnel qualities, communication requirements, returns policies and tolerances.
Standing List	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
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.
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.
Supply / Supplies	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).
Tender	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
UK Threshold	The financial threshold from time to time at which the UK Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1 .
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.

Appendix 1

Relevant Thresholds in Public Contract Regulations inclusive of VAT

Microsoft Word - Procurement Policy Note 10:21 - New Thresholds Values and Inclusion of VAT in Contract Estimates.docx (publishing.service.gov.uk)

Supply and service contracts	£213,477,189,330 (£180,000*)
Light Touch Regime Contracts (Annex XIV)	£663,540 (£615,000*) £663,540
Works contracts	£5,336,937,4,733,252 (£4,550,000*)
<u>Concession contracts</u>	<u>£5,336,937</u>

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- ◆ These are current the values for the purposes of these CPRs. The threshold values to be used will be those applicable at the commencement of the procurement process. ~~procurement process~~. The thresholds are updated every two years with the next update due on the 1 January 2024~~2~~

Appendix 2

Information to be Reported to the Head of Procurement (RULE 7 – RECORD KEEPING AND REPORTING)

	Information	When
A.	Details of all contracts awarded for Supplies of £5,000 or above following a competitive process including the name of the Supplier, and amount of the Tender 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 £5,000 or above which a Service Director considered to be exempt from the competitive requirements by virtue, including the reason for the exemption.	When Requested
D.	Contracts with a value of £5,000 or more see CPR, with the following information: 1. reference number 2. title of agreement 3. Contract Manager; name of person responsible for managing the contract 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. start, end and review dates, including permitted extensions 8. whether or not the contract was the result of an invitation to quote or a published published invitation to tender, and 9. 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 10. whether or not the contract involves processing personal data	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 Cases on Request
F.	Copies of Regulation 84 reports	All cases where the Public Procurement Rules apply on Contract Award

Appendix 3

Relationship between Commissioning and Procurement



Appendix 4

How to decide if a procurement or grant is applicable

- The Council obtains supplies of goods, works, and services from external suppliers and normally uses competitive processes to do so in accordance with the Contract Procedure Rules (CPRs)
- It is always appropriate to use procurement to obtain **goods** and **works**, and this is the usual preference to obtain **services**.
- There may though be some occasions when a grant may be an appropriate way to achieve the priorities of the Council. The table below aims to provide a guide to support commissioners to think about whether a grant or procurement is the most appropriate method in obtaining and/or supporting a particular **service**.

1	If you are seeking to obtain goods or works you should procure as per CPRs
2	If you are seeking to obtain a service and can answer YES to ANY of the following, you should procure as per CPRs <ul style="list-style-type: none">• Is there an intention to specify service standards and outputs required?• Will payment be reduced/alterd if service standards are not met, or additional payment be made if there are claims for additional costs incurred?• Are there opportunities for change control?• Is there a contractual obligation on both parties?• Is there an intention to have active management of the provider?
3	If you are seeking to use a supplier that is a commercial i.e. profitmaking organisation this would generally require procurement as per CPRs. If the organisation is a genuine “not for profit” organization or charity you should discuss further with the Procurement team.
4	If you are seeking a service and can answer YES to ANY of the following, you can consider use of a Grant as per FPRs <ul style="list-style-type: none">• Is there an intention to broadly support an activity, with expected outcomes, but no clear obligations on the provider?• Is the intention to support parts of an existing activity?• Is the intention to provide a subsidy to existing service users• Is the council’s only ultimate remedy to withhold payment of a next phase of grant, seek clawback or to refuse to fund future activity by the provider?• Is the intention to meet a stated set of costs, and an intention that the provider should not profit from the support?

Important notes/advice

- Always remember to check with the Procurement team if unsure.
- A competition will generally be appropriate to select which parties are entitled to receive grants.
- Grants still require a grant agreement.
- Grants which involve procurement by a third party require use of competition in selection of their suppliers (broadly aligning with council CPRs)

KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES

MAY 2022

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INTRODUCTION

These Contract Procedure Rules (CPRs) 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.

These Contract Procedure Rules cover the Procurement of all Supplies (goods, works and services) and Income Contracts.

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 proportionate and relative to the need which the Supply fulfils and should appropriately balance the value of, and risks associated with, any proposed action.

Where the council wishes to obtain the delivery of goods, works, or services, the use of procurement is the usual method. Grants should only be used to assist or support objectives of another organisation. In some instances, CPRs will apply to grants (see Appendix 4).

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 take every opportunity to consider how improvements to the economic, social and environmental wellbeing of the district (social value) can be generated and enhanced in contracts and procurement processes, including encouraging the participation of local businesses in Council tenders.

RULE 1 – CONDUCT AND COMPLIANCE AND WAIVER

- 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 processor 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.
 - 1.4.3 a suitably experienced and trained officer is identified to adequately manage the Contract for every contractual relationship the Council enters into.
- 1.5 When authorising staff to procure Supplies on their behalf, each Service Director must set a financial (or other) limit on the authority vested in individual officers to procure the Supplies. Such limits must be recorded in the relevant Scheme of Officer delegations. An officer wishing to commence a procurement exercise and/or commit the council to contractual obligations must ensure that:
 - 1.5.1 they have the Cabinet authority or a written approval of the delegated decision by an authorised officer under the Scheme of Officer Delegation to incur the expenditure and provide details to the Head of Corporate Procurement.
 - 1.5.2 officer executive decisions are recorded accurately and promptly including the relevant information required, such as the context in which the decision was taken, the reasons for the decision and alternative options considered.
 - 1.5.3 all significant officer decisions taken relating to the procurement exercise (i.e. decisions which may be of interest to councillors and/or the public) are recorded
 - 1.5.4 where a Supply is a Key Decision, a Key Decision Notice (KDN) has been published in a Notice of Forthcoming Key Decisions.
- 1.6 The Head of Procurement may:-
 - 1.6.1 authorise officers who are not procurement officers under their managerial responsibility to act on their 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 them under CPR 1.3;
 - 1.6.3 undertake a review of procurement arrangements and practices, and value for money within any service area, in consultation, as appropriate, with the Service Director, Solicitor to the Council, Chief Finance Officer and Head of Internal Audit.

- 1.7 The Head of Procurement must record the precise extent of such authorisations and the officer to which roles have been delegated and share these authorisations with the Solicitor to the Council and the Head of Internal Audit.
- 1.8 A Service Director has authority to commence any Procurement subject to:
- 1.8.1 compliance with these CPRs and FPRs; and
 - 1.8.2 having appropriate delegated authority; and
 - 1.8.3 compliance with management processes designed to ensure that proposed projects meet the Council's business needs; and
 - 1.8.4 seeking Value for Money.
- 1.9 These CPRs are a minimum standard and a more prescriptive procurement regime must be followed where this is required by UK law and agreements with Grant funding organisations.
- 1.10 The Head of Procurement, the 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:
- 1.10.1 the Head of Procurement – Good Procurement Practice;
 - 1.10.2 Solicitor to the Council – UK Procurement Rules and other laws and Corporate Governance;
 - 1.10.3 Head of Internal Audit – Procurement project related financial management, Best Value and Risk.
- 1.11 Any dispute concerning interpretation of these CPRs must be referred to the Head of Internal Audit who, in consultation with the Solicitor to the Council, may provide clarification and determination.
- 1.12 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, and the Solicitor to the Council provided that:-
- 1.12.1 the post holders to whom these duties are assigned must hold general competencies as follows:-
 - 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 Solicitor to the Council.
 - the same degree of separation of officer responsibility for the duties is maintained.

Conflicts of Interest and Integrity¹

- 1.13 Service Directors shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all economic operators.

¹ Officers should also familiarise themselves with the FPRs 17 and 18, Chapter 7 of the Employee Handbook and Part 5.6 of the Council's Constitution and Members should also refer to Part 5.1 of the Constitution.

- 1.14 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 they become aware of a potential Conflict of Interest and update the declaration in the event of any changes.
- 1.15 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.
- 1.16 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. Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000, 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 consultation with the Solicitor to the Council and/or the Head of Internal Audit, and undertake these consultations as necessary.
- 2.2. The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with UK Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service, Find A Tender Service (FTS) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.
- 2.3. Each Service Director must ensure:
 - 2.3.1. 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 the scope of these CPRs or the UK Procurement Rules, unless justified by objective reasons.
 - 2.3.2. Where the cost of the Supply is less than the UK 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 UK Procurement Rules.
 - 2.3.3. The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding the UK supplies and services threshold.
 - 2.3.4. The process can be adequately resourced.
 - 2.3.5. The appointment of an officer to carry out supervision of the resulting contract(s) in accordance with Financial Procedure Rule 21.8.

Compliance

2.3.6. Each Procurement complies with the following:-

- a. it is justified by a business case (that includes a risk assessment) approved 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 6.14), consortia and other suppliers (Service Directors should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.12 & 6.13).

Estimated Value

2.3.7. Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.

2.3.8. 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.

2.3.9. The Supply is likely to be within budgetary provision (see CPR 10.1).

Bonds

2.3.10. All supply contracts relating to;

- a. capital construction works in excess of £300,000
- b. any IT contracts that involve pre operational payments in excess of £300,000
- c. any contracts with a total consideration in excess of £3m

will be bonded in the sum of 10% of the Tender value, except where the Solicitor to the Council and Head of Internal Audit agree either:-

- i. No bond is necessary; or
- ii. A different value (or percentage) is appropriate; and or
- iii. A parent company guarantee or other form of surety can be accepted instead.

The Specification

2.4. In preparing a Specification, the Service Director should consider how the procurement activity might meet the Councils wider policy and strategy but subject always to ensuring full compliance with UK procurement legislation. Service Directors must also consider how what is proposed to be procured might improve the economic, social and environmental wellbeing of Kirklees.

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. The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.10) and other procurement documentation must be created to be understandable by all reasonably well informed people in the relevant industry.

Award Criteria

- 2.7. 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 3.5– 3.9) and must be proportional to the contract's main objectives.
- 2.8. The Head of Procurement is consulted at the preparatory stage if conducting interviews or receiving presentations is considered to be beneficial to the process (also see CPRs 4.16-4.17).

Contracting

- 2.9. For contracts up to the UK supplies and services threshold, other than Land Contracts, the Service Director shall wherever possible use appropriate standard 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 Solicitor to the Council considers to be necessary (the Solicitor to the Council need not be consulted, but guidance must be followed).
- 2.10. For contracts above the UK supplies and services threshold, other than Land Contracts the Service Director must consult with the Solicitor to the Council who will prepare contract documentation appropriate for the contract.

Data Processing

- 2.11. 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.
- 2.12. 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. The Service Director must follow the Council's Information Security Policy, in particular regarding contracting with data processors, sharing data and consulting with the Information Governance Team. The Service Director must ensure that:

- 2.12.1. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
- 2.12.2. appropriate guarantees of the security of the personal data are included within a written contract;
- 2.12.3. the performance of the contract is appropriately monitored;
- 2.12.4. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
- 2.12.5. appropriate steps are taken to minimise as far as possible the impact of a breach of data security;
- 2.12.6. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.

Collaboration

- 2.13. The potential for genuine collaboration with other public bodies must be considered when planning a procurement exercise.
- 2.14. 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 Organisation and the Crown Commercial Service); any 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 - PROCUREMENT PROCESS

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

Value of Supplies	Requirement		
	Procurement Process	Advertising	Min no. of Suppliers
£0 - £24,999.99	<p>Any Reasonable Means to select are permitted. Reasons to justify the decision taken must be recorded,</p> <ul style="list-style-type: none"> Where practicable, suppliers from Kirklees (and/or West Yorkshire) area are encouraged and should be invited to submit quotes. Officers need to ensure that purchases achieve best value for the Council and an audit trail is maintained to demonstrate this. 	<ol style="list-style-type: none"> Any reasonable means A Contract Award notification form needs to be completed for values in excess of £5,000 and up to £24,999. This must be reported to Corporate Procurement 	3
£25,000 – Threshold	<p>One of the following:-</p> <ul style="list-style-type: none"> Quotations (CPRs 3-4) Framework Suppliers, Standing Lists, etc. (CPR 5) Exceptions (CPR 6) Internal, Consortia & Compulsory(CPR 6) <p>In addition;</p> <p>Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary</p>	<p>As the Head of Procurement determines</p> <ol style="list-style-type: none"> From a standing list An approved Framework Agreement An approved Dynamic Purchasing System Advertise on eProcurement Portal, ContractsFinder PLUS other reasonable advertising means 	<p>Below £100,000 – 3</p> <p>Above £100,000 – 4</p>
Above Threshold	<p>One of the following:-</p> <ul style="list-style-type: none"> Tenders (CPRs 3 - 4) Framework Suppliers, Standing Lists, etc. (CPR 5) Exceptions (CPR 6) Internal, Consortia & Compulsory(CPR 6) <p>In addition</p> <p>Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary</p> <p>The Legal Service will perform the execution of any contract(s).</p>	<p>Advertise on eProcurement Portal, Contracts Finder, FTS and in other media if appropriate; or</p> <p>Use approved Framework Agreement; or</p> <p>Use approved Dynamic Purchasing System</p>	5

- 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.
- 3.3. A Service Director must invite at least the number above of suppliers to submit a written Tender, unless:-
 - 3.1.1 an **approved**² 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
 - 3.1.2 it is otherwise agreed with the Head of Internal Audit in consultation with the Solicitor to the Council.
- 3.4. The Suppliers must be reasonably capable of, or have indicated that they are willing to, submit a Tender. If it is not possible to identify the number of suitable and/or 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

- 3.5. Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of Suitability.
- 3.6. Where the procurement process has an overall value of less than the supplies and services UK threshold, 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.
- 3.7. When operating a procurement process with a value above the supplies and services UK threshold, the Service Director must use the Council's standard selection questionnaire 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.
- 3.8. The selection of any potential Supplier to submit a Tender 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 UK Procurement Rules, minimum standard and/or pass marks must be published in the relevant FTS contract notice or invitation to confirm interest.
- 3.9. 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.

² See CPR 5.17

RULE 4 –TENDER RECEIPT & EVALUATION

- 4.1 For Procurements which are valued above £25,000, suppliers must be required to submit Tenders by electronic means of communication unless the Head of Procurement agrees otherwise. This must be through the eProcurement Portal unless the Head of Procurement agrees otherwise. (If the Head of Procurement approves another means, they will be required to agree and supervise a fair means of tender opening).
- 4.2 All invitations must state clearly the date and time of return. Electronic Tenders must be returned in accordance with the approved tendering system requirements.
- 4.3 All electronic Tenders received by the appointed time will be opened at the same time by the Head of Procurement.
- 4.4 At the Tendering opening the Head of Procurement will maintain a written record of the:
 - 4.4.1 Procurement reference and title;
 - 4.4.2 name of each supplier submitting a Tender and the time of submission;
 - 4.4.3 name of suppliers failing to submit prices/proposal for any restricted opportunities;
 - 4.4.4 prices from each supplier;
 - 4.4.5 name of opening officer;
 - 4.4.6 names of the persons present at the opening for any tenders submitted outside of the eProcurement Portal ;
 - 4.4.7 date and time of opening of Tenders;
- 4.5 Late Tenders 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 Tender. Any decision to accept a late Tender will be made by the Head of Procurement following both (a) such verification as they feel 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.
- 4.6 Suppliers must always be required to submit bids which comply with the tender documents. Variant may be permitted providing that the tender documents:
 - 4.6.1 say whether a standard or reference bid is also required;
 - 4.6.2 include the minimum requirements to be met by the variants;
 - 4.6.3 set award criteria which can be applied to the variants.
- 4.7 Any variants which are submitted must conform to the requirements of the tender documents.
- 4.8 Tenders which do not comply with the CPR 4.6 may be accepted by the Service Director, only after approval by the Head of Internal Audit.
- 4.9 The Service Director will carry out an evaluation of the Tenders received against the pre-set Award Criteria (CPR 2.7) and keep a written record of the analysis and outcome.
- 4.10 The use of or participation in e-auctions to set prices is permitted where:
 - 4.10.1 bids can be ranked automatically; and
 - 4.10.2 the mathematical formula to determine the rankings of the bids (or each variant where

variants are permitted) is disclosed; and

4.10.3 the written agreement of the Head of Internal Audit has been given; and

4.10.4 the process is subject to supervision by the Head of Procurement.

- 4.11 The Service Director will require tenderers to explain the price or costs proposed in their tender where tenders appear to be abnormally low.
- 4.12 The Service Director must ensure that, where required by UK 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 Solicitor to the Council that the debrief process has completed satisfactorily prior to formal acceptance of any Tender.
- 4.13 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 4.15) take action as necessary, taking guidance from the Solicitor to the Council and the Head of Internal Audit.
- 4.14 If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the 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 Solicitor to the Council advises about confidentiality and Legal Privilege.

Clarifications, Presentations and Interviews

- 4.15 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:
- 4.15.1 set an appropriate time limit for a reply; and
 - 4.15.2 do not request changes or otherwise seek to influence the bidder; and
 - 4.15.3 deal with all of the matters in the Tender which are incomplete or erroneous or unclear; and
 - 4.15.4 treat all tenderers equally and fairly and so, for example, the request:-
 - a. must not occur before all of the bids have been subject to an initial evaluation;
 - b. must not unduly favour or disadvantage the bidder to whom the request is addressed; and
 - c. must be sent in the same way to all bidders unless there is an objectively verifiable ground justifying different treatment.
- 4.16 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. All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.
- 4.17 Interviews and/or presentations which form part of the bid must be authorised by the Head of Procurement in writing. They must also be:

- 4.17.1 Comprehensively recorded; and
- 4.17.2 assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and
- 4.17.3 supervised by the Head of Procurement.

RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE

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

Standing Lists

- 5.2 The Head of Procurement will determine for which types of Supply Council-wide Standing Lists must be kept (see CPR 6.12). 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.
- 5.3 Standing Lists may be used for Supplies where the aggregated value (in compliance with the UK Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant UK Threshold.
- 5.4 Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the eProcurement Portal, Contracts Finder and other appropriate media as the Head of Procurement may determine. 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.
- 5.5 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.
- 5.6 The Head of Procurement (in consultation with the 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.
- 5.7 If there are insufficient suppliers on a Standing List, or too few are willing to submit Tenders, to meet the CPRs Tender requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 5.8 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

- 5.9 Framework Agreements and Dynamic Purchasing Systems may be used to source contracts for appropriate types of Supplies (subject to compliance with the UK Procurement Rules, as applicable).

- 5.10 Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a Supply contract and in accordance with the UK Procurement Rules.
- 5.11 All Framework Agreements will be in the form of a written agreement 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.
- 5.12 Framework Agreements above the UK 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.
- 5.13 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.
- 5.14 Dynamic Purchasing Systems must:
- 5.14.1 be set up by an advertised competitive process which is approved by the Head of Procurement; and
 - 5.14.2 remain advertised; and
 - 5.14.3 not limit the number of suppliers admitted to the system (but the system may be split into categories); and
 - 5.14.4 be set up with clear operative rules which involve obtaining Tenders from all suppliers on the system, or on the relevant category on the system, as appropriate; and
 - 5.14.5 be operated wholly electronically; and
 - 5.14.6 be open to new entrants; and
 - 5.14.7 be subject to consistent due diligence assessments of DPS participants
- 5.15 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.
- 5.16 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.
- 5.17 The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems which Service Directors are permitted to use.

Use of Third Party Procurement Facilities

- 5.18 Supplies may be obtained through third party Frameworks Agreements (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:
- 5.18.1 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 5.1);
 - 5.18.2 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);
 - 5.18.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;
 - 5.18.4 where the UK procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 6 – EXCEPTIONS FROM COMPETITION

- 6.1 Subject to compliance with the UK Procurement Rules the following are exempted from the competitive requirements of these CPRs³:
- 6.1.1 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;
 - 6.1.2 items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit);
 - 6.1.3 the selection of a supplier whose usage is a condition of a Grant funding approval;
 - 6.1.4 the selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party;
 - 6.1.5 where CPR 6.12 applies;
 - 6.1.6 counsel or other external legal advice, provided that the Solicitor to the Council takes steps to ensure that value for money is being obtained;
 - 6.1.7 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;
 - 6.1.8 direct award from an approved Framework Agreement (see CPR 5.18) 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 UK Procurement Rules;
- 6.2 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. Value for money must be evidenced and recorded.
- 6.3 Trial Purchases**
- 6.4 Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000 without competition in order to ascertain if the Supply is of interest to the Council. Where an exception to competition in CPR 6.1 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.
- 6.5 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 £25,000.
- 6.6 The procuring Service Director and the Head of Procurement may decide that;
- 6.6.1 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.
 - 6.6.2 Following receipt of Tenders 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 Tenders.

³ When the UK Procurement Rules apply, these exemptions may not be permitted (Directors must check this)

- 6.6.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
- 6.6.4 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 UK 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 their own Service Director, there must be consultation with the Head of Internal Audit.

Negotiated Contracts

- 6.7 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.
- 6.8 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 6.9 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

- 6.10 The Solicitor to the Council must be consulted in advance of any negotiation in respect of any contract estimated to exceed the UK threshold (except those in relation to Land where the Head for Corporate Property Management should be consulted irrespective of value).
- 6.11 Before a decision pursuant to CPRs 6.1 to 6.3 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, they must consult with the Solicitor to the Council about the possibility of subsidy control before approving the exemption from competition.

Mandatory suppliers, frameworks agreements or dynamic purchasing systems

- 6.12 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 UK Procurement Rules and the possibility of state aid) that the use of one (or more) Suppliers is compulsory.
- 6.13 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.
- 6.14 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:-
- 6.14.1 where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
- 6.14.2 in respect of the outsourcing of an activity having a value below £100,000;
- 6.14.3 in respect of services provided within schools;

6.14.4 in respect of ad hoc services for the design and construction of buildings or parts of buildings.

RULE 7 - RECORD KEEPING AND REPORTING

7.1 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:-

- 7.1.1 communications with economic operators and internal deliberations;
- 7.1.2 preparation of the procurement or sale documents;
- 7.1.3 the dividing large procurements into contract Lots;
- 7.1.4 consideration of social value in the commissioning and procurement process
- 7.1.5 any interviews, other dialogue or negotiation;
- 7.1.6 A risk log;
- 7.1.7 supplier vetting; and
- 7.1.8 reasons for award of the contract.

The documentation must be kept for a period as defined within the Councils relevant retention schedule.

- 7.2 A full trail of electronic Tenders received must be recorded on the eProcurement Portal or retained in a database approved by the Head of Internal Audit.
- 7.3 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 2).
- 7.4 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 UK Procurement Rules.
- 7.5 Each Service Director must promptly provide to the Head of Procurement the information specified in Appendix 2.
- 7.6 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 7.3 above).
- 7.7 The Service Director must keep a written record of the reasons for using a negotiated procedure

RULE 8 - INCOME CONTRACTS & CONCESSIONS

8.1 CPR 8 Includes nil value and disposal contracts but excludes Land.

8.2 CPRs 8.2 to 8.8 apply when the Council intends to derive income from:-

- 8.2.1 the disposal of property (other than Land);
- 8.2.2 the sale of a right to exploit a business opportunity;
- 8.2.3 the operation of business activity.

8.3 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 they will decide whether this amounts to a Grant (and so FPR 4 applies instead of CPR 8).

The disposal of an asset

8.4 The procedure for the disposal of assets is:-

8.4.1 assets valued up to £25,000 must be disposed of by a method chosen by the Service Director and a written justification of the choice retained;

8.4.2 assets valued above £25,000 must be disposed of following public notice either by open Tender process, closed Tender process involving at least 3 prospective purchasers or public auction. The use of the Council web site is permissible for this purpose.

8.5 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

8.6 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 asset 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.

8.6.1 A business opportunity contract that will not generate income in excess of £25,000 over the duration of the contract may be sourced by any reasonable means and should be arranged and undertaken by the Service Director responsible for the activity.

8.6.2 The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £25,000.

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

8.7 If an Income Contract is intended to be or become profitable or be commercial in nature, advice must be obtained from the Solicitor to the Council.

8.8 If an Income Contract has any potential to distort the relevant market advice must be obtained from the Solicitor to the Council.

Concession Contracts

8.9 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.

8.10 Concession contracts for works or services above UK thresholds 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

8.11 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.

8.12 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.

8.13 When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account:-

8.13.1 the value of any form of option and any extension of the duration of the contract;

8.13.2 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;

8.13.3 payments or any other financial advantages, in any form, from the Council or any other public authority to the contractor;

8.13.4 the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;

8.13.5 revenue from sales of any assets which are part of the contract;

8.13.6 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;

8.13.7 any prizes or payments to candidates or tenderers.

RULE 9 - LAND

9.1 Procurement of Land will generally be by the means described in this CPR 9. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the Solicitor to the Council authorises other nominated officers to deal with tenancies or licences for specific purposes.

9.2 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.

9.3 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 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.

9.4 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 10 – EXECUTING CONTRACTS

Supplies

10.1 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.

- 10.2 Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and Framework Agreements up to the UK supplies and services threshold must be in writing and can be made by the Service Director either:
- where appropriate, by issuing the order through the Council's electronic purchasing system (currently SAP) and incorporating the correct standard terms; or
 - By issuing (electronically or on paper) contract terms which the Service Director has assessed as being appropriate both in terms of suitability and risk.
- 10.3 If the Service Director and Solicitor to the Council decide that it is appropriate for the contract to be sealed (or if it is required by law), the contract will be executed by the Solicitor to the Council.
- 10.4 The Head of Procurement must ensure that the Councils electronic procurement systems are setup so that the most appropriate Official Council Order are available to be attached to the supply being purchased.
- 10.5 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 above the UK supplies and services threshold must be in writing and must (subject to CPR 10.6) be either:
- made under the corporate common seal of the Council, attested by one legal officer; or
 - signed by two legal officers;
- who have been nominated as contract signatories by the Solicitor to the Council under their Scheme of Officer Delegations.
- 10.6 Notwithstanding CPR 10.5, the Solicitor to the Council may authorise officers who are not Legal Officers to sign specific or specialist contracts for Supplies above the UK supplies and services threshold. Two authorised officers must sign each such contract.
- 10.7 The 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 values below the EU supplies and services threshold.

Land

- 10.8 The 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 and other deeds and documents associated with Land. The Solicitor to the Council may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Solicitor to the Council.
- 10.9 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 Solicitor to the Council (or by a legal officer nominated by him or her). Additionally, the Solicitor to the Council may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.

General

- 10.10 The 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 10.5 and provided that this is not subject to any contrary direction from the Council or Cabinet.

RULE 11 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS

- 11.1 It is recognised that during the term of a Contract, modifications may be proposed, which if adopted would result in additional Works, Goods and/or Services, which were not considered when the original procurement took place, being procured or otherwise would alter the overall nature of the Contract. There are significant limitations upon the Council being able to make such modifications, especially where the Regulations apply. When considering a variation, modification or the termination of an existing Contract, advice must be sought in advance from the Corporate Procurement Service and with the Solicitor to the Council.
- 11.2 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.
- 11.3 A Service Director, in consultation with the 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.
- 11.4 The Solicitor to the Council may release any bond held by the Council, on request from the Head of Procurement.
- 11.5 The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Solicitor to the Council accept such proposed sums.
- 11.6 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.
- 11.7 Any variation with a value above £25,000 to a contract which cannot be fulfilled by following CPR 11.6 must be subject to the approval of the Head of Procurement.
- 11.8 Any variation to a contract which cannot be fulfilled by following CPR 11.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.
- 11.9 Subject to approval of the Solicitor to the Council and the Head of Procurement contracts may be novated to another Supplier where permitted by an express provision to novate in the terms and conditions of contract; or in the event of a successor due to the original Supplier carrying out a corporate restructuring, merger, acquisition, takeover or insolvency. The new Supplier must comply with the requirements under the original contract.

RULE 12 - MISCELLANEOUS

- 12.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially owned by the Council.

owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the 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
Apply from 25th May 2022

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
Commissioning	The relationship between commissioning and procurement is described in the diagram in Appendix 3.
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.
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 the relevant person has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a Procurement or sale procedure.
Contract	Means any form of contract, agreement for the supply of any works, goods, or services that the Council enters into (whether by purchase, lease, hire or any other arrangement).
Contract Procedure Rules (CPRs)	Means these Contract Procedure Rules.
Data Protection Legislation	Means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority.

Dynamic Purchasing System (DPS)	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 all contracts and it should be set up using the restricted procedure.
eProcurement Portal (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. Currently available at https://yortender.eu-supply.com
Financial Ratio	Is a pre-set method of determining a supplier’s financial standing, such as turnover, net asset value, and profitability.
Find A Tender Service (FTS)	“Find a Tender” means the UK e-notification service where notices for new procurements are required to be published;
Financial Procedure Rules (FPRs)	The Financial Procedure Rules.
Framework Agreement	Means an agreement between a Contracting Authority 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 UK Threshold are subject to the Public 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.
Head of Corporate Property Management	Means the officer appointed by the Service Director 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.
Income Contract	An Income Contract is one where the main object of the contract is that the Council does something in relation to a Council asset ⁴ and includes situations where the Council does so at nil value (subject to this not being a Grant – see Appendix 4).
Land	“Land” includes any interest in land (including buildings) and any easement or right in or over land
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as ⁵ the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.

⁴ For contracts where the Council provides services to another body, please refer to FPRs 20.4-20.6

⁵ The words “including”, “include”, “for example”, “e.g.”, and “such as” in these CPRs indicate examples and are not intended to be

Official Council Order	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Solicitor to the Council 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 ⁶ 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.
Public Procurement Rules	The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations).
Reasonable Means	Methods of selection or advertising which reflect reasonable trade practice. This might include informal briefs, supplier written Tenders or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet.
Senior Manager	Means an officer who reports directly to a Head of Service.
Service	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.
Service Director	Means the most senior officer responsible for the day to day functions of each Service.
Social Value	Means The Public Services (Social Value) Act 2012 (‘Social Value Act’) that requires the Council to consider how a procurement over the relevant thresholds could improve the economic, social and environmental wellbeing of the district
Solicitor to the Council	Means the Service Director – Legal, Governance & Commissioning in the role as legal advisor to the Council.
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

limiting

⁶ Note: Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources and their delegates
[See the FPR].

	others to provide specific Supplies 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 personnel qualities, communication requirements, returns policies and tolerances.
Standing List	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
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.
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.
Supply / Supplies	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).
Tender	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
UK Threshold	The financial threshold from time to time at which the UK Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1.
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.

Appendix 1

Relevant Thresholds in Public Contract Regulations inclusive of VAT

[Microsoft Word - Procurement Policy Note 10:21 - New Thresholds Values and Inclusion of VAT in Contract Estimates.docx \(publishing.service.gov.uk\)](#)

Supply and service contracts	£213,477
Light Touch Regime Contracts (Annex XIV)	£663,540
Works contracts	£5,336,937
Concession contracts	£5,336,937

- ◆ These are current the values for the purposes of these CPRs. The threshold values to be used will be those applicable at the commencement of the procurement process. The thresholds are updated every two years with the next update due on the 1 January 2024

Appendix 2

Information to be Reported to the Head of Procurement (RULE 7 – RECORD KEEPING AND REPORTING)

	Information	When
A.	Details of all contracts awarded for Supplies of £5,000 or above following a competitive process including the name of the Supplier, and amount of the Tender 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 £5,000 or above which a Service Director considered to be exempt from the competitive requirements by virtue, including the reason for the exemption.	When Requested
D.	Contracts with a value of £5,000 or more see CPR, with the following information: <ol style="list-style-type: none"> 1. reference number 2. title of agreement 3. Contract Manager; name of person responsible for managing the contract 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. start, end and review dates, including permitted extensions 8. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and 9. 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 10. whether or not the contract involves processing personal data 	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 Public Procurement Rules apply on Contract Award

Appendix 3

Relationship between Commissioning and Procurement



Appendix 4

How to decide if a procurement or grant is applicable

- The Council obtains supplies of goods, works, and services from external suppliers and normally uses competitive processes to do so in accordance with the Contract Procedure Rules (CPRs)
- It is always appropriate to use procurement to obtain **goods** and **works**, and this is the usual preference to obtain **services**.
- There may though be some occasions when a grant may be an appropriate way to achieve the priorities of the Council. The table below aims to provide a guide to support commissioners to think about whether a grant or procurement is the most appropriate method in obtaining and/or supporting a particular **service**.

1	If you are seeking to obtain goods or works you should <u>procure as per CPRs</u>
2	<p>If you are seeking to obtain a service and can answer YES to ANY of the following, you should <u>procure as per CPRs</u></p> <ul style="list-style-type: none"> • Is there an intention to specify service standards and outputs required? • Will payment be reduced/alterd if service standards are not met, or additional payment be made if there are claims for additional costs incurred? • Are there opportunities for change control? • Is there a contractual obligation on both parties? • Is there an intention to have active management of the provider?
3	If you are seeking to use a supplier that is a commercial i.e., profitmaking organisation this would generally require procurement as per CPRs. If the organisation is a genuine “not for profit” organization or charity you should discuss further with the Procurement team.
4	<p>If you are seeking a service and can answer YES to ANY of the following, you can consider use of a <u>Grant as per FPRs</u></p> <ul style="list-style-type: none"> • Is there an intention to broadly support an activity, with expected outcomes, but no clear obligations on the provider? • Is the intention to support parts of an existing activity? • Is the intention to provide a subsidy to existing service users • Is the council’s only ultimate remedy to withhold payment of a next phase of grant, seek clawback or to refuse to fund future activity by the provider? • Is the intention to meet a stated set of costs, and an intention that the provider should not profit from the support?

Important notes/advice

- Always remember to check with the Procurement team if unsure.
- A competition will generally be appropriate to select which parties are entitled to receive grants.
- Grants still require a grant agreement.
- Grants which involve procurement by a third party require use of competition in selection of their suppliers (broadly aligning with council CPRs)

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Name of meeting: Corporate Governance & Audit Committee

Date: 22nd April 2022

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 2022/23

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	J Muscroft Service Director - Legal Governance and Commissioning
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?	Yes
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

**Have you considered GDPR; Yes
Public**

1. Summary

- 1.1 This report sets out information on proposed changes to Financial Procedure Rules for the year 2022/23
- 1.2 The changes are minor corrections and clarifications.

2. Information required to take a decision

- 2.1 All the text changes are marked in Appendix 1 by track changes, and these are detailed in sections 2.2, and 2.3 below.
- 2.2 The Council Corporate Plan now determines the strategic outcomes, and individual budgets no longer include linked Service Plans as a part of the budget in the way referred to in the FPRs, so reference to them is deleted, with emphasis on activity (which is typically a service area). There are some other revised definitions (with commensurate revision to words in the rest of the text). The current wording of rights to execute virement by strategic directors and cabinet is unclear, and the threshold sum of 10% of the gross budget or £1m (Strategic directors) or £2m (Cabinet) (whichever is the smaller), means that in practice the sum of £1m/£2m applies in all cases. It is accordingly suggested that strategic

directors (in consultation with executive members) are granted authority to carry out within a strategic directorates virements of up to £1m cumulatively, and Cabinet cross strategic directorate Virements, but subject to a limit of £2m per strategic directorate.

- 2.3 Other changes recommended are;
[5.3/5.9] wording amended to clarify that access to premises/record etc is for all staff approved by Head of Audit, and that fraud work is now managed through the risk function
[13.6] a reference to not using private debit/credit cards for council business.
[22.2] clarifies the need for conditions attached to a grant receivable of a material nature requiring to be discussed between the relevant Service Director and that for Legal & Governance
[22.11] suggests a recommended increase in grants that are wholly at the discretion of directors to a maximum of £10,000 each, and £20,000 cumulatively.
- 2.4 The FPR report in 2021 suggested that there may be a further report on revenue and capital budgeting rules. Further analysis identified that there was no current need for fundamental changes, although there are a small number of changes recommended as a part of this update. (as detailed above)

3. Implications for the Council

- 3.1 **Working with People** – None directly
3.2 **Working with Partners** – None directly
3.3 **Place Based Working** – None directly
3.4 **Improving outcomes for children**– None directly
3.5 **Climate change and air quality**- None directly
3.6 **Other (e.g., Legal/Financial or Human Resources)**- Although each of the sub categorisations above suggest no direct implications, these Procedure Rules cover all aspects of the councils operations.

4. Consultees and their opinions

- 4.1 The Chief Finance Officer, and relevant Heads of Service, have been involved in the drafting of these proposals.

5. Next steps & Timelines

- 5.1 This matter will go forward to Annual Council for consideration after consideration by this Committee.

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. The 2021 version of FPRs is available as a part of the council constitution

10. Service Director responsible

Service Director- Legal Governance and Commissioning
Service Director- Finance.

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KIRKLEES COUNCIL

**FINANCIAL PROCEDURE
RULES**

May 20221

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 and Procedures
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
22. Grants to the Council and Grants and Loans from the Council

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 (or "CFO")	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
<u>Council Plan</u>	<u>The strategic plan of the councils activity approved by the Council</u>
Directorate	The consolidated group of Service plans and activity budgets that fall within the responsibility of any one Strategic Director, including the Chief Executive
Council Provisions	Sums of money set aside to pay for uncertain events
Earmarked Reserves	As council provisions, but with a more clearly stated
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 Audit & 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
Internal Audit Strategy & Charter	Arrangements agreed by the Corporate Governance & Audit Committee on how the internal audit function will operate in line with Public Sector Internal Audit Standards
Irregularity	An unexpected or inappropriate event or behaviour

Land Asset	<u>Includes any interest in land and buildings and any easement or right in or over land</u> Means the property of the Council that is freehold or leasehold property (including any buildings on it), rights of
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 authorised by Cabinet) for inclusion in the Capital Plan.
Officer	An employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules
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 a part of a programme area.
Public Sector Internal Audit Standards	Rules based on the International Professional Practices Framework (IPPF), intended to promote improvement in the professionalism, quality, consistency and effectiveness of internal audit across the public sector
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 <u>Strategic</u> Directorate level, and includes the Chief
<u>Strategic Directorate</u>	<u>The consolidated group of activity budgets that fall within the responsibility of any one Strategic Director, including the Chief Executive</u>
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, including adherence to the CIPFA Financial Management Code of Practice
 - c) Advising on the key financial controls necessary to secure sound financial management
 - d) Ensuring that proper systems of internal control are operated
 - e) Coordinating 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 Audit & 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 is 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 agree with the Council its own arrangements for corporate governance, by way of an initial proposal. Subsequent authority to approve changes may be delegated to a strategic director. All partnership 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

The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Strategic Directorate outcomes to provides the overarching framework for the determination of the Council's MTFP within available resources.

The Council's Medium Term Financial Plan (MTFP) comprising a multi-year General Fund Revenue Budget Plan which will normally cover a period of up to 5 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.

- 2.1 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.
- 2.2 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

- 2.3 The Cabinet will submit no later than the October meeting of the Council each year a provisional budget strategy, for a period of up to 5 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
- 2.4 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 Strategic 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
- 2.5 The provisional budget strategy will include arrangements for wider public and key stakeholder engagement on budget options being considered.

- 2.6 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 integrated impact assessments, in formulating budget options for Cabinet consideration.
- 2.7 The Cabinet will consider these proposals in detail and make its recommendations to the Council at least 14 days before the date set for the meeting of the Council which will determine the Council's Budget for the next financial year.
- 2.8 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

- 2.9 The Cabinet is responsible for implementing the Corporate-Council 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.
- 2.10 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.
- 2.11 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 Strategic 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 2.25 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-Council Plan and service 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 overspend 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.

The Cabinet is responsible for reviewing management options and for recommending such further steps as are necessary to align activity with resources.

- 2.17 The Chief Finance Officer is accountable for all central budgets, which will be managed in the same way as activity budgets.
- 2.18 The Chief Finance Officer has delegated authority to review the requirement for existing Council Provisions and Earmarked Reserves, in-year, and to approve the proposed drawdown of earmarked reserves in-year in consultation with the relevant Strategic Director, ensuring that the proposed drawdowns are appropriate for the stated purpose of the earmarked reserve. Earmarked Reserves drawdowns in-year will also form part of the overall report to Cabinet on a quarterly basis as set out at FPR 2.10. The Chief Finance Officer will also report any new Reserves or Provisions requirements to Cabinet for approval.
- 2.19 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

- 2.20 Service Directors are authorised to transfer resources within an activity budget without limit providing the Service Plan corporate objectives for the activity is not changed in a material way.
- 2.21 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 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 within the Strategic Directorate budget up to or £1,000,000, whichever is the smaller, cumulatively in any one year.~~

- 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 Strategic Directorate not exceeding 10% of the original gross budget, or £2m, in any year 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 3.17 and 3.18
- 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, because 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 Finance Officer- that a reduction in resources during the current or future years may impact on the Council's 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 to address this.
- 2.36 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 2.30 above.
- 2.37 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 For the purposes of capital investment plan preparation and management, "capital" must meet the following criteria:
- (a) the definition for capital as set out in relevant CIPFA accounting guidance and accounting standards, and any other statutory Government guidance as set from time to time
 - (b) Subject to (a) above, a minimum threshold or 'de minimis' to be considered capital at an individual project level, as determined by the Chief Finance Officer. (The usual de minimis level is £10,000)
- 3.2 All capital investment must also be made in recognition of the CIPFA 'Prudential Code for Capital Expenditure with regard to prudence, affordability and sustainability, and any associated statutory Government guidance'. Council must approve an annual Capital Strategy and annual (Non-Treasury) Investment Strategy in line with the guidance.

Responsibilities

- 3.3 The Council is responsible for determining the Council's Capital Investment

Plan and approving the prudential indicators and limits that support the capital investment.

- 3.4 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.
- 3.5 The Council will determine allocations of capital resources to programme areas, or to specified projects.
- 3.6 The Cabinet is responsible for implementing the Capital Plan approved by Council, in line with any stated Council policies, or strategies.
- 3.7 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.
- 3.8 Service Directors are responsible for managing programmes and projects and must make appropriate arrangements to control projects and avoid overspending.

Capital Investment Plan Preparation.

- 3.9 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

- 3.10 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.
- 3.11 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 £2,000,000 in any financial year.
 - (3) Transfer resources within programme areas between any year within the approved capital plan, subject to compliance with 3.14 and 3.16
- 3.12 Service Directors are authorised to transfer resources within a programme area up to a maximum of £1,000,000 in any financial year, subject to

notification to the relevant Cabinet Member and appropriate Ward Members.

- 3.13 The Cabinet may delegate its authority under Financial Procedure Rule 3.11 to Service Directors. This is to be agreed on an annual basis.
- 3.14 Transfers under 3.10 to 3.13 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream because of the changes.
- 3.15 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.
- 3.16 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 (or programme) to the extent that it is funded by a project (or programme) specific third-party grant.
- 3.17 Any decision on resource allocation by Cabinet, Strategic and Service Directors (3.11 to 3.16) must recognise any policy decisions of Council. Any decision on resource allocation by Strategic and Service Directors (3.12-3.16) must recognise any policy decisions of Cabinet.
- 3.18 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

- 3.19 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 purposes 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.

- 3.20 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; (3.10 to 3.16),
 - c) Any necessary external approval has been obtained.
 - d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.
- 3.21 Service Directors have authority to progress projects once the approvals at 3.20 have been given. They must ensure compliance also with Contract Procedure Rules.
- 3.22 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 and Council as a part of the overall financial reporting and monitoring process.
- 3.23 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.

Complex Projects

- 3.24 Cabinet may delegate decisions in relation to complex projects or schemes of projects (which might relate to expenditure, income, the creation of subsidiary or related organisations) to the Chief Executive (who may further delegate decisions to a Strategic Director, or as appropriate the Chief Finance Officer or Service Director Legal, Governance & Commissioning. The Chief Finance Officer and Service Director Legal, Governance & Commissioning must be consulted on any decision made by such a delegated party.

Leased Assets

- 3.25 Accounting regulations (IFRS 16) makes an ongoing presumption that all leases (including those previously defined as operating leases) will need to be included on the Council's Balance Sheet. All lease arrangement needs to follow the same procedures, and have the same authority and approval, as for

other items of capital expenditure

- 3.26 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.

4. FINANCIAL SYSTEMS AND PROCEDURES

- 4.1 The Chief Finance Officer is responsible for the operation of the Council's 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 exceptions 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.

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 Audit & Risk will report directly to the Chief Executive, the Chair of the Corporate Governance & Audit Committee or the External Auditor in any circumstance where the functions and responsibilities of the Chief Finance Officer are being reviewed. (Other than routine reporting of work carried out)
- 5.3 The Head of Audit & Risk has authority to
- (a) Enter at all times any Council premises or land or location from which Council services are provided
 - (b) Have access to all property, records, documents and correspondence

relating to all activities of the Council

- (c) Require and receive explanations concerning any matter; and
- (d) Require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.
- (e) Require any Director to ensure that within 5 working days notice (or such other time as might be agreed by the Head of Audit & Risk)

(i) to ensure sufficient resource by way of time or otherwise, that an adequate response by employees of the service to any request for information,

and, or

(ii) any employee attends a meeting at any location (within the Kirklees area,) chosen by the Head of Audit & Risk

and or

(iii) the provision of any information, data, records, currently held in any media format be provided that that format, or in any other reasonable format chosen by the Head of Audit & Risk, and as appropriate delivered to a location chosen by the Head of Audit & Risk

and

(iv) to be accountable to the Corporate Governance & Audit Committee should they fail to act

The Chief Finance Officer has the same authority for any accounting or associated purpose.

For the purposes of FPR 5, the Head of Audit & Risk may delegate the rights of access to premises, information, explanation etc to any employee or agent of the council (albeit this will normally be staff within the Internal Audit or Fraud team)

Planning & Reporting

5.4 The Head of Audit & 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.

- 5.5 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.
- 5.6 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.

The Head of Audit & 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.

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

The Head of Audit & 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.

- 5.8 It is the duty of any officer who suspects or becomes aware of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the operations or exercise of the functions of the Council to immediately advise the Director. The Director concerned must immediately notify the Head of Audit & Risk who may take action by way of investigation and report.
- 5.9 Where, following investigation, the Head of Audit & Risk considers that there are reasonable grounds for suspecting that a loss has occurred as a result of misappropriation, irregular expenditure or fraud, consultations will be held with the Director on the relevant courses of action, including the possibility of police involvement and the invoking of any internal disciplinary procedure in accordance with the relevant conditions of service.

~~(Claimant fraud in respect of Housing 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 Financial Procedure Rule 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 Evidence to indicate an inspection has been carried out.
- 7.10 Service Directors are responsible for ensuring that inventory items which are the responsibility of another ~~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 Audit & 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.

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.

- 7.14 Leased assets must also be included in this record (see part 3.25, 3.26)

Land Assets

- 7.15 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.

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

Information Assets

- 7.17 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.

~~8.32~~ 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.

~~8.4~~ ~~Maximum levels for cash holdings in each separate location are to be established in line with insurance limits.~~

Security of Information

8.5 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 are 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

8.6 Service Directors must provide detailed written instructions on the collection, custody, investment, recording, safekeeping and disposal of customer/client's 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.

8.7 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.

8.8 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.

98 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. (See also 3.25, 3.26)

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.

409 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. Checks will be carried out as determined by the Chief Finance Officer to verify the validity of counterparty bank accounts prior to the release of any payments.

- 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 rule 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

40.49.4 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.

4110 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

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.

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.

- 11.2 The methods of collecting, recording and banking of all income due to the Council are to be approved by the Chief Finance Officer.
- 11.3 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.

- 11.4 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

- 11.5 Service Directors must make appropriate arrangements for the control and issue of all receipt forms, books, tickets, ticket machines or other acknowledgements for money.
- 11.6 All income received by the Council must be acknowledged by the issue of an official receipt or by another approved method indicating payment has been received. In order to ensure compliance with the Anti-Money Laundering Procedures, Service Directors must not accept any cash payment in excess of 15,000 euros (£11,700) in respect of one single transaction on one occasion. Any reasonable concerns about the source of monies to be paid to the Council should be raised in accordance with the Procedures. 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. If there is any doubt about whether or not to proceed with a transaction, a decision must not be taken until relevant approval has been obtained under the Procedures. 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.
- 11.7 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.
- 11.8 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.
- 11.9 Every transfer of official money from one officer to another must be evidenced in the records of the Services concerned by the signature of the receiving officer

Cash discrepancies

- 11.10 Each Director must maintain a detailed record of all cash surpluses and deficiencies in a manner approved by the Chief Finance Officer.
- 11.11 The Service Director must investigate any apparent patterns of discrepancies

11.12 Where such discrepancies are in excess of £100 individually, or in total within any period of 1 month, the Director concerned must immediately investigate and notify the Head of Audit & Risk who may undertake such investigations as he/she deems appropriate.

Debtors

11.13 Wherever possible, payment should be obtained in advance, or at the time of provision of a service, goods, letting or works. Where credit is given, Service Directors must ensure that the credit status of each customer is satisfactory. Service Directors are responsible for issuing debtor accounts in a form approved by the Chief Finance Officer immediately a debt falls due. Each Service 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.

11.14 The Chief Finance Officer must be satisfied that Service Directors are taking appropriate measures to recover credit income due in a timely and efficient manner. The Chief Finance Officer will take appropriate steps to monitor and review the effectiveness of recovery procedures in services, and in conjunction with the relevant Service Director, implement any further actions as required to maximise income recovery within service to appropriate levels.

11.15 Where a Service Director agrees that a debtor may defer repayment, the Service Director must ensure that full records of the reason for agreeing repayment deferral are retained and must have arrangements in place to formally reconsider the appropriateness of deferral at agreed regular intervals (that must not be longer than 12 months).

11.16 Service Directors must regularly review debts due and ensure adequate year end provisions for bad and doubtful debts. Service Directors are authorised to review and recommend for write off all individual bad debts in a timely manner, as a minimum every 6 months, and 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, in a manner prescribed by the Chief Finance Officer.

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

All payments must be made through the councils accounting system (SAP) and should be made by electronic transfer except where there are substantial

over riding 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.

- 12.1 Service Directors must ensure that all valid invoices are paid within 30 days of receipt.
- 12.2 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

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

Certification & Processing (paper records)

- 12.5 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.
- 12.6 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.

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

 - (a) The work, goods or services to which the account relates have been received or carried out, examined and approved
 - (b) Prices, extensions, calculations, discounts, other allowances and tax are correct
 - (c) There is a proper tax invoice when appropriate
 - (d) The relevant expenditure has been properly incurred, is within budget, and is charged to the appropriate budget
 - (e) Entries have been made in Asset registers, inventories, stores and other records as appropriate; and
 - (f) The account has not previously been paid.
- 12.7 Where errors on an invoice are detected manual adjustments which reduce the total payment are permissible, provided that this does not change the total amount of VAT payable. In all cases where the amount due increases, or

changes the amount of VAT, a replacement invoice and/or credit note must be obtained before payment is made.

- 12.8 The 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.

- 12.9 All forms of account submitted for payment to a supplier or contractor other than on the original invoice must be accompanied by a special certification stating that the original invoice has not been paid and will not be paid subsequently. The certificate must be signed by an officer authorised to certify accounts for payment.

- 12.10 The 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

- 12.11 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

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

Payment by Direct Debit/Standing Order

- 12.13 The 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.

- 12.14 The Service Director must inform the Chief Finance Officer when any payment is to be terminated.
- 12.15 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.
- 13.6 Employees of the council must not use their own debit or credit card to make purchases on behalf of the council. (Other than in circumstances agreed in advance by the Chief Finance Officer, such as emergencies)

14. SALARIES, WAGES AND PENSIONS

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.

- 14.1 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.

- 14.2 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

- 14.3 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.
- 14.4 All officers must complete a time record of actual times of attendance at work, except where a time clock is used. Paper records should be signed by the officer as a correct statement. It is the responsibility of each manager to check time records of officers for which that manager has responsibility.
- 14.5 Time records and other pay documents must be maintained in a manner approved by the 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

- 14.6 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 Financial Procedure Rule 11.

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.
- 15.1 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 other officer authorised by the Director.
- 15.2 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.
- 15.3 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 per annum.
- 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.

21. PURCHASING OF WORKS, GOODS AND SERVICES

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.

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

Orders

- 21.1 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.
- 21.2 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.

- 21.3 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.
- 21.4 Except where there is a formal contract, in which case work instructions and orders must conform with the provisions of the contract, official orders will be issued for all 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
- 21.5 Verbal orders must be kept to a minimum and be confirmed either the same or next working day by written orders which must be marked as a confirmatory order.
- 21.6 Records of all non-computerised order books must be kept by the Director. Copies of orders must be retained. All copies of spoilt, incorrect or un-issued orders must be appropriately marked and retained in any order book.
- 21.7 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

- 21.8 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

- 21.9 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.
- 21.10 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

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

Overspending

- 21.13 Any variation – including an extension- 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

- 21.14 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.
- 21.15 The certificate authorising final financial settlement of any contract will not be issued until the appropriate officer has produced a detailed statement of account and all necessary supporting documents, and these have been checked in accordance with arrangements approved by the Chief Finance Officer and the final payment agreed by the budget holding Director.

Claims

- 21.16 All claims (or prospective claims) from contractors for loss and expense will be considered by the authorised officer who will immediately advise the client Director and they will jointly consider methods for cost reduction to achieve the budgetary provision. 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.
- 21.17 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.

- 21.18 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

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

22. GRANTS TO AND FROM THE COUNCIL AND LOANS FROM THE COUNCIL

Grants Receivable

- 22.1 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~~ Council Plan, service objectives and Council policy where the council is required to make no contribution, or where the council contribution can be fully met from an existing budget for that purpose.
- 22.2 Service Directors must ensure a detailed business case is prepared, in consultation with the Chief Finance Officer, in respect of any grant offer sought under clause 22.1. Any application/expression of interest needs to assess
- (a) the alignment of the grant scheme with the current approved policies of the council
 - (b) the capacity impact on the Council for the deliverability of the project and expenditure,
 - (c) the parameters of the grant conditions and timescales requirements
- ~~Any~~ The Service Director must agree any material grant conditions ~~must be agreed~~ with the Service Director Legal Governance & Commissioning.
- 22.3 Where a proposed revenue or capital budget bid does not align with an existing council policy, or where there is not sufficient budget allocated appropriately to meet a required council grant contribution, the Service Director must consult with the Chief Finance Officer. After consideration of virement options, it may be necessary to seek authority from Cabinet, or Council (as applicable) to authorise funding to facilitate the grant application.
- 22.4 Subject to the identification of sufficient resources within existing approved budget, or the approval of cabinet, or Council as necessary Service Directors are authorised to accept any offer of grant and subsequent grant conditions up to a maximum of £500,000.

Strategic Directors are authorised to accept a grant of up to

(a) 5% of the gross revenue budget of the Service to which the grant relates.

or

(b) For capital projects, £1,000,000

The Chief Finance Officer in consultation with the Service Director Legal Governance & Commissioning and the appropriate Strategic Director is authorised to approve the acceptance of grants in all other circumstances.

22.5 Service Directors are authorised to accept a grant offer of any value from the West Yorkshire Mayoral Combined Authority and any government department, provided that

(a) the grant is in fulfilment of a national or regional initiative or requirement, and

(b) the council is required to make no contribution, or the contribution can be fully met from an existing budget for that purpose.

The Service Director must advise the Chief Finance Officer of the relevant details and obligations of the grant as soon as possible on receiving notice of the grant offer, and on confirmation of the grant award.

22.6 Service Directors must ensure that any grant conditions or obligations are fulfilled, in respect of the allocations, timings, purposes of expenditure and outputs and outcomes. Service Directors must arrange for expenditure consistent with any specific type or purpose of grant, such as capital or revenue budget expenditure.

22.7 The value of all grants must be notified to the Chief Finance Officer, who will make arrangements as necessary to receive the grant and record the relevant expenditure. Any revenue or capital budget impacts will be incorporated into the quarterly financial monitoring update reports to Cabinet.

In respect of capital grants, any additional revenue expenditure requirement consequent from any capital grant award must be recognised by budget virements.

Any new capital programme/scheme must have an appropriate business case and Cabinet approval as per Section 3 FPR requirement, prior to any grant acceptance.

22.8 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. The Service Director must provide such additional information as may be required by the Chief Finance Officer and or – when there is a requirement for internal audit authorisation- by the Head of Audit & Risk.

Grants and Loans to Other Organisations

22.9 Before issuing any grant the Service Director must be satisfied that the proposed activity or project does not constitute a procurement (to which Contract Procedure Rules would apply).

22.10 Except where the Chief Finance Officer agrees otherwise:

- (a) Competitive procurement aligning with the council's 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.
- (b) The service director must carry out all appropriate due diligence on the proposed grant recipient entity, ensuring that it operates with appropriate financial and business controls, is not obtaining duplicate funding for the same project from the council, or any other funding body.

22.11 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 g~~Grants of up to £10,000 each and £20,000 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)~~

22.12 Where a Service Director proposes to offer a grant, or loan to any organisation which is not covered by 22.11 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.

The total value of grants awarded to any single organisation under this clause may not exceed £100,000, cumulatively in any one year, or for any objective,

purpose or scheme operating for more than one year

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 (see 22.15)

22.13 A 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.

22.14 The Service Director Legal Governance & Commissioning will execute any legal agreement in respect of any grant or loan exceeding £180,000.

22.15 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

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

22.16 A Service Director may also administer grants in accordance with a scheme fully supported by

(a) government grants, or

(b) grants from any other third party

provided that the methodology of grant distribution fully follows the obligations of the supported scheme, and where local discretion may apply this is subject to decision making as required by the Council's Constitution or the other requirements of Financial Procedure Rule 22. A scheme that is only partially funded requires compliance with the Council's Constitution and Financial Procedure Rules sections 2 and or 3.

22.17 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 -applicable national or international 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.

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

Code.

22.19 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 9 and 10.

Approved by Annual Council May 2022

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Name of meeting: CORPORATE GOVERNANCE & AUDIT COMMITTEE
Date: 22 APRIL 2022
Title of report: GAINING ASSURANCE

Purpose of report.

To consider the ways that the Committee may gain adequate assurance about the way that council carries out its activities

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 Strategic Director & name	not applicable
Is it also signed off by the Service Director for Finance IT and Transactional Services?	not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	not applicable
Cabinet member portfolio	not applicable

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes

1. Summary

1.1 The report- attached- sets out information about the theory of assurance, the ways in which it can be obtained, the current arrangements for gaining that assurance, and asks if these should be enhanced.

2. Information required to take a decision

2.1 The report provides the detail to support a discussion by the Committee on assurance arrangements, to inform a further paper to be considered in due course. (Which may involve Council, Cabinet, Scrutiny as well as this Committee)

3. **Implications for the Council**

- 3.1 **Working with People** – None directly- but see 3.6
- 3.2 **Working with Partners** – None directly- but see 3.6
- 3.3 **Place Based Working** – None directly- but see 3.6
- 3.4 **Improving outcomes for children**– None directly- but see 3.6
- 3.5 **Climate change and air quality**- None directly- but see 3.6
- 3.6 **Other (e.g., Legal/Financial or Human Resources)**- gaining assurance about operational and governance arrangements is a way in which the Committee links its role in corporate governance and audit. Many of these will be financial, but there are many other aspects (as 3.1 to 3.5 above) where assurance knowledge will enhance the understanding about, and hopefully maintain or drive achievement of successful performance against all aspects of service provision.

4. **Consultees and their opinions**

- 4.1 Executive Team has given an initial consideration to the matter of obtaining entity wide assurance.

5. **Next steps and timelines**

- 5.1 The report, and any observations made by this Committee will inform any proposals to achieve a wide understanding of entity wide assurance and enable this Committee and other parts of the council to consider if any changes to assurance arrangements should be made.

6. **Officer recommendations and reasons**

- 6.1 Members are asked to consider the attached report (and the questions at 5.3(a-f)) and make any observations to inform completion of the process.

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

Not applicable

8. **Contact officer**

Martin Dearnley, Head of Risk & Internal Audit (01484 221000 x73672)

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

None.

10. **Service Director responsible**

Not applicable

**KIRKLEES COUNCIL
INTERNAL AUDIT
REPORT TO THE CORPORATE GOVERNANCE & AUDIT COMMITTEE**

OBTAINING ASSURANCE.

1. Summary

This report sets out information about the theory of assurance, the ways in which it can be obtained, the current arrangements for gaining that assurance, and how these might be enhanced.

2. Information and Theory

2.1 The term “Assurance” is defined in the dictionary as

A positive declaration intended to give confidence, a promise

Certainty about something

A strong and definite statement that something will happen or that something is true

2.2 The Institute of Chartered Accountants considers that in the context of the commercial world assurance is so that

Owners, management, investors, governments, regulators and other

stakeholders rely on the successful conduct of business activities, sound internal processes and the production of credible information

2.3 The councils Local Code of Corporate Governance does include reference to elements of business assurance in the context of accountability, internal control, risk management and audit, (appendix 1A) and whilst the role of the Corporate Governance & Audit Committee does not specifically include “assurance”, it does include reference to the responsibilities for accounting, audit and corporate governance (appendix 1B).

2.4 An external audit and internal audit expectation have been long founded elements of local authority governance (much longer than some other parts of the public sector). The past emphasis of this work was on the accuracy of financial information, (External auditor), and the avoidance of error and fraud (Internal audit).

2.5 Through the wider remit of the Audit Commission there was greater consideration of elements of value for money and business strategy (although still a substantial interest in material accuracy of accounts) by the external auditor for 25 years from the 1980s- through to their abolition circa 10 years ago. The external auditors still certify a vfm statement- which has been enhanced somewhat in recent years- but concentrate on material accuracy of financial statements.

2.6 For internal auditors, the (international) Institute of Internal Auditors (IIA) has become more influential and has recommended that internal audit focus is shifted from detailed financial accuracy, error and fraud to a wider remit of assurance based around entity risk.

2.7 The logic of this is that a successful organisation needs to be sure that all its business arrangements perform effectively- whether they be financial or non-financial - because ultimately non-financial issues will tend to become financial.

2.8 This is easiest to understand in the context of a purely commercial business. For example, poor quality or unreliable products, will lead to customer

dissatisfaction and a loss of sales, potentially affecting the viability of the business. If selling something in fixed quantities- inaccurate under-weighting could lead to allegations of dishonesty and fines (and reputation); Over-weight product would be wasteful, and so equally affect profitability. Supply chain risk is often seen as a key risk in the private sector.

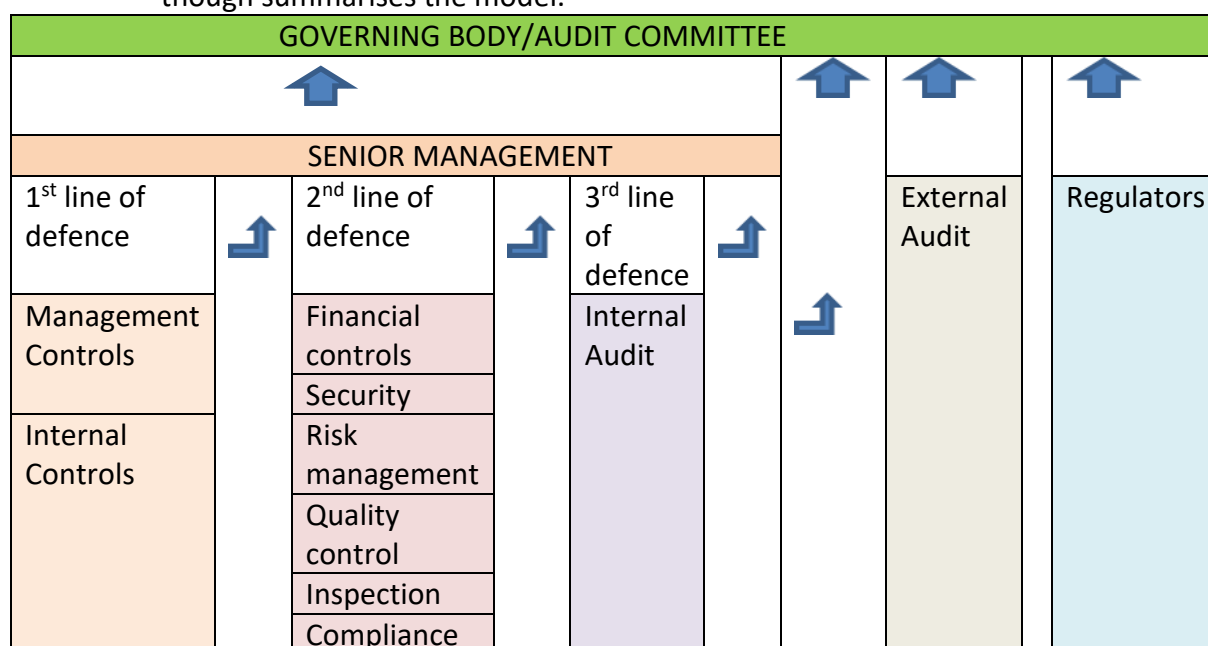
2.9 In the context of a public sector (statutory) service provider wider business assurance provides greater certainty that the organisation is fulfilling its statutory and chosen objectives. These are set down in various places but would include the Councils Corporate Plan. In the more detailed context, whilst fraud and error may be still seen as a concern, other issues create potential threats; Cyber security, and the disruption or destruction of information for international, political or other reasons rank as potential risk and threats that ostensibly are not directly financial but so severely affect the ability of an organisation to operate effectively that they create reputational damage, disruption (and if service provision is to be maintained probably higher cost). Cyber ransom has the same effects, potentially, but with a wider context of appropriateness.

2.10 It is notable that the IIA considers that most internal audit plans (in all sectors) over emphasise concerns about the risks of financial information (and thus financial statement error risk), and fraud, and underestimate the entity risk from aspects, such as supply chain, IT and cyber, staffing, legislative change, environmental and climate.

2.11 The emphasis of internal audit has thus moved to an extent to the wider understanding of the assurance processes the organisation has in place.

2.12 The IIA considers that an appropriate corporate structure to deliver this wider assurance understanding is the “Three Lines of Defence” Model. This considers internal assurance at three levels, direct operational control, oversight controls, and internal audit. Other defences exist through the external auditor and external regulators where applicable.

2.13 A description of the arrangement is included as Appendix 2. The chart below though summarises the model.



- 2.14 The arrangement should emphasise the importance of management taking responsibility to deliver sound assurance but provides other ways for those charged with governance to understand organisational risk and quality.
- 2.15 This arrangement should work in any type of organisation- but see section 2.16 below. The arrangement though is not without risk, as analysis of problems in organisations (based on financial services c 15 years ago), identifies issues of management being driven by goals (and personal incentive), so ignoring assurance controls, a lack of independence of functions and skill in the second line of defence; and the failure by internal audit to identify high-risk areas or processes will lead to audits focussing on the wrong areas.
- 2.16 The model is stated as applicable to all types of business. Local authorities separate their service provision- much of which is free at the point of delivery, from the funding – much of which is statutory tax. The principles apply, but the non-monetary aspects of some activity mean that different assurance forms may sometimes be applicable. Regulatory intervention in local authority activity can also, in some respects take place at a more detailed level than would be typical of the private sector- examples being Ofsted, CQC. Ombudsman, Planning Inspectorate, Regulator of Social Housing. This regulatory involvement is often reactive or retrospective. In addition, the nature of the council acting in partnership with other parts of the public sector (sometimes as a regulator) also needs to be recognised.
- 2.17 Whilst all types of businesses use customer complaints as a way of understanding their client base, in the commercial sector unhappy customers often cease to be customers. For a local authority, customer complaint may be a more direct form of assurance, or lack thereof. Customer dissatisfaction may also be a route to regulatory intervention, routinely or otherwise. For example, applicants for planning permission do have the ability to appeal through the Planning Inspectorate. Many successful appeals may suggest a failure of process (and would come with some cost). Planning though is a one direction only appeal process; Persons unhappy that an application was granted do not have a routine ability to challenge the decision (though they have the theoretical right of injunction if legal or administrative processes were not correctly followed).
- 2.18 A further area of theory is that of “assurance maps”. In some respects, these are a tool to implement the 3 lines of defence model, as understanding what assurance already exists in an organisation is an important part of determining gaps and hence risks.
- 2.19 Assurance maps do not provide an answer, they are part of knowledge. At a high level, they are relatively easy to draw up and determine scope and issue. At a detail level though, like system, process and control maps, the complexity and costs of creation, analysis and regular updating (whenever a process or system is modified) may not justify the continuous support work, and it may be better to leave routine management assessment (defence 1), oversight (defence 2) or routine internal audit (defence 3), to identify and address any detailed control assurance issues.
- 2.20 Control risk self-assessment is a form of assurance used, sometimes, by auditors. The external auditor asks for certain statements from specific officers

and members about their satisfaction with arrangements. This can only though be a supplement to the need for the auditor to gain assurance on key risk areas themselves. Similarly, internal auditors, including in some local authorities, use this approach to seek an element of assurance about operational activities. This can include the seeking of an annual certification (say from directors) that all activity is subject to internal check or internal control, or it can go further to a diagnosis and training philosophy that looks to discuss an arrangement or process, identify risks, agree controls, and seek to get commitment from those operating the arrangement to execute the appropriate control arrangements.

- 2.21 Ideally maximum assurance is obtained by knowing as much about arrangements as possible. Risk management can be about knowing what is not known. But there are also unknown unknowns (as often attributed to Donald Rumsfeld, a past USA defence secretary, but having been referenced in historical texts). Assurance must be about knowing as much as reasonably practical, but it must be within the context of resource, skill, knowledge, and openness.

3. Applicability of Assurance for Kirklees Council, and Kirklees Corporate Governance & Audit Committee. What does this mean for our arrangements?

- 3.1 At the present we have an internal audit team that focuses on a combination of traditional financial risks, and some areas of high risk in other areas. This is based on an audit plan drawn up against a theoretical list of entity risks (sometimes called the “audit universe”). The work of internal audit is dealt with in detail by officers, with summary reports of outcomes being presented to this Committee in the Quarterly Report, and Annual Report.
- 3.2 We also have arrangements which bring some reports from other internal assurance functions to the Corporate Governance & Audit Committee and some regulatory reports, but not all. Some other Council Committees- such as Scrutiny, or Cabinet receive or review other assurance and regulatory reports.
- 3.3 Almost all council activities have administrative processes that have some degree of quality check or intervention, although at the lowest levels the amounts of checking may be minimal or may depend on a system or computer-based system restrictions. The amount of intervention tends to rise as officer-based decisions become more important. For example, delegated planning decisions, where supervisors would read and consider the analysis of each team members proposed determination. In care-based cases, detailed work is done by individuals, teams or specialists, with both direct staff supervision and panel-based case decisions.
- 3.4 Most corporate activity is controlled through specialist teams (Finance, IT, Legal, HR), although most other aspects of activity are controlled at a directorate or Service level. An ambitious investment programme has led to some implementation of more specialist project control and assessment for complex capital projects.
- 3.5 The assurance schedule (rather than a detailed “map”) can be considered to include the following, listed in the table below.

A. Sources of Independent internal and external assurance (Third Defence [+]) & selected internal (Second Defence)

Source of assurance	Methodology	Scope	CGAC report	Internal or external
Internal Audit (Risk based plan)	individual project assessment	Routine financial. Some business processes. Some other areas	Yes Summary Quarterly/ Annual	Internal
Internal Audit Investigations	individual project assessment	Various (mainly financial/ governance) areas	Yes As arising	Internal
Customer Complaints	individual project assessment (& some advisory)	All areas, at third stage. Prepares cases for Ombudsman/ responds	Yes Twice per year	Internal
Health & Safety	Routine monitoring /advice and individual project assessment	All areas of health and safety Carries out some internal investigations into incidents and near misses. Assist HSE with external cases	Yes Twice per year	Internal
Information Governance	Routine monitoring /advice and individual project assessment	All areas of information governance. Both provider and oversee-er. Prepares cases for Information commissioner/ responds	Yes Twice per year	Internal
Grant Thornton (External Auditor)	Assessment of presented financial statements against required standards, vfm reporting	All financial information. Some supplementary/ related information. Assessment of quality of internal controls	Yes Once formally (Intermediate reporting)	External
Local Government Ombudsman	Individual project assessment (& some advisory)	Considers cases referred by customers/service users who are unhappy. Case reports. Annual report	Summary information reported as Customer Complaints (as above). Certain specific	External
Ofsted	Individual school performance. Performance of Childrens Services functions	All areas of school performance (except finance/admin) All areas of Childrens services performance	No Some reporting to Executive Team, Cabinet	External
CQC	Individual care provider performance.	All areas of provider performance	No Some reporting to Executive Team, Cabinet	External
Planning Inspectorate	Individual project assessment	Considers cases referred by applicants who are unhappy. Case reports. Annual report	No. Some reports to	External

Appendix 1

			Planning Committee	
Regulator of Social Housing	Social Housing (HRA) operational oversight	Activity areas- such as safety (Role and authority likely to be extended by legislation)	Case specific reporting to date	External
Peer Review (Occasional)	As commissioned, topics typically in scope are Governance and operating models	Understanding how the organisation identifies, relates, and functions as an effective democratic organisation	Case specific reporting to cabinet/ council	External

B Other sources of Potential Assurance

Source of assurance	Methodology	Scope	CGAC report	Internal or external
Budget Monitoring	Routine detailed comparison by Accountancy officers. Strategic analysis of position by Chief Financial Officer	All council budgets in scope; Regular monitoring of all variances, with frequent review of larger items which are seen as control risks	No But reported routinely to ET, Cabinet Scrutiny & Council	Internal
Legal & Governance	Routine consideration of all decision related material	All activities within scope. Includes advisory and legal completions (e.g., contracts, conveyances)	No	Internal
Contract Procedure Rules	Enforcement of significant procurements by Procurement Team	In theory, everything; low value items, grants and certain others can avoid the process	No (other than when in scope of IA)	Internal
Financial Procedure Rules	Mainly self-enforcement. SAP (and certain other systems enforce parts of obligations) Finance officers (Accountancy & IA)	In theory, everything. Some rules can be ignored	No (other than when in scope of IA)	Internal
HR	Compliance with legislation, Employee Handbook Achieving the People Strategy	Requirement to appoint only in accordance with approved structures, and grades. Some processes designed to achieve PS objective (e.g., re recruiting)	No	Internal
Payroll	Compliance with legislation, Employee Handbook	Employee payments controlled through SAP.	No	Internal
Information Technology	Largely integrated, consistently control systems within a virtual private network	All IT devices. All software. Controlled network. Automated- but as per criteria establishes by council	No	Automated
Information Technology	Consultants commissioned to	As determined by council or outside obligatory processes.	No	External

Appendix 1

	advise of integrity and risk on systems and arrangements such as network security. Obligatory review requirement (e.g., for use of BACS)	Examples are general cyber security or specific cyber risks (E.g., extremist use of public IT)		(Occasionally internal)
General	Reviews of current activity. -compliance /assurance	As established by the review (e.g., building safety in public housing)	No	External
General	Reviews of current activity. -service, HR, objectives, change	As established by the review (e.g., SEND)	No	External (Occasionally internal)
Risk Management	Corporate collection of risk information to understand entity risk	In theory all activities and projects, but dependent on risk awareness and reporting. Limited corporate enforcement	Yes (annual) Quarterly to Executive Team and (informally) Cabinet, Scrutiny	internal
Performance Management	Activity metrics compared with targets, demonstrating trends and comparison and narratives	All activities theoretically within scope but dependent on information. Should be a key tool to focus on “important” activity, and linked with finance and risk information should demonstrate likelihood of success of organisation	Quarterly to Executive Team and (informally) Cabinet	Internal
Council Plan Monitoring	Review of progress to achieving the Council Plan	Detailed analysis of progress to specific objectives in Council Plan	ET, Cabinet	Internal
Project Management Office	Formal project management disciplines	Should provide structured approach to developing and progressing projects- see below		Internal
Gateway assessment	Formal assessment of significant capital project.	To achieve greater certainty & vfm on approved projects following HM Treasury & other guidance	ET. Cabinet	Internal
Annual Governance Statement monitoring	Review of progress to addressing issues in the Annual governance Statement	Detailed analysis of progress to specific objectives in Annual Governance Statement	Yes (though not done in 21/2)	internal
Reviews by Government or Funding Agencies	A closed set of objectives set by the Inspecting party. It may be linked to a statutory obligation, or grant	As established by the regime- e.g., Home Office review of Channel activity re extremism /terrorism	No	External

- 3.6 In addition, there is corporate assurance provided less formally by requiring other types of work and activity to be carried out only through in house specialists. This would include
- Building Services
 - Property Services
 - Transport Services
- 3.7 As note previously most service areas have at least elements of internal quality control and internal activity assessment.
- 3.8 As noted at 2.20 control risk self-certification requirements are used in some organisations, but they have not been used at Kirklees. The basic logic behind this is that as the organisation has an internal audit function, and that team ought to satisfy itself, on a priority basis, of the quality of any internal controls. It is noted that most internal auditors have a financial background, and so tend to be strong on reviewing financial compliance, and that others have knowledge of areas such as governance and procurement (that may be seen as areas of core risk). The use of generic auditing skills (the word auditing coming originally from Latin- *audite*) ought to be able to gain a level of assurance on any topic. Some by their nature may be complex (IT) or require a base knowledge of acceptable practice and practices (care). This thus routes back to the issue about the problem of using the third line of defence approach, although gaining assurance in any specialist area is always going to be difficult or complex, especially where the decisions are judgemental.
- 3.9 The objective of assurance arrangements is to understand the risk that the organisation will not achieve its overall objectives. Accordingly, it might be seen as good practice to work from these to identify if there are any assurance gaps.
- 3.10 A part of the obligatory governance processes is the production of an Annual Governance Statement (AGS); this is also a part of the assurance process; in that it is intended to schedule those areas where the organisation has identified potential concerns. The route to an AGS should be either identified failure, or gaps and uncertainty in assurance arrangements.
- 3.11 It will be noted that Risk Management arrangements are also a part of the assurance framework. Whilst at a strategic level the risk management process probably effectively identifies key areas of risk, the system may not be as effective in demonstrating potentially medium cost or medium service delivery impact (or high reputational impacts).
- 3.12 Good practice creates an internal audit plan in part from the risk information, and partly from an understanding of the quality of other forms of first line and second line of defence assurance arrangements.
- 4. Strategic, operational and broad assurance.**
- 4.1 It is important to remember and acknowledge the different roles for various parts of the Council in relation to assurance, linked to their roles in the organisation
- Council- setting the policy direction and budget of the Council
 - Cabinet- implementing the policies and budget of the Council
 - Officers- operationally fulfilling the decisions of Council and Cabinet

- 4.2 In this context, officers ought to have awareness of all assurance areas, and Cabinet ought to oversee the assurance of the achievement of policy, projects and finances at a strategic level.
- 4.3 To support this there are other oversight arrangements already in place; some are detailed, or activity specific, others are more general. In the most part they do not seek specific overall assurance, and activity is likely to be either specific or strategic.

Group	Role	Scope	CGAC report	Internal or external
Specific Boards	Established to provide assurance on specific aspects of council operations	e.g., Housing Assurance Board (a mix of tenants and specialist advisors to oversee housing HRA operations, particularly in the context of housing safety and advise Cabinet)	No	External mainly- internally supported
Scrutiny Committees	Although the objective of Scrutiny is to understand and assess policy initiatives, aspects of their work will provide assurance about activity	Some scrutiny will have, limited assurance content, but other work may involve assessment of the quality of decision making, or a review of (specific or generic) advice from regulators, or other third parties	No, but much activity is in the public domain and in minutes	Internal (External advice occasionally taken)
Cabinet (LMT) Assurance Board (new)	To provide assurance to cabinet at a strategic level of the areas of activity which are important and those which create potential risk	Still to be fully developed but will include Financial Performance Risk Management Projects	No	Internal

- 4.4 It is important that arrangements for assessment of assurance are not duplicated, but they are sufficiently holistic to cover all aspects of the organisation- without gaps.
- 4.5 An aspect of most local authority (and many other public organisations) that have had adverse reporting from external auditors, regulators or commissioners is that they often feature poor internal relationships, with dysfunctional officer management teams, poor relationships amongst corporate statutory officers, fixed mindsets, limited challenge amongst politicians and ineffective challenge of politicians by officers.
- 4.6 It is important that in constructing assurance arrangements, the Council does so in a way that achieves the entire entity assurance, creating positive relationships, and welcoming constructive challenge.

5. Adequacy of Assurance Arrangements.

- 5.1 The analysis above has provided the current arrangements for gaining assurance.

Appendix 1

- 5.2 There are a lot of assurance structures, but there needs to be corporate thought about how these can be joined together, reflecting the responsibilities (at a political level) of the Council, Cabinet, Scrutiny and Corporate Governance & Audit Committee, and at an officer level of the statutory officers (Chief Executive, Chief Finance Officer and Monitoring Officer)
- 5.3 Aspects that need to be considered are
 - (a) How much assurance is appropriate?
 - (b) How should this be balanced between officers and members?
 - (c) How should this be balanced between Council, Cabinet, and the corporate Committees- Scrutiny and the Corporate Governance & Audit Committee?
 - (d) How do we achieve positive assurance on the entire entity?
 - (e) How do we achieve this without duplication?
 - (f) Are there any concerning gaps in assurance knowledge at present?
- 5.4 There needs to be a full understanding of the issue, prior to reaching a decision on the allocation of responsibilities.
- 5.5 When this understanding is more complete, it may be appropriate for the Council generally, or Corporate Governance & Audit Committee specifically, to assess if gaps in assurance knowledge are areas where Internal Audit should concentrate, or where specific advisory studies should be commissioned from others.

Martin Dearnley
Head of Risk (& Internal Audit)
April 2022

control and internal audit.

- Include public statements on its risk management strategy, framework and processes to demonstrate accountability.
- Demonstrate integrity by being based on robust systems for identifying, profiling, controlling and monitoring all significant strategic and operational risks.
- Include mechanisms to ensure the risk management and control process is monitored for compliance and those changes are accommodated.
- Display openness and inclusiveness through the involvement of those associated with the planning and delivering of services, including partners.

Appendix 1B

Extract from Constitution Non-Executive Functions, Corporate Governance & Audit Committee.

4. To consider the council's arrangement relating to accounts including
 - (a) the approval of the statement of accounts and any material amendments of the accounts recommended by the auditors
 - (b) to keep under review the council's financial and management accounts and financial information as it sees fit
5. To consider the council's arrangements relating to the external audit requirements including:
 - (a) the receipt of the external audit reports so as to.
 - (i) inform the operation of the council's current or future audit arrangements
 - (ii) provide a basis for gaining the necessary assurance regarding governance prior to the approval of the council's accounts
6. To consider the council's arrangements relating to internal audit requirements including:
 - (a) considering the Annual Internal Audit report, reviewing and making recommendations on issues contained therein
 - (b) monitoring the performance of internal audit
 - (c) agreeing and reviewing the nature and scope of the Annual Audit Plan
7. To review the adequacy of the council's Corporate Governance arrangements. This will include (but not be limited to) the following:
 - 7.1. Internal control and risk management.
 - 7.2. Oversight of whistleblowing and the Council's whistleblowing policy.
 - 7.3. Oversight of the complaints process and the role of the Local Government Ombudsman.
 - 7.4. Oversight of Information Governance and the role of the ICO.
 - 7.5. To review and approve the annual statement of Corporate Governance.
8. To agree and update regularly the council's Code of Corporate Governance, monitoring its operation and compliance with it, and using it as a benchmark against performance for the annual Statement of Corporate Governance.

APPENDIX 2
Three Lines of Defence
An Assurance Concept

1. Key points:

Guidance for Boards, Audit Committees, executive management and Internal Audit on establishing a Three Lines of Defence model for effective and efficient governance, risk management and control has been issued by the Institute of Internal Auditors (IIA). The model is not simple to implement ideally requiring vision and ongoing support at Board level.

Significant benefit to all type and size of organisation can be achieved by implementing the model although common pitfalls should be considered

2. The Three Lines of Defence model and the benefits and challenges of implementation.

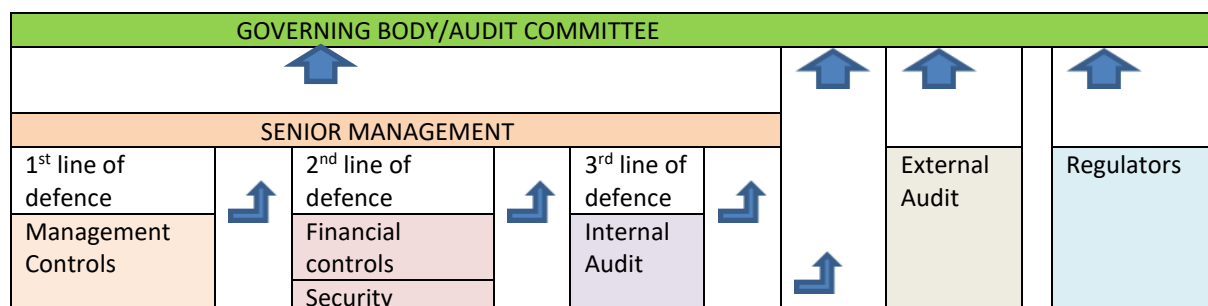
The Institute of Internal Auditors (IIA) published a global position paper in 2013, titled: *The Three Lines of Defense in Effective Risk Management and Control*. (Published in USA) The concept has remained sufficiently important that a further position paper was published in June 2017 by the Chartered Institute of Internal Auditors, titled: *The Three Lines of Defence*, hereafter the 2017 paper.

The 2017 paper stated:

‘Applying the three lines of defence model in an organisation is not a silver bullet for achieving effective internal audit. Much also depends for example on the standing, scope and resourcing of the internal audit function. However, if the positioning and governance structure for internal audit are wrong, its ability to support the board or audit committee in their challenging of management can be fatally undermined’.

What is the Three Lines of Defence model?

The IIA and the Institute of Directors endorse the 'Three Lines of Defence' model as a way of explaining the relationship between these functions and as a guide to how responsibilities should be divided:



Appendix 1

Internal Controls		Risk management						
		Quality control						
		Inspection						
		Compliance						

The three lines of defence

The first line of defence (functions that own and manage risks)

This is formed by managers and staff who are responsible for identifying and managing risk as part of their accountability for achieving objectives. Collectively, they should have the necessary knowledge, skills, information, and authority to operate the relevant policies and procedures of risk control. This requires an understanding of the company, its objectives, the environment in which it operates, and the risks it faces.

The second line of defence (functions that oversee or who specialise in compliance or the management of risk)

This provides the policies, frameworks, tools, techniques and support to enable risk and compliance to be managed in the first line, conducts monitoring to judge how effectively they are doing it and helps ensure consistency of definitions and measurement of risk.

The third line of defence (functions that provide independent assurance)

This is provided by internal audit. Sitting outside the risk management processes of the first two lines of defence, its main roles are to ensure that the first two lines are operating effectively and advise how they could be improved. Tasked by, and reporting to the board / audit committee, it provides an evaluation, through a risk-based approach, on the effectiveness of governance, risk management, and internal control to the organisation's governing body and senior management. It can also give assurance to sector regulators and external auditors that appropriate controls and processes are in place and are operating effectively. Is the model applicable to any organisation?

In short, yes.

The 2013 paper stated that the three lines of defence model is 'appropriate for any organisation – regardless of size or complexity. Even in organizations where a formal risk management framework or system does not exist, the Three Lines of Defence model can enhance clarity regarding risks and controls and help improve the effectiveness of risk management systems'.

The IIA position papers are part of their 'Strongly Recommended' category of guidance and compliance is not mandatory.

3. The key benefits of implementing an effective model

To implement an effective and efficient model across an organisation is not simple and requires vision and ongoing support from the Board and executive management in terms of direction and resources. The benefits are:

- (a) Improved coverage of risks and controls by identifying and refining where necessary the population of risks and controls, and appropriately allocating the ownership and performance of these risks and controls across the lines of defence. Consequently, any unintended risks and gaps in controls may be avoided, and unnecessary duplication of work should be avoided by removing layers of redundant controls.
- (b) Improved control culture across the organisation by enhancing the understanding of risks and controls. For example, potential conflicts of interest or incompatible responsibilities may be more readily identified and challenged with those risks then either removed or mitigated; and
- (c) Improved reporting to the Board and executive management through a coordinated approach to providing timely and insightful reporting avoiding potentially duplicative and irrelevant information.

4. When implementation of the model fails

The Financial Stability Institute published Occasional Paper No 11 'The four lines of defence model' for financial institutions in December 2015. The paper included a root cause analysis of how the implementation of the lines of defence model arguably failed in practice during significant banking scandals with the following key findings:

- (a) Misaligned incentives for risk-takers in the first line of defence – management may have put greater emphasis on and set compensation [or career progress] based on the achievement of financial objectives rather than control-orientated objectives.
- (b) Lack of organisational independence of functions in second line of defence.
- (c) Lack of skills and expertise in second line functions; and
- (d) Inadequate and subjective risk assessment performed by internal audit. Failure by Internal Audit to identify high-risk areas or processes will lead to audits focussing on the wrong areas therefore undermining the effectiveness of the third line of defence.

Extract from an article by Steve Bruce CA 6 November 2017, ICAS website

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Name of meeting: Corporate Governance and Audit Committee
22 April 2022

Title of report: Informing the Audit Risk Assessment for
Kirklees Metropolitan Council

Purpose of report

The report updates Members on the final accounts and audit processes for 2021/22.

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) ?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Strategic Director & name	Not applicable
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	Eamonn Croston - 08/4/2022
Is it also signed off by the Service Director for Governance and Commissioning Support?	Julie Muscroft - 11/4/2022
Cabinet member portfolio	Not applicable

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

GDPR: This report contains no information that falls within the scope of General Data Protection Regulations.

1. Summary

1.1 The Council's external auditor Grant Thornton (GT) has asked that council officers complete the attached 'Informing the audit risk assessment for Kirklees Council 2021/22' (Appendix A), which consists mainly of a schedule of issues entitled:

"Question" (by GT)

"Management Response" (by KMC officers)

1.2 These relate to the following topics:

General Enquiries of Management
Internal Control
Fraud
Fraud Risk Assessment
Laws and Regulations
Impact of Laws and Regulations
Litigation and Claims
Related Parties with whom the council has or records transactions
Accounting Estimates
Accounting Estimates - General Enquiries of Management

1.3 They have also requested that the council officers complete the attached 'Accounting estimate management questionnaire' (Appendix B). This covers the use of accounting estimates across key accounting areas including: Operational Land and Buildings valuation, Council Dwellings valuation, Investment Properties valuation and LGPS net liability valuation.

1.4 External Audit will use these assurance letters to support their overall opinion on the Audited Statement of Accounts and Annual Governance Statement which will be presented to this Committee for approval on 30 September 2022.

1.5 The auditors want this committee to affirm that they believe these assertions to be true (or have no reason to believe that they are untrue). The documents are attached.

2. Information required to take a decision

2.1 The Committee need to read the statements and assertions

2.2 If there are questions arising they can ask officers for an explanation.

3. Implications for the Council

3.1 **Working with People**

N/A

3.2 **Working with Partners**

N/A

3.3 **Placed based working**

N/A

3.4 **Climate Change & Air Quality**

N/A

3.5 **Improving Outcomes for Children**

N/A

3.6 **Other (e.g. Legal/Financial or Human Resources)**

These assertions related to the annual statement of accounts enable the appointed auditors to ensure that they are satisfied that the Council

funds are also properly accounted for, and the financial position presented by the accounts is reasonable, true and fair.

4. Consultees and their opinions

The responses were completed by the Service Director Finance, Service Director Legal, Governance & Commissioning, Head of Accountancy and Head of Risk & Internal Audit.

5. Next steps

The auditors will consider the responses and use this in providing their opinion on the Audited Statement of Accounts and Annual Governance Statement which will be presented to this Committee for approval on 30 September 2022.

6. Officer recommendations and reasons

For Corporate Governance and Audit Committee to agree the risk assessment document, and for it to be formally submitted to Grant Thornton.

7. Cabinet portfolio holder's recommendations

Not applicable

8. Contact officer

James Anderson Head of Accountancy

9. Background Papers and History of Decisions

None

10. Service Directors responsible

Eamonn Croston

01484 221000

Julie Muscroft

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Informing the audit risk assessment for Kirklees Council 2021/22



The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect your business or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Purpose

The purpose of this report is to contribute towards the effective two-way communication between Kirklees Council's external auditors and Kirklees Council's Corporate Governance and Audit Committee, as 'those charged with governance'. The report covers some important areas of the auditor risk assessment where we are required to make inquiries of the Corporate Governance and Audit Committee under auditing standards.

Background

Under International Standards on Auditing (UK), (ISA(UK)) auditors have specific responsibilities to communicate with the Corporate Governance and Audit Committee. ISA(UK) emphasise the importance of two-way communication between the auditor and the Corporate Governance and Audit Committee and also specify matters that should be communicated.

This two-way communication assists both the auditor and the Corporate Governance and Audit Committee in understanding matters relating to the audit and developing a constructive working relationship. It also enables the auditor to obtain information relevant to the audit from the Corporate Governance and Audit Committee and supports the Corporate Governance and Audit Committee in fulfilling its responsibilities in relation to the financial reporting process.

Communication

As part of our risk assessment procedures we are required to obtain an understanding of management processes and the Authority's oversight of the following areas:

- General Enquiries of Management
- Fraud,
- Laws and Regulations,
- Related Parties, and
- Accounting Estimates.

Purpose

This report includes a series of questions on each of these areas and the response we have received from Kirklees Council's management. The Corporate Governance and Audit Committee should consider whether these responses are consistent with its understanding and whether there are any further comments it wishes to make.

General Enquiries of Management

Question	Management response
1. What do you regard as the key events or issues that will have a significant impact on the financial statements for 2021/22?	Ongoing COVID pandemic impact, loss of income and increased expenditure. High Needs budgetary pressures, Minimum Revenue Provision in-year 'unwind', long-term net pension liability and asset valuations.
2. Have you considered the appropriateness of the accounting policies adopted by Kirklees Council? Have there been any events or transactions that may cause you to change or adopt new accounting policies?	Accounting Policies are reviewed annually for continuing appropriateness. Updates are made as necessary to bring in to line with Code requirements.
3. Is there any use of financial instruments, including derivatives?	No complex financial instruments are used. See Stat Accounts disclosures
4. Are you aware of any significant transaction outside the normal course of business?	No

General Enquiries of Management

Question	Management response
5. Are you aware of any changes in circumstances that would lead to impairment of non-current assets?	No.
6. Are you aware of any guarantee contracts?	See Contingent Liabilities working papers
7. Are you aware of the existence of loss contingencies and/or un-asserted claims that may affect the financial statements?	No.
8. Other than in house solicitors, can you provide details of those solicitors utilised by Kirklees Council during the year. Please indicate where they are working on open litigation or contingencies from prior years?	Solicitors instructed are primarily selected from the WYLA and EMLawshare framework panels of solicitors and a panel of insurance specialist lawyers chosen by or in agreement with our insurers

General Enquiries of Management

Question	Management response
9. Have any of Kirklees Council's service providers reported any items of fraud, non-compliance with laws and regulations or uncorrected misstatements which would affect the financial statements?	No
10. Can you provide details of other advisors consulted during the year and the issue on which they were consulted?	Treasury Management (Arling Close) and Tax advice (PWC for VAT).

Fraud

Matters in relation to fraud

ISA (UK) 240 covers auditors responsibilities relating to fraud in an audit of financial statements.

The primary responsibility to prevent and detect fraud rests with both the Corporate Governance and Audit Committee and management. Management, with the oversight of the Corporate Governance and Audit Committee, needs to ensure a strong emphasis on fraud prevention and deterrence and encourage a culture of honest and ethical behaviour. As part of its oversight, the Corporate Governance and Audit Committee should consider the potential for override of controls and inappropriate influence over the financial reporting process.

As Kirklees Council's external auditor, we are responsible for obtaining reasonable assurance that the financial statements are free from material misstatement due to fraud or error. We are required to maintain professional scepticism throughout the audit, considering the potential for management override of controls.

As part of our audit risk assessment procedures we are required to consider risks of fraud. This includes considering the arrangements management has put in place with regard to fraud risks including:

- assessment that the financial statements could be materially misstated due to fraud,
- process for identifying and responding to risks of fraud, including any identified specific risks,
- communication with the Corporate Governance and Audit Committee regarding its processes for identifying and responding to risks of fraud, and
- communication to employees regarding business practices and ethical behaviour.

We need to understand how the Corporate Governance and Audit Committee oversees the above processes. We are also required to make inquiries of both management and the Corporate Governance and Audit Committee as to their knowledge of any actual, suspected or alleged fraud. These areas have been set out in the fraud risk assessment questions below together with responses from Kirklees Council's management.

Fraud risk assessment

Question	Management response
<p>1. Have Kirklees Council assessed the risk of material misstatement in the financial statements due to fraud?</p> <p>How has the process of identifying and responding to the risk of fraud been undertaken and what are the results of this process?</p> <p>How do the Authority's risk management processes link to financial reporting?</p>	<p>There are limited areas where accounting judgements and estimates are used. These areas are identified and reviewed in conjunction with the external auditor, to mitigate the risk.</p> <p>The council has a routine internal audit plan designed to provide assurance a part of which is assessment of fraud risk. IA investigate internal and supplier fraud. There is a fraud team that investigates customer fraud. Activity during 21/22 was restricted somewhat by coronavirus restrictions and a somewhat reduced audit plan has concentrated on providing core assurance. Fraud resources have been deployed significantly on business rate grant fraud, in addition to routine tenancy matters</p> <p>Risk management processes identify and look to mitigate risk. Corporate risk matrices are created by senior managers, approved by Cabinet and council and linked into the budget making process at Annual Council. In year activity risk monitoring is undertaken by executive team and Cabinet(LMT), alongside discussion of performance and budget monitoring.</p>
<p>2. What have you determined to be the classes of accounts, transactions and disclosures most at risk to fraud?</p>	<p>Treasury management –borrowing; (high risk high control)</p> <p>Customer fraud- means tested activity</p> <p>Cash fraud</p> <p>Mandate fraud (payment fraud subset)</p> <p>Tenancy fraud- RtB, unauthorised occupancy</p> <p>Covid related grant and rebate fraud</p> <p>Supplier fraud/(Collusion with officers)</p>

Fraud risk assessment

Question	Management response
<p>3. Are you aware of any instances of actual, suspected or alleged fraud, errors or other irregularities either within Kirklees Council as a whole or within specific departments since 1 April 2021? As a management team, how do you communicate risk issues (including fraud) to those charged with governance?</p>	<p>Issues would be investigated by IA and reported to CGAC if seen as “routine”. A very significant fraud would be reported through senior management, Cabinet and Council on an urgent as appropriate basis.</p> <p>There were widespread suspicions of fraud on business rate based national grant schemes, mainly detected and not paid. Successful court action against one perpetrator of complex; some other investigations continue</p>
<p>4. Have you identified any specific fraud risks?</p> <p>Do you have any concerns there are areas that are at risk of fraud?</p> <p>Are there particular locations within Kirklees Council where fraud is more likely to occur?</p>	<p>See above</p>
<p>5. What processes do Kirklees Council have in place to identify and respond to risks of fraud?</p>	<p>The council has a routine internal audit plan designed to provide assurance a part of which is assessment of fraud risk. IA investigate internal and supplier fraud. There is a fraud team that investigates customer fraud..(to operate more closely with IA from 1/4/22)</p>

Fraud risk assessment

Question	Management response
<p>6. How do you assess the overall control environment for Kirklees Council, including:</p> <ul style="list-style-type: none"> the existence of internal controls, including segregation of duties; and the process for reviewing the effectiveness the system of internal control? <p>If internal controls are not in place or not effective where are the risk areas and what mitigating actions have been taken?</p> <p>What other controls are in place to help prevent, deter or detect fraud?</p> <p>Are there any areas where there is a potential for override of controls or inappropriate influence over the financial reporting process (for example because of undue pressure to achieve financial targets)?</p>	<p>The Council has an internal audit function that reports to the Corporate Governance & Audit Committee (CGAC), & to management, which operates in compliance with Public Sector Internal Audit Standards(PSIAS). There is an agreed, risk based audit plan, which is reported on quarterly and is subject on an annual opinion. Although there are some qualifications, the 2021/22 IA opinion is that internal control arrangements are sound. The annual governance statement & quarterly review of the action plan are reported through CGAC. ...</p> <p>The council has a routine internal audit plan designed to provide assurance a part of which is assessment of fraud risk. IA investigate internal and supplier fraud. There is a fraud team that investigates customer fraud.</p> <p>This risk of override of controls is deemed minimal. Senior Management are not incentivised based on financial performance. Also senior management (the Executive Team) do not have direct access to input (journal) on to the financial ledger. There is also a strong culture of honesty and integrity.</p>
<p>7. Are there any areas where there is potential for misreporting?</p>	<p>See answer above (Q2), but the risk of material misstatements is deemed small.</p>

Fraud risk assessment

Question	Management response
<p>8. How do Kirklees Council communicate and encourage ethical behaviours and business processes of it's staff and contractors?</p> <p>How do you encourage staff to report their concerns about fraud?</p> <p>What concerns are staff expected to report about fraud?</p> <p>Have any significant issues been reported?</p>	<p>The Council's employee handbook sets out expectation on staff conduct and ethical behaviour (issued to all new staff on the council intranet).</p> <p>There is a whistleblowing arrangements that are (reasonably well) publicised and used.</p> <p>There are procedures intended to detect inappropriate actions, such as money laundering and terrorism (as required by legislation).</p> <p>Contractual documents, tenders etc, recognise the importance of fraud mitigation and control, and procurement staff have specific training regarding this matter.</p> <p>Whistleblowing Procedures. (Records are available for inspection).</p> <p>Customer complaints processes.</p> <p>Whistleblowing, subject to triage, assessment, investigation and reporting back.</p> <p>Annual reporting of whistleblowing is reported to CGAC.</p> <p>Nothing of material significance reported in year- other than as noted elsewhere</p>
<p>9. From a fraud and corruption perspective, what are considered to be high-risk posts?</p> <p>How are the risks relating to these posts identified, assessed and managed?</p>	<p>Treasury management employees –borrowing; (high risk high control)</p> <p>Any roles handling cash</p> <p>Procurement roles/ contractor supervision</p> <p>Roles involving the allocation of property(tenancies),</p> <p>Roles involving the awarding of means tested benefits, grants or assistances(individuals or corporate)</p>
<p>10. Are you aware of any related party relationships or transactions that could give rise to instances of fraud?</p> <p>How do you mitigate the risks associated with fraud related to related party relationships and transactions?</p>	<p>Related parties are recognised and assessments made. The nature of the related parties should not create any unusual risk of fraud as related party transactions are generally performed in accordance with normal council procedures.</p>

Fraud risk assessment

Question	Management response
<p>11. What arrangements are in place to report fraud issues and risks to the Corporate Governance and Audit Committee? How does the Corporate Governance and Audit Committee exercise oversight over management's processes for identifying and responding to risks of fraud and breaches of internal control? What has been the outcome of these arrangements so far this year?</p>	<p>Reported as a matter of routine to CGAC (and in other government return). See earlier responses..</p>
<p>12. Are you aware of any whistle blowing potential or complaints by potential whistle blowers? If so, what has been your response?</p>	<p>All Whistleblowing or those of the nature of WB are investigated, including those that are anonymous.</p>
<p>13. Have any reports been made under the Bribery Act?</p>	<p>No</p>

Law and regulations

Issue

Matters in relation to laws and regulations

ISA (UK) 250 requires us to consider the impact of laws and regulations in an audit of the financial statements.

Management, with the oversight of the Corporate Governance and Audit Committee, is responsible for ensuring that Kirklees Council's operations are conducted in accordance with laws and regulations including those that determine amounts in the financial statements.

As auditor, we are responsible for obtaining reasonable assurance that the financial statements are free from material misstatement due to fraud or error, taking into account the appropriate legal and regulatory framework. As part of our risk assessment procedures we are required to make inquiries of management and the Corporate Governance and Audit Committee as to whether the entity is in compliance with laws and regulations. Where we become aware of information of non-compliance or suspected non-compliance we need to gain an understanding of the non-compliance and the possible effect on the financial statements.

Risk assessment questions have been set out below together with responses from management.

Impact of laws and regulations

Question	Management response
<p>1. How does management gain assurance that all relevant laws and regulations have been complied with?</p> <p>What arrangements does Kirklees Council have in place to prevent and detect non-compliance with laws and regulations? Are you aware of any changes to the Authority's regulatory environment that may have a significant impact on the Authority's financial statements?</p>	<p>The Monitoring Officer (Director of Legal, Governance and Commissioning) and the Head of Legal services have procedures in place to monitor statutory compliance on all obligations, proposals and initiatives.</p> <p>The Monitoring Officer and colleagues in Legal Services and Insurance provide updates on ongoing and potential litigation and claims</p>
<p>2. How is the Corporate Governance and Audit Committee provided with assurance that all relevant laws and regulations have been complied with?</p>	<p>By reporting from the above to the Council, Cabinet and Executive Team.</p>
<p>3. Have there been any instances of non-compliance or suspected non-compliance with laws and regulation since 1 April 2021 with an on-going impact on the 2021/22 financial statements?</p>	<p>Yes, relating to non-compliance with FPRs; laws and regulations; and cases of fraud. These have been reported to Council/Cabinet/Executive Team/CGAC as appropriate.</p>
<p>4. Is there any actual or potential litigation or claims that would affect the financial statements?</p>	<p>No items that would materially affect the 21/22 accounts.</p>

Impact of laws and regulations

Question	Management response
5. What arrangements does Kirklees Council have in place to identify, evaluate and account for litigation or claims?	The Monitoring Officer and colleagues in Legal Services and Insurance provide updates on ongoing and potential litigation and claims.
6. Have there been any report from other regulatory bodies, such as HM Revenues and Customs which indicate non-compliance?	No

Related Parties

Issue

Matters in relation to Related Parties

Kirklees Council are required to disclose transactions with entities/individuals that would be classed as related parties. These may include:

- entities that directly, or indirectly through one or more intermediaries, control, or are controlled by Kirklees Council;
- associates;
- joint ventures;
- an entity that has an interest in the authority that gives it significant influence over the Authority;
- key management personnel, and close members of the family of key management personnel, and
- post-employment benefit plans (pension fund) for the benefit of employees of the Authority, or of any entity that is a related party of the Authority.

A disclosure is required if a transaction (or series of transactions) is material on either side, i.e. if a transaction is immaterial from the Authority's perspective but material from a related party viewpoint then the Authority must disclose it.

ISA (UK) 550 requires us to review your procedures for identifying related party transactions and obtain an understanding of the controls that you have established to identify such transactions. We will also carry out testing to ensure the related party transaction disclosures you make in the financial statements are complete and accurate.

Related Parties

Question	Management response
<p>1. Have there been any changes in the related parties including those disclosed in Kirklees Council's 2020/21 financial statements? If so please summarise:</p> <ul style="list-style-type: none"> • the nature of the relationship between these related parties and Kirklees Council • whether Kirklees Council has entered into or plans to enter into any transactions with these related parties • the type and purpose of these transactions 	<p>See 2020/21 financial Statements. Work to re-confirm related parties and transactions to support disclosures in the 2021/22 Financial Statements is in progress.</p>
<p>2. What controls does Kirklees Council have in place to identify, account for and disclose related party transactions and relationships?</p>	<p>Forms to disclose Directorships. Letters to all councillors (or emails as appropriate) to remind them annually to update interests.</p>
<p>3. What controls are in place to authorise and approve significant transactions and arrangements with related parties?</p>	<p>As there are limited real associated parties- these controls arise through the normal course of business and by normal decision making- eg through Cabinet – in all other cases (eg KSDL)</p>
<p>4. What controls are in place to authorise and approve significant transactions outside of the normal course of business?</p>	<p>The Council does not undertake transactions outside of the normal course of business.</p>

Accounting estimates

Issue

Matters in relation to Related Accounting estimates

ISA (UK) 540 (Revised December 2018) requires auditors to understand and assess an entity's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the entity's risk management process identifies and addresses risks relating to accounting estimates;
- The entity's information system as it relates to accounting estimates;
- The entity's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Corporate Governance and Audit Committee members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
 - Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
 - Evaluate how management made the accounting estimates?
- We would ask the Corporate Governance and Audit Committee to satisfy itself that the arrangements for accounting estimates are adequate.

Accounting Estimates - General Enquiries of Management

Question	Management response
1. What are the classes of transactions, events and conditions, that are significant to the financial statements that give rise to the need for, or changes in, accounting estimate and related disclosures?	Valuation, depreciation and impairment of non-current assets (including PFI). Valuation of defined benefit net pension liability.
2. How does the Authority's risk management process identify and addresses risks relating to accounting estimates?	Annual risk assessment, identifying and addressing risks as part of closedown processes.
3. How do management identify the methods, assumptions or source data, and the need for changes in them, in relation to key accounting estimates?	Use of guidance materials: CIPFA Code of Practice, RICS.
4. How do management review the outcomes of previous accounting estimates?	Assessed as part of annual closedown procedures. Historic valuations assessed against subsequent sales proceeds as part of year-end assurance/valuation process.
5. Were any changes made to the estimation processes 2021/22 and, if so, what was the reason for these?	None as yet.

Accounting Estimates - General Enquiries of Management

Question	Management response
<p>6. How do management identify the need for and apply specialised skills or knowledge related to accounting estimates?</p>	<p>Technical experts utilised where appropriate eg use of in-house (or external if required) experts for land/property valuations.</p>
<p>7. How does the Authority determine what control activities are needed for significant accounting estimates, including the controls at any service providers or management experts?</p>	<p>In discussion internally within the finance function and externally with regional technical accountants groups and audit.</p>
<p>8. How do management monitor the operation of control activities related to accounting estimates, including the key controls at any service providers or management experts?</p>	<p>Management review the output and the underlying assumptions underpinning them, challenging any discrepancies.</p>
<p>9. What is the nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates, including:</p> <ul style="list-style-type: none"> - Management's process for making significant accounting estimates - The methods and models used - The resultant accounting estimates included in the financial statements. 	<p>Accounting estimates are discussed at Corporate Governance & Audit Committee, as part of the approval of financial statements. External audit reports also provide a focus on the key areas (asset valuations and pensions liability). Financial Statements training sessions provided to members have also incorporated these areas.</p>

Accounting Estimates - General Enquiries of Management

Question	Management response
10. Are management aware of transactions, events, conditions (or changes in these) that may give rise to recognition or disclosure of significant accounting estimates that require significant judgement?	No new items for 2021-22 Financial Statements. Ongoing issues re non-current asset valuations.
11. Are the management arrangements for the accounting estimates considered reasonable?	Accounting estimates are kept under review throughout the year by the central accountancy team and, formally reviewed each year by the Head of Accountancy and Service Director- Finance in preparation of the financial statements.
12. How is the Corporate Governance and Audit Committee provided with assurance that the arrangements for accounting estimates are adequate?	Covered as part of the external audit work and reporting.



KIRKLEES COUNCIL

Operational Land and Buildings valuation estimate

Question	Management response
<p>1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?</p>	<p>There is a risk that valuations do not accurately reflect the market and the Statement of Accounts therefore do not give a true and fair view.</p> <p>To mitigate this, valuations are carried out by external registered Royal Institution of Chartered Surveyors (RICS) valuers, in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Following this, the asset revaluations are critically reviewed by the Central Finance team with any significant variances from previous valuations or expectations, queried and discussed with the valuers.</p>
<p>2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used?</p> <p>Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?</p>	<ul style="list-style-type: none"> • Other land and buildings including surplus assets are valued as part of a 3-year rolling programme at fair value or depreciated replacement cost. • Community assets, vehicles, plant and equipment, infrastructure and assets under construction are valued at depreciated historical cost. • Intangibles are valued at amortised cost • The Council monitors the value of assets that have been revalued over the last 3 years, to ensure all assets have been revalued within this 3-year timeframe. • Valuers undertake an impairment review to ensure assets not valued haven't materially changed in value and that assets which have been valued, haven't changed in value between the date they were valued (usually December) and year end (31 March). • No changes are anticipated to these methods or models in 2021-2022
<p>3. How do management select the assumptions used in respect of this accounting estimate?</p> <p>Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?</p>	<p>Assumptions are selected by the valuer in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Management review these assumptions and challenge where necessary.</p> <p>No changes are anticipated in 2021-2022.</p>
<p>4. How do management select the source data used in respect of this accounting estimate?</p> <p>Were any changes made to this source data in 2021/22, and if so what was the reason for the change?</p>	<p>The list of assets to value come from the rolling programme from the Asset Register system (Logotech). These are then reviewed by the interval valuer from the disposals and acquisitions team.</p> <p>Relevant plans are extracted from the Kompass system along with site areas and information from the asset management system K2.</p> <p>No changes were made to the source data in 2021-2022</p>
<p>5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if, so how were these specialist skills procured?</p>	<p>The valuer advises on the accounting estimates used in the valuations. The valuer is sourced through a tender process.</p>
<p>6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?</p>	<p>As detailed in Q1, the asset revaluations are critically reviewed by the Central Finance team with any significant variances from previous valuations or expectations, queried and discussed with the valuers.</p>

<p>7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so, how is the robustness of the key controls assessed?</p>	<p>Yes, valuations are carried out in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p> <p>Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review.</p> <p>As the internal valuers are RICS registered valuers this extra scrutiny will help to ensure the robustness of figures included in the Statement of Accounts. Formal sign off by all parties.</p>
<p>8. Were any changes made to the key control activities this year? If so, please provide details.</p>	<p>No</p>
<p>9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?</p>	<p>Management use the valuers professional opinion on the valuation of each asset and do not select a point estimate to calculate fluctuations in other land and buildings values.</p>
<p>10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?</p>	<p>Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review. A range of possible outcomes is not considered as management use the valuers professional opinion on the factors used in the valuation.</p>

Council Dwellings valuation estimate

Question	Management response
<p>1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?</p>	<p>There is a risk that valuations do not accurately reflect the market and the Statement of Accounts therefore do not give a true and fair view.</p> <p>To mitigate this, valuations are carried out by external registered RICS valuers, in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Following this, the asset revaluations are critically reviewed by the Strategic Finance team with any significant variances from previous valuations or expectations, queried and discussed with the valuers.</p>
<p>2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used?</p> <p>Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?</p>	<p>In terms of method, a beacon valuation approach is used. The dwellings are divided into asset groups (a collection of property with common characteristics such as sheltered housing). Asset groups are further subdivided into archetype groups based on uniting characteristics material to their valuation, such as numbers of bedrooms. The archetype groups are valued on the beacon principle. A sample property, "the beacon" is selected, which is representative of the archetype group, and a detailed inspection carried out. The beacon property is valued on an existing use-social housing basis. This valuation is defined as the 'Beacon Valuation'.</p> <p>Dwellings undergo a valuation every year, whereby 25% of beacons are inspected and valued per year. Over a 4 year period all the beacons for the full residential properties will have been inspected.</p> <p>No changes were made to the method in 2021-2022.</p>
<p>3. How do management select the assumptions used in respect of this accounting estimate?</p> <p>Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?</p>	<p>Assumptions used by the valuer are in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p> <p>No changes are anticipated in 2021-2022</p>
<p>4. How do management select the source data used in respect of this accounting estimate?</p> <p>Were any changes made to this source data in 2021/22, and if so what was the reason for the change?</p>	<p>The housing data file is a living file that is adjusted for sales and additions each valuation, changes are flagged to the valuers. The base stock figures are reconciled back to the stock figures in the annual accounts, and these in turn are reconciled back to the universal housing system.</p> <p>For non housing assets on the HRA valuation these are reconciled back to the central asset register for the HRA provided by central finance each year.</p>
<p>5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if so how were these specialist skills procured?</p>	<p>The valuer advises on the accounting estimates used in the valuations.</p> <p>The valuer is sourced through a tender process</p>
<p>6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?</p>	<p>As detailed in Q1, the asset revaluations are critically reviewed by the Central Finance team with any significant variances from previous valuations or expectations queried and discussed with the valuers.</p>
<p>7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so how is the robustness of the key controls assessed?</p>	<p>Yes, valuations are carried out in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p> <p>Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review.</p>

	As the internal valuers are RICS registered valuers this extra scrutiny will help to ensure the robustness of figures included in the Statement of Accounts. Formal sign off by all parties.
8. Were any changes made to the key control activities this year? If so please provide details.	No
9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?	Management use the valuers professional opinion on the valuation of the Beacons and do not select a point estimate to calculate fluctuations in other land and buildings values.
10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?	Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review. A range of possible outcomes is not considered as management use the valuers professional opinion on the factors used in the valuation.

Investment Properties valuation estimate

Question	Management response
<p>1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?</p>	<p>There is a risk that valuations do not accurately reflect the market and the Statement of Accounts therefore do not give a true and fair view.</p> <p>To mitigate this, valuations are carried out by external registered RICS valuers, in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Following this, the asset revaluations are critically reviewed by the Strategic Finance team with any significant variances from previous valuations or expectations queried and discussed with the valuers.</p>
<p>2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used?</p> <p>Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?</p>	<p>Investment properties (including shops) are valued annually at fair value by qualified valuers if the value is greater than £250k. Those below this are valued as part of the 3 yearly rolling programme.</p> <p>Valuers undertake an impairment review to ensure that assets which have been valued haven't changed in value between the date they were valued (usually January) and year end (31 March).</p> <p>No changes are anticipated to these methods or models in 2021-2022.</p>
<p>3. How do management select the assumptions used in respect of this accounting estimate?</p> <p>Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?</p>	<p>Assumptions used by the valuer are in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p> <p>No changes are anticipated in 2021-2022</p>
<p>4. How do management select the source data used in respect of this accounting estimate?</p> <p>Were any changes made to this source data in 2021/22, and if so what was the reason for the change?</p>	<p>The list of assets to value comes from the Asset Register system (Logotech)..These are then reviewed by the interval valuer from the disposals and acquisitions team.</p> <p>Relevant plans are extracted from the Kompass system along with site areas and information from the asset management system K2.</p> <p>No changes were made to the source data in 2021-2022.</p>
<p>5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if so how were these specialist skills procured?</p>	<p>The valuer advises on the accounting estimates used in the valuations.</p> <p>The valuer is sourced through a tender process.</p>
<p>6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?</p>	<p>As detailed in Q1, the asset revaluations are critically reviewed by the Central Finance team with any significant variances from previous valuations or expectations, queried and discussed with the valuers</p>
<p>7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so how is the robustness of the key controls assessed?</p>	<p>Yes, valuations are carried out in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p> <p>Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review.</p> <p>As the internal valuers are RICS registered valuers this extra scrutiny will help to ensure the robustness of figures included in the Statement of Accounts. Formal sign off by all parties.</p>

8. Were any changes made to the key control activities this year? If so please provide details.	No
9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?	Management use the valuers professional opinion on the valuation of each asset and do not select a point estimate to calculate fluctuations in other land and buildings values.
10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?	Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review. A range of possible outcomes is not considered as management use the valuers professional opinion on the factors used in the valuation

LGPS net liability valuation estimate

Question	Management response
<p>1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?</p>	<p>There is a risk that the pension liability estimate is inaccurate and therefore the Financial Statements do not give a true and fair view.</p> <p>There is ongoing uncertainty on the global financial markets and market activity as a result of energy shortages, inflation and the war in Ukraine.</p>
<p>2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used?</p> <p>Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?</p>	<p>The liability estimate is calculated by an actuarial expert, taking into account changes in retirement ages, mortality rates and discount rates.</p> <p>No changes are anticipated to this method or model in 2021-2022.</p>
<p>3. How do management select the assumptions used in respect of this accounting estimate?</p> <p>Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?</p>	<p>The actuary selects the assumptions and management reviews the reasonableness of these assumptions.</p> <p>No changes are anticipated to this method or model in 2021-2022.</p>
<p>4. How do management select the source data used in respect of this accounting estimate?</p> <p>Were any changes made to this source data in 2021/22, and if so what was the reason for the change?</p>	<p>The Pension Fund provides data on pension benefits and membership numbers, to enable the actuary to undertake their estimate.</p> <p>No changes are anticipated to this method or model in 2021-2022.</p>
<p>5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if so how were these specialist skills procured?</p>	<p>An actuary advises on the accounting estimates.</p> <p>The actuary is procured through a tender exercise</p>
<p>6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?</p>	<p>Management review the assumptions and officers discuss these assumptions with the West Yorkshire Technical Accountants Group, comprising of five other authorities, to ensure a consistent view.</p>
<p>7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so how is the robustness of the key controls assessed?</p>	<p>Yes. As detailed in Q6, in addition to management reviewing the assumptions, officers discuss these assumptions with the West Yorkshire Technical Accountants Group comprising of five other authorities, to ensure a consistent view</p>
<p>8. Were any changes made to the key control activities this year? If so please provide details.</p>	<p>No</p>
<p>9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?</p>	<p>The regional technical accountants group collectively discuss the underlying estimation techniques used as part of the calculation of assets and liabilities and question its reasonableness where appropriate with the actuary (via WYPF).</p>
<p>10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?</p>	<p>The actuary provides sensitivity analysis for several assumptions including discount rate and life expectancy of scheme members</p>

Depreciation accounting estimate

Question	Management response
<p>1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?</p>	<p>There is a risk that the calculation of the annual depreciation is inaccurate, and the Statement of Accounts do not give a true and fair view.</p> <p>To mitigate this, valuations are carried out by external registered Royal Institution of Chartered Surveyors (RICS) valuers, in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. The external valuer provide an updated valuation and a useful life of each asset. The depreciation is calculated on a straight- line basis over the life of the asset provided.</p>
<p>2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used?</p> <p>Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?</p>	<p>The Council calculated depreciation on a simple straight-line bases which is identified as one of the methods used per the CIPFA Code of Practice.</p> <p>Once calculated the depreciation is reviewed by Central Finance to ensure all assets that need a depreciation charge have been calculated, and explanations are made if not. Central Finance also review sub totals by asset type to ensure comparative figures year on year are reasonable.</p> <p>No changes are anticipated in 2021-2022</p>
<p>3. How do management select the assumptions used in respect of this accounting estimate?</p> <p>Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?</p>	<p>Assumptions on remaining lives are selected by the valuer in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Management review these assumptions and challenge where necessary.</p> <p>No changes are anticipated in 2021-2022.</p>
<p>4. How do management select the source data used in respect of this accounting estimate?</p> <p>Were any changes made to this source data in 2021/22, and if so what was the reason for the change?</p>	<p>The list of assets to charge depreciation come the Asset Register system (Logotech) which is reconciled to the Balance Sheet.</p> <p>No changes are anticipated in 2021-2022.</p>
<p>5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if so how were these specialist skills procured?</p>	<p>The valuer advises on the accounting estimates used in the valuations. The valuer is sourced through a tender process.</p>
<p>6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?</p>	<p>As mentioned in Q2, asset lives and depreciation figures are reviewed for reasonableness. Any significant changes in life are queried and discussed with valuers.</p>
<p>7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so how is the robustness of the key controls assessed?</p>	<p>Yes, valuations are carried out in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p>
<p>8. Were any changes made to the key control activities this year? If so please provide details.</p>	<p>No</p>
<p>9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?</p>	<p>Management use the valuers professional opinion on the valuation of each asset and life and do not select a point estimate to calculate fluctuations in other land and buildings values</p>

10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?	Assets are depreciated over their useful lives that are dependent on assumptions about the level of repairs and maintenance that will be incurred in relation to individual assets. Management calculate an amount that the annual depreciation charge would increase every year that the useful lives had reduced.
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PFI liability accounting estimate

Question	Management response
1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?	The Waste PFI contract has been extended by two years beyond its original expiry date of 31/03/2023. The changes to the contract have been reviewed against the accounting model. In addition to the contract extension a number of other changes to the contract have been made which will increase the cost of fair value of services (e.g. the provision of new services). There is provision for capital expenditure to enhance the waste incinerator, but this is a direct charge to council by the contractor rather than an increase to the unitary payment (i.e. no increase to the PFI liability).
2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used? Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?	The accounting model is based on the requirements of the Code of Practice and accompanying Guidance Notes. The source information is the original contractor's model plus current information based on the annual unitary payment. No changes are anticipated to these methods or models in 2021-2022
3. How do management select the assumptions used in respect of this accounting estimate? Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?	Assumptions are based on the original contractors' model and management's accounting model updated for current and known future changes. No changes are anticipated to these methods or models in 2021-2022
4. How do management select the source data used in respect of this accounting estimate? Were any changes made to this source data in 2021/22, and if so what was the reason for the change?	Source data is based on the original contractors' model and current information e.g. annual unitary payments. No changes are anticipated to these methods or models in 2021-2022
5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if so how were these specialist skills procured?	No.
6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?	The accounting model and the basis on which all assumptions are made are reviewed on an annual basis. Changes to the Code of Practice are also reviewed for all relevant developments in relation to PFI accounting. In addition to this, specific changes to each of the individual contracts are monitored to ensure that their impact is reflected in the accounting model.
7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so how is the robustness of the key controls assessed?	Yes, compliance with the Code of Practice and ongoing monitoring of unitary payments.
8. Were any changes made to the key control activities this year? If so please provide details.	No.

9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?	All factors affecting the accounting model are monitored – Code of Practice, the original contractors’ model and annual unitary payments. A point estimate is not used.
10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?	The methods and assumptions rarely change between years, but all variable factors are monitored. Once these are agreed for the year, a range of possible outcomes is not considered.

Fair value disclosures accounting estimate

Question	Management response
1. Were any risks identified relating to the material accuracy of this accounting estimate for the financial year and, if so, how were these risks addressed?	<p>There is a risk that valuations at fair value do not accurately reflect the market and the Statement of Accounts therefore do not give a true and fair view.</p> <p>To mitigate this, valuations are carried out by external registered Royal Institution of Chartered Surveyors (RICS) valuers, in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Following this, the asset revaluations are critically reviewed by the Central Finance team with any significant variances from previous valuations or expectations, queried and discussed with the valuers.</p>
<p>2. How do management select, or design, the methods, used in respect of this accounting estimate, including the models used?</p> <p>Were any changes made to these methods or models in 2021/22, and if so what was the reason for the change?</p>	<p>The Authority accounts for investment properties in accordance with IFRS13 which is achieved through a fair value hierarchy. The Fair Value of investment property has been established using a market approach, which takes into account quoted prices for similar assets in active markets, existing lease terms and rental, research into market evidence including market rentals and yields, data and market knowledge.</p> <p>Surplus assets and investment properties are valued as part of a 3-year rolling programme at fair value. Investment properties with a net book value greater than £250k are valued each year at highest and best use as per IFRS13.</p> <p>No changes are anticipated for 2021-2022.</p>
<p>3. How do management select the assumptions used in respect of this accounting estimate?</p> <p>Were any changes made to these assumptions in 2021/22, and if so what was the reason for the change?</p>	<p>Assumptions are selected by the valuer in accordance with RICS guidance and the Code of Practice on Local Authority Accounting. Market conditions are such that similar properties are actively purchased and sold and the level of observable are significant, leading to investment properties categorised as level 2 on the fair value hierarchy. Management review these assumptions and challenge where necessary.</p> <p>No changes are anticipated in 2021-2022.</p>
<p>4. How do management select the source data used in respect of this accounting estimate?</p> <p>Were any changes made to this source data in 2021/22, and if so what was the reason for the change?</p>	<p>The list of assets to value come from the rolling programme from the Asset Register system (Logotech), along with selected Investment Properties greater the £250k. These are then reviewed by the interval valuer from the disposals and acquisitions team.</p> <p>Relevant plans are extracted from the Kompass system along with site areas and information from the asset management system K2.</p> <p>No changes were made to the source data in 2021-2022</p>

5. Were any specialised skills or knowledge used in respect of this accounting estimates, and if so how were these specialist skills procured?	The valuer advises on the accounting estimates used in the valuations. The valuer is sourced through a tender process.
6. How do management monitor the operation of control activities in relation to this accounting estimates, including the control activities at any service providers or management experts?	As detailed in Q1, the asset revaluations are critically reviewed by the Central Finance team with any significant variances from previous valuations or expectations, queried and discussed with the valuers.
7. In management's opinion, are their adequate controls in place over the calculation of this accounting estimate, including those at any service provider or management expert used, and if so how is the robustness of the key controls assessed?	<p>Yes, valuations are carried out in accordance with RICS guidance and the Code of Practice on Local Authority Accounting.</p> <p>Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review.</p> <p>As the internal valuers are RICS registered valuers this extra scrutiny will help to ensure the robustness of figures included in the Statement of Accounts. Formal sign off by all parties.</p>
8. Were any changes made to the key control activities this year? If so please provide details.	No
9. How do management consider the estimation uncertainty related to this accounting estimate and address this uncertainty when selecting the point estimate to use?	Management use the valuers professional opinion on the valuation of each asset and do not select a point estimate to calculate fluctuations in surplus or investment properties values.
10. How do management consider the sensitivity of the estimate to the methods and assumptions used and identify the range of reasonably possible outcomes for disclosure in the financial statements?	Central Finance review the revaluations and assumptions along with internal valuers who also undertake a more in-depth review. A range of possible outcomes is not considered as management use the valuers professional opinion on the factors used in the valuation.

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Kirklees Council Audit Progress Report and Sector Update

Year ending 31 March 2022

22 April 2022



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Introduction

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This paper provides the Corporate Governance and Audit Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Corporate Governance and Audit Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications www.grantthornton.co.uk.

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

Progress at April 2022

Financial Statements Audit 2020/21

Our responsibilities include providing an assurance statement on the Council's Whole of Government Accounts consolidation pack to the National Audit Office (NAO), based upon the 2020/21 audited financial statements. The NAO has not yet confirmed the data collection arrangements to the Council. Our assurance work will be completed once the consolidation pack is available for audit.

Upon completion of the Whole of Government Accounts audit we will issue our audit closure certificate for 2020/21.

Financial Statements Audit 2021/22

We are currently at the initial planning and interim testing stage of the 2021/22 audit. Once we have completed our planning procedures we will issue the detailed Audit Plan for approval at this Committee.

Our planning and interim fieldwork includes:

- Updated review of the Authority's control environment
- Updated understanding of financial systems including transaction walkthroughs where required
- Preparing sample listings for income and expenditure testing
- Communications with valuation experts, financial institutions and West Yorkshire Pension Fund
- Review of Internal Audit reports on core financial systems
- Understanding how the Authority makes material estimates for the financial statements
- Early work on emerging accounting issues

Discussions with officers to agree key accounts preparation principles eg group boundary, Infrastructure assets assurance and transfer of Kirklees Neighbourhood Housing balances.

The Accounts and Audit (Amendment) Regulations 2021 push back the date by which principal authorities need to publish their draft financial statements to the first working day of August. The Department for Levelling Up, Communities and Housing (DLUHC) states that they intend, subject to consultation, to introduce secondary legislation to extend the deadline for publishing audited local authority accounts to 30 November 2022 for the 2021/22 accounts.

We have agreed with management that draft accounts and working papers will be provided before the DLUHC deadline on 30 June 2022 and the year end fieldwork will take place between July and September 2022. With the exception of the required confirmations from West Yorkshire Pension Fund we anticipate completing the majority of the audit by 30 September 2022.

We will report our work in the Audit Findings Report and aim to give our opinion on the Statement of Accounts by no later than 30 November 2022.

Value for Money 2021/22

The new Code of Audit Practice (the "Code") came into force on 1 April 2020 for audit years 2020/21 and onwards. The most significant change under the new Code was the introduction of an Auditor's Annual Report, containing a commentary on arrangements to secure value for money and any associated recommendations, if required.

The new approach is more complex, more involved and is planned to make more impact.

Progress at April 2022 (cont.)

Value for Money (continued)

Under the 2020 Code of Audit Practice, for relevant authorities other than local NHS bodies auditors are required to issue our Auditor's Annual Report no later than 30 September or, where this is not possible, issue an audit letter setting out the reasons for delay. As a result of the ongoing pandemic, and the impact it has had on both preparers and auditors of accounts to complete their work as quickly as would normally be expected, the National Audit Office has updated its guidance to auditors to allow us to postpone completion of our work on arrangements to secure value for money and focus our resources firstly on the delivery of our opinions on the financial statements. This is intended to help ensure as many as possible could be issued in line with national timetables and legislation. The extended deadline for the issue of the Auditor's Annual Report is now no more than three months after the date of the opinion on the financial statements. We anticipate issuing our Auditor's Annual Report no later than January 2023.

Other areas

Events

We provide a range of workshops, along with network events for members and publications to support the Authority. Your officers attended our Financial Reporting Workshop in February 2022, which will help to ensure that members of your Finance Team are up to date with the latest financial reporting requirements for local authority accounts.

Further details of the publications that may be of interest to the Authority are set out in our Sector Update section of this report.

Audit Fees

During 2017, PSAA awarded contracts for audit for a five year period beginning on 1 April 2018. 2021/22 is the fourth year of that contract. Since that time, there have been a number of developments within the accounting and audit profession. Across all sectors and firms, the Financial Reporting Council (FRC) has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing.

Our work in the Local Government sector in the period 2018/19 to 2021/22 has highlighted areas where financial reporting, in particular, property, plant and equipment and pensions, needs to improve. There is also an increase in the complexity of Local Government financial transactions and financial reporting. This combined with the FRC requirement that all Local Government audits are at or above the "few improvements needed" (2A) rating means that additional audit work is required.

We have reviewed the impact of these changes on both the cost and timing of audits. We have discussed this with your s151 Officer including any proposed variations to the Scale Fee set by PSAA Limited, and have communicated fully with the Corporate Governance and Audit Committee.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and local government financial reporting. The proposed audit fee for 2021/22 is £208,724 (2020/21 £195,221).

Audit Deliverables

2021/22 Deliverables (dates to be confirmed)	Planned Date	Status
<p>Audit Plan</p> <p>We are required to issue a detailed audit plan to the Corporate Governance and Audit Committee (CGAC) setting out our proposed approach in order to give an opinion on the Council's 2021/22 financial statements and the Auditor's Annual Report on the Council's Value for Money arrangements.</p>	June 2022	Not yet due
<p>Audit Findings Report</p> <p>The Audit Findings Report will be reported to the CGAC</p>	November 2022	Not yet due
<p>Auditors Report</p> <p>This is the opinion on your financial statements.</p>	November 2022	Not yet due
<p>Auditor's Annual Report</p> <p>This Report communicates the key issues arising from our Value for Money work.</p>	January 2023	Not yet due

Results of Interim Audit Work

The findings of our interim audit work, and the impact of our findings on the accounts audit approach, are summarised in the table below:

	Work performed	Conclusions
Internal audit	Our work to review internal audit's work on the Authority's key financial systems is in progress. We have not identified any significant weaknesses impacting on our responsibilities.	Our review of internal audit work is underway and has not identified any weaknesses which impact on our audit approach.
Entity level controls	<p>We have obtained an understanding of the overall control environment relevant to the preparation of the financial statements including:</p> <ul style="list-style-type: none"> • Communication and enforcement of integrity and ethical values • Commitment to competence • Participation by those charged with governance • Management's philosophy and operating style • Organisational structure • Assignment of authority and responsibility • Human resource policies and practices 	Our work to date has identified no material weaknesses which are likely to adversely impact on the Authority's financial statements.
Review of information technology controls	<p>Our information systems specialists are liaising with officers to perform a high level review of the general IT control environment, as part of the overall review of the internal controls system.</p> <p>We are following up responses in relation to our 2020/21 IT audit findings report.</p>	Our work to date has identified no material weaknesses which are likely to adversely impact on the Authority's financial statements.

Results of Interim Audit Work (contd.)

	Work performed	Conclusions
Walkthrough testing	<p>We have completed walkthrough tests of the Authority's controls operating in areas where we consider that there is a significant risk of material misstatement to the financial statements.</p> <p>Our work has not identified any issues which we wish to bring to your attention. Internal controls have been implemented by the Authority in accordance with our documented understanding.</p>	Our work has not identified any weaknesses which impact on our audit approach.
Journal entry controls	We have reviewed the Authority's journal entry policies and procedures as part of determining our journal entry testing strategy and have not identified any material weaknesses which are likely to adversely impact on the Authority's control environment or financial statements.	Our work has not identified any weaknesses which impact on our audit approach.
Change in group structure	We have held discussions with officers in relation to the group boundary and the proposed accounting to bring KNH back in-house, including the significant pension liability.	This will be an area of focus for the financial statements audit. Our work to date has not identified any weaknesses which impact on our audit approach.
Emerging matters	<p>We have discussed the following emerging matters with officers:</p> <ul style="list-style-type: none"> - Implementation date of IFRS 16 leases and Authority readiness - Accounting for infrastructure assets 	We will continue to discuss these matters with officers and tailor our audit approach as relevant.

Financial Reporting Council annual report

On 29 October, the Financial Reporting Council (FRC) published its annual report setting out the findings of its review of the work of local auditors. The report summarises the results of the FRC's inspections of twenty audit files for the last financial year. A link to the report is here:

[FRC AQR Major Local Audits October 2021](#)

Grant Thornton are one of seven firms which currently delivers local audit work. Of our 330 local government and NHS audits, 87 are currently defined as 'major audits' which fall within the scope of the AQR. This year, the FRC looked at nine of our audits.

Our file review results

The FRC reviewed nine of our audits this year. It graded six opinion files (67%) as 'Good' and requiring no more than limited improvements. No files were graded as requiring significant improvement, representing an impressive year-on-year improvement. The FRC described the improvement in our audit quality as an 'encouraging response by the firm to the quality findings reported in the prior year.' Our Value for Money work continues to be delivered to a high standard, with all of the files reviewed requiring no more than limited improvement. We welcome the FRC findings and conclusions which demonstrate the impressive improvement we have made in audit quality over the past year.

The FRC also identified a number of good practices including effective challenge of management's valuer, use of an auditor's expert to assist with the audit of a highly specialised property valuation, and the extent and timing of involvement by the audit partner on the VFM conclusion.

Our "Opinion" results over the past three years are shown in the table below:

Grade	Number 2020/21	Number 2019/20	Number 2018/19
Good with limited improvements (Grade 1 or 2)	6	1	1
Improvements required (Grade 3)	3	5	2
Significant improvements required (Grade 4)	0	0	1
Total	9	6	4

Our "VFM" results over the past two years are shown in the table below. The FRC did not review VFM in 2018/19:

Grade	Number 2020/21	Number 2019/20
Good with limited improvements (Grade 1 or 2)	6	6
Improvements required (Grade 3)	0	0
Significant improvements required (Grade 4)	0	0
Total	6	6

Financial Reporting Council annual report (cont.)

Quality Assurance Department (QAD) Reviews

In addition to the reviews undertaken by the FRC on major local audits, the QAD team from the ICAEW undertake annual reviews of non-major local audits as well as reviews of Foundation Trusts on behalf of NHSE&I.

The QAD reviewed five of our audits this year and graded all of them (100%) as 'Satisfactory / generally acceptable' for both the financial statements and VFM elements of the audit, which is the highest grading.

Grade	Number 2020/21	Number 2020/19	Number 2019/18
Satisfactory / generally acceptable	5	6	2
Improvement required	0	1	0
Significant improvement required	0	0	0
Total	5	7	2

Our continued commitment to Audit quality and continuous improvement

Our work over the past year has been undertaken during the backdrop of COVID-19, when the public sector has faced the huge challenge of providing essential services and helping safeguard the public during the pandemic. Our NHS bodies in particular have been at the forefront of the public health crisis.

As auditors we have shown compassion to NHS staff deeply affected by the crisis, whilst staying focused on the principles of good governance and financial management, things which are more important than ever. We are very proud of the way we have worked effectively with audited bodies, demonstrating empathy in our work whilst still upholding the highest audit quality.

Over the coming year we will make further investments in audit quality including strengthening our quality and technical support functions, and increasing the level of training, support and guidance for our audit teams. We will address the specific improvement recommendations raised by the FRC, including:

- Enhanced training for local auditors on key assumptions within property valuations, and how to demonstrate an increased level of challenge
- Having formal internal consultations when considering complex technical issues.

As part of our enhanced Value for Money programme, we will focus on identifying the scope for better use of public money, as well as highlighting weaknesses in governance or financial stewardship where we see them.

Conclusion

Local audit plays a critical role in the way public sector audits and society interact, and it depends on the trust and confidence of all those who rely on it. As a firm we're proud to be doing our part to promote good governance, effective stewardship and appropriate use of public funds.

Sector Update

Authorities continue to try to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider local government sector and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- [Grant Thornton Publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

A teal rectangular button with the text "Public Sector" in white, sans-serif font, centered within the button.

Public Sector

A dark purple rectangular button with the text "Local government" in white, sans-serif font, centered within the button.

Local
government

Levelling up White Paper – Department for Levelling Up, Communities and Housing (“DLUCH”)

On 2 February the Department for Levelling Up, Communities and Housing (“DLUCH”) published its Levelling Up White Paper.

The paper states “Levelling up requires a focused, long-term plan of action and a clear framework to identify and act upon the drivers of spatial disparity. Evidence from a range of disciplines tells us these drivers can be encapsulated in six “capitals”:

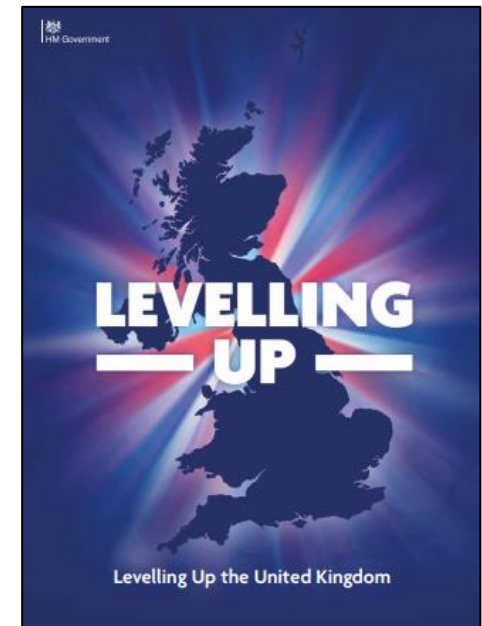
- Physical capital – infrastructure, machines and housing.
- Human capital – the skills, health and experience of the workforce.
- Intangible capital – innovation, ideas and patents.
- Financial capital – resources supporting the financing of companies.
- Social capital – the strength of communities, relationships and trust.
- Institutional capital – local leadership, capacity and capability.”

The paper also states “This new policy regime is based on five mutually reinforcing pillars.” These are set out and explained as:

- 1) The UK Government is setting clear and ambitious medium-term missions to provide consistency and clarity over levelling up policy objectives.
- 2) Central government decision-making will be fundamentally reoriented to align policies with the levelling up agenda and hardwire spatial considerations across Whitehall.

- 3) The UK Government will empower decision-makers in local areas by providing leaders and businesses with the tools they need.
- 4) The UK Government will transform its approach to data and evaluation to improve local decision-making.
- 5) The UK Government will create a new regime to oversee its levelling up missions, establishing a statutory duty to publish an annual report analysing progress and a new external Levelling Up Advisory Council.

[Levelling Up the United Kingdom - GOV.UK](https://www.gov.uk/levelling-up)
(www.gov.uk)



Grant Thornton – reaction to Levelling up White Paper

On 2 February the Department for Levelling Up, Communities and Housing (“DLUCH”) published its Levelling Up White Paper.

Commenting on the release of the government’s Levelling up White Paper plans, Phil Woolley, Head of Public Sector Consulting, Grant Thornton UK LLP, said:

“The publication of today’s White Paper plans is a welcome first step and it is reassuring to see the government recognise the need for systemic changes in order to deliver its central aim of Levelling up. The ‘12 missions’ can be seen as an attempt to consolidate existing elements of government activity behind a singular banner and now provides a clearer picture of the levelling up opportunity.

“Following a decade of successful regional devolution and mayors, the White Paper marks the next stage of the country’s devolution journey. With government now offering a clear framework of devolved powers and accountability, local leaders will need to embrace the opportunity and collaborate across the public and private sector to ensure they negotiate and then deliver the best deal for their communities. Grant Thornton’s Levelling Up Index shows that the economies of the 10 worst performing local authorities in England are on average over five times smaller than their best performing counterparts - highlighting the scale of the challenge ahead.

“To level up, these areas would need to grow their economies by £12billion, increase employment rates by 6 percentage points, create 1,700 new businesses a year and increase average weekly pay by £200. It is too early to determine whether the measures announced today will be sufficient, but it is a start. Success will ultimately depend on the ability and willingness of local and national government to translate these new frameworks into meaningful change in people’s lives.

“The Spending Review offers the next opportunity for government to show its commitment by realigning departmental objectives behind these new goals.”

Government response to MHCLG Select Committee report on Local Authority financial sustainability & the section 114 regime – MHCLG

Government has published a response to the Housing, Communities & Local Government (HCLG) Committee report on local authority financial sustainability and the section 114 regime, published in July.

The HCLG report states “In recent years, the financial sustainability of local government has faced successive challenges, including increased demand for services, especially social care, changes to the level of funding equalisation between councils and, most recently, the COVID-19 pandemic. In some instances, councils have been in such acute financial trouble that they have approached the Ministry of Housing, Communities and Local Government for financial assistance; three of these—Northamptonshire in 2018, Croydon in late 2020 and Slough in July 2021—issued section 114 notices, essentially declaring they had run out of money. Our inquiry has sought to identify the most serious threats facing local councils’ finances. In light of the various factors we consider in the report, including the somewhat delayed Fairer Funding Review, renewed discussion about property taxes and the need to reform funding for social care, the time is right to consider a more radical review of local government finances—and our report makes various recommendations about how this should be done. We also consider what happened at Croydon—which prompted us to look at the section 114 regime—in the annex to our report.”

The report includes sections on:

- Social Care
- Funding
- COVID-19
- Local authority commercial investment
- Audit and control

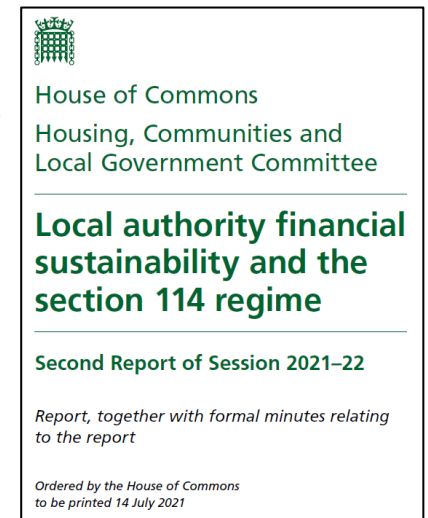
The report made 13 recommendations, and the Government response to these was published in October. The response notes “Moving forward, we will work to provide the sector with a sustainable financial footing, enabling it to deliver vital frontline service and support other government priorities. We will also take stock, including of the impact of the pandemic on local authority resources and service pressures, to determine any future reforms.”

The initial report can be found here:

<https://committees.parliament.uk/publications/6777/documents/72117/default/>

Government response can be found here:

<https://www.gov.uk/government/publications/local-authority-financial-sustainability-and-the-section-114-regime>



Emergency consultation on 2021/22 reporting requirements – CIPFA

On 4 February CIPFA released an emergency four week consultation on time limited changes to the Code to help alleviate delays to the publication of audited financial statements. This explores two possible changes that might be made as an update to the 2021/22 code and to the agreed position in the 2022/23 code.

The decision to launch the consultation came after the Department for Levelling up, Housing and Communities (DLUHC) asked CIPFA to consider amendments to the Code of Practice on Local Authority Accounting, after just 9% of local audits for 2020-21 were published on time.

After considering a wide range of options CIPFA LASAAC decided to explore two approaches:

- 1) An adaptation to the code to allow local authorities to pause professional valuations for operational property, plant and equipment for a period of up to two years (though the initial proposal is for the 2021/22 financial year); this approach also explores the use of an index to be used to increase or reduce that valuation
- 2) Deferring the implementation of IFRS 16 Leases for a further year and reversing the planned changes to the 2022/23 code to implement that standard.

CIPFA Chief Executive Rob Whiteman said: “DLUHC is understandably concerned about this growing crisis – and CIPFA shares this concern. We are committed to supporting CIPFA LASAAC in its exploration of the options that may improve timeliness issues, without significantly impacting accountability. But this is a difficult issue, and we need feedback from stakeholders on whether and how this might work.”

CIPFA said that the changes do not represent the best form of financial reporting for local authorities, but are a “temporary expedient to help improve an unacceptable situation”.

The consultation closed on Thursday 3 March. Any updates to the Code are subject to oversight by the Financial Reporting Advisory Board before implementation.

The consultation can be found here:

<https://www.cipfa.org/policy-and-guidance/consultations/emergency-proposals-for-update-of-202122-and-202223-codes>

Summary of the Grant Thornton response

Property, Plant & Equipment Valuations

In principle we are very supportive of changes to the measurement basis for operational property, plant and equipment. However our view is that it is too late to effect change for the 2021/22 reporting cycle. Our response highlighted a number of difficulties with this approach, including the risk that some assets then fall outside of the requirement to be revalued every five years as a minimum, and the challenge of consistent application of indexation. The proposed amendments to the Code do not appear to override the requirement that the carrying amount does not differ materially from that which would be determined using the current value at the end of the reporting period, which stems from IAS 16:31. If the financial reporting requirements are not sufficiently tightly defined and auditors therefore cannot obtain sufficient and appropriate audit evidence to support this requirement, there is a risk that audit opinions could be modified as a result.

Deferral of IFRS 16 - Leases

The removal of the requirement for disclosure (based upon IAS 8) in 2021/22 is not likely to have a significant impact in terms of freeing up auditor time and audit work covering the disclosures in 2022/23 would then be required in the 2022/23 audit. Savings to preparer time and effort would depend on what progress has already been made in preparing for the imminent implementation of IFRS 16.

Prudential Code and Treasury Management Code – CIPFA

On 20 December CIPFA published the new Prudential Code for Capital Finance in Local Authorities (Prudential Code) and Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes (the Treasury Management Code).

CIPFA commented “These two statutory and professional codes are important regulatory elements of the capital finance framework in which local authorities operate. Local authorities are required by regulation to ‘have regard to’ their provisions. These two codes have been published a principles-based consultation from February to April, which was followed by a second consultation on the detailed changes to the code from September to mid-November.

The updated Prudential Code includes some substantive changes. Most notably, the provisions in Code which present the approach to borrowing in advance of need in order to profit from additional sums borrowed have been strengthened. Additionally, the relevant parts of Code have augmented to be clear that borrowing for debt-for-yield investment is not permissible under the Prudential Code. This recognises that commercial activity is part of regeneration but underlines that such transactions do not include debt-for-yield as the primary purpose of the investment or represent an unnecessary risk to public funds.”

The updated Prudential Code removes the "advance of need" terminology and emphasises the legislative basis for borrowing, namely that a local authority can borrow and invest for any legislative function and/or for the prudent management of their financial affairs.

The examples listed in the Code of legitimate prudential borrowing are:

- Financing capital expenditure primarily related to the delivery of a local authority’s functions;
- Temporary management of cash flow within the context of a balanced budget;
- Securing affordability by removing exposure to future interest rate rises; or
- Refinancing current borrowing, including replacing internal borrowing, to manage risk or reflect changing cash flow circumstances.



Good practice in annual reporting - NAO

The National Audit Office (NAO) has published this guide which sets out good practice principles for annual reporting with examples from public sector organisations

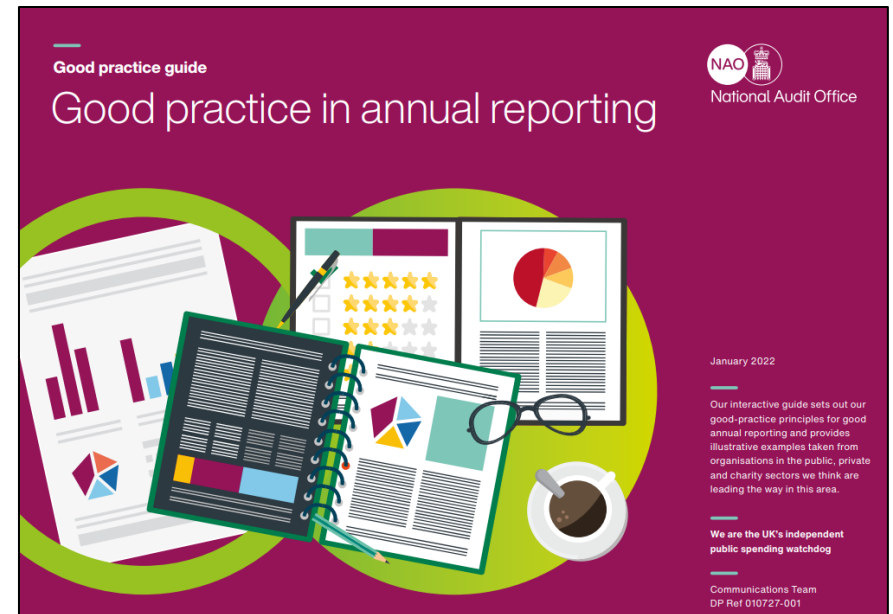
The NAO comment that the guide sets out “good-practice principles that we believe underpin good annual reporting. These principles are: Supporting Accountability; Transparency; Accessibility; and the need for the report to be Understandable.”

The NAO further comment “The best annual reports we have seen use these principles to tell the “story” of the organisation. It is important that stakeholders, including the public and Parliament, are able to hold an organisation to account. To do this effectively, stakeholders need to properly understand the organisation’s strategy, key risks that might get in the way of delivering this strategy and the effectiveness of their management, and the amount of taxpayers’ money that has been spent to deliver the outcomes the organisation seeks to achieve.”

The guide draws on examples of good practice from within each of the six sections of an Annual Report:

- Strategy
- Risk
- Operations
- Governance
- Measures of success
- Financial performance
- External factors

Although the guide does not include any local authority examples, those included, and the underlying principles, are equally relevant to all public facing organisations.



The guide can be found here:

[Good practice in annual reporting - National Audit Office \[NAO\] Report](#)

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Name of meeting: Corporate Governance & Audit Committee
Date: 22nd April 2022

Title of report: Annual Report of Internal Audit 2021/22 & Issues for 2022/23

Purpose of report; To provide information about Internal Audit activity and the effectiveness of the system of internal control, and conclusions on the control environment and assurance provided in 2021/22, and on matters that relate to Internal Audit activity in 2022/23

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?	Not applicable
Is it also signed off by the Service Director for Legal, Governance & Commissioning?	Not applicable
Cabinet member portfolio	Not applicable

Electoral wards affected: All
Ward councillors consulted: Not applicable
Have you considered GDPR; Yes
Public

1. Summary

- 1.1 This report provides information about Internal Audit activity in the year to 31st March 2022 and notes the outcome of the annual review of the effectiveness of the Council's system of internal control. It provides an "opinion" on the adequacy and effectiveness of the Council's framework of governance, risk management and internal control, and advises as regards compliance with the requirements of the Public Sector Internal Audit Standards (PSIAS) and Code of Ethics.
- 1.2 The report provides an Audit Plan for 2022/23 and indicates potential priorities for the year and a draft 2022/23 Audit Charter.

2. Information required to take a decision

- 2.1 After the substantial disruptions in 2020/21, the year 2021/22 saw a return to a more routine distribution of planned and reactive work. There continued to be a use of audit resource to support organisational initiatives, particularly related to business grants (and the investigations related thereto).
- 2.2 Using an objective assessment of the Council's framework of governance, risk management and control it is concluded that overall, the Council has sound arrangements to operate its business effectively.
- 2.3 This is based on a somewhat reduced coverage of planned audit activity during the year, and from some unplanned work which assists in ascertaining assurance.
- 2.4 There are several observations and qualifications which are highlighted in the report which should be addressed, although 85% of audit work in the year had positive opinions.
- 2.5 This Committee also needs to review, and indicate that it is content as regards, the effectiveness of the system of internal control. The attached report contains material intended to assist the Committee in reaching a decision.
- 2.6 The report notes that following the external assessment undertaken at the end of the 2017/18 year (which attributed the operation with the highest standard which is "generally conforms"), assessment against the Public Sector Internal Audit Standards (PSIAS) and Code of Ethics has been undertaken this year internally by the Head of Risk as Head of Internal Audit. The assessment has been undertaken against the CIPFA recommended assessment criteria, and the outcomes from this assessment are included in the report.
- 2.7 Each year the Committee needs to consider and approve an Internal Audit Strategy & Charter. A proposed 2022/23 version is attached. (Those of any significance are shown by "track change")
- 2.8 A draft Audit Plan for 2022/23 is included within the papers. This audit plan was the subject of consultation with Kirklees Strategic and Service Directors. Although the statutory restrictions which applied through parts of 2021/22 have now been removed, the way which the Council operates administratively- for example working from home- has changed the way that audit work can be delivered. This requires changes in our approach and in the interaction with clients and sometimes means that work will take longer, impacting on overall achievement within any set of resources. The plan has been drawn up on the basis that there are no limits or restrictions on how the IA function can operate during 2022/23 but taking account of the Council's revised operating style. There is an amount of contingency, providing opportunities to divert resources to priorities, and the unforeseen, or foreseeable.
- 2.9 From April 2022, the Risk Service/Internal Audit has taken responsibility for the Fraud Team, which has been a part of the Exchequer function hitherto and has concentrated on client fraud, mainly social housing and blue badge car parking. The intention is that the Fraud Team, whilst remaining a separate function, will enhance the ability to integrate fraud control within the overall assurance arrangements.
- 2.10 A separate report on this agenda addresses the matter of wider organisational assurance, that goes beyond the scope of Internal Audit and looks at other sources when assessing the organisation's objective control compliance.

- 2.11 This Committee may need in the future to consider if they are happy with the level of assurance that is available, or to seek additional resources to gain satisfaction in relation to the control environment.
- 2.12 The 5 yearly external assessment of the Internal Audit function's compliance with the Public Sector Internal Audit Standards is due to take place during 2022/23.

3. Implications for the Council

- 3.1 **Working with People** – None directly
- 3.2 **Working with Partners** – None directly
- 3.3 **Place Based Working** – None directly
- 3.4 **Improving outcomes for children**– None directly
- 3.5 **Climate change and air quality**- None directly
- 3.6 **Other (e.g., Legal/Financial or Human Resources)**- Although each of the sub-categorisations above suggest no direct implications, the work of Internal Audit covers all aspects of the Council's operations, including elements of the above, either specifically, indirectly or on a commissioned basis. The main issues relate to those areas highlighted above - where there are risks associated with basic processing arrangements and delivering sound governance and control.

4. Consultees and their opinions

- 4.1 Not applicable, although senior managers have been consulted on the draft plan.

5. Next steps & Timelines

- 5.1 This report informs the preparation of the Annual Governance Statement for 2021/22.
- 5.2 Audit activity in 2022/23 will concentrate on major areas of risk and control, based on a prioritised risk assessment. Resources will remain available to investigate significant areas of concern on a reactive basis.

6. Officer recommendations and reasons

The Committee is asked to confirm it is content with the:

- (a) Effectiveness of its Internal Audit function, and to note its conformance with Public Sector Internal Audit Standards and Code of Ethics
- (b) Effectiveness of the Council's overall system of internal control
- (c) Effectiveness of the broader control environment, risk management and governance arrangements of the Council (subject to the observations contained within the report).
- (d) 2022/23 Internal Audit Strategy and Charter and approves this document
- (e) The proposed Audit Plans for 2022/23; and
- (f) Give authority for the Head of Internal Audit to vary the proposed audit plan as is considered necessary, subject to reporting back as a part of the quarterly review process

(g) Arrangements for the Public Sector Internal Audit Standards external assessment which will take place in 2022/23.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Martin Dearnley, Head of Risk 01484 221000 (73672)

9. Background Papers and History of Decisions

The Annual Report of Internal Audit 2021/22 is attached.

10. Service Director responsible

Not applicable.

KIRKLEES COUNCIL
CORPORATE SERVICES: RISK SERVICE
INTERNAL AUDIT

ANNUAL REPORT OF INTERNAL AUDIT 2021/22 & ISSUES FOR 2022/23

1. **Introduction**

1.1 This report assesses the adequacy and effectiveness of the Council's governance, risk management and control environment arrangements during 2021/22 and provides a summary of the activities and performance of Internal Audit during the year. The report also recommends a risk-based Audit Plan for 2022/23 and discusses other issues that relate to that year.

2. **About Internal Audit**

2.1 The scope of Internal Audit's activity is established by the Council's Financial Procedure Rules and the Internal Audit Strategy and Charter. These rules include a right for Internal Audit to have free and unrestricted access to carry out work as is considered appropriate by the Head of Internal Audit (the Head of Risk).

2.2 Internal Audit reviews the Council's assurance framework for governance, risk management and business systems and controls. Some assurance is obtained through the work of other agencies - such as the Council's Health and Safety team. (And the Corporate Governance & Audit Committee have considered this wider assurance).

Internal Audit time is spent:

- (a) Assessing arrangements for financial control.
- (b) Assessing arrangements for other business and organisational controls – such as IT.
- (c) Investigating allegations that the Council's business activities may not be operating in the ways intended.
- (d) On work related to contracting strategy and contractor appraisals.
- (e) To a very limited extent on value for money.
- (f) Resolving a range of finance and control related issues (the most significant of which are reported in the Quarterly Reports).
- (g) On aspects of fraud prevention and detection - such as the biennial National Fraud Initiative
- (h) Contributing generally and providing advice to Council wide and Service specific matters related to governance, risk, financial and business control.

Whilst Internal Audit work can provide some assurance about business processes, it is not resourced in a way to assess the judgement of other professionals.

2.3 Quarterly Reports on the activities of Internal Audit have been provided to the Corporate Governance and Audit Committee. These reports provide

- (i) an opinion about the level of assurance that can be taken from each planned audit on the arrangements in operation at the time of each audit.
- (ii) an opinion about follow-up of earlier Internal Audit work.
- (iii) information about investigations, and other Internal Audit activity.
Implementation of the agreed recommendations should provide a satisfactory degree of control in all cases.

2.4 These reports during 2021/22 reflected a below normal volume of work, reflecting team size, operational constraints and other priorities sought by the Council (e.g., re Covid related grant oversight, and fraud investigations).

3. **Summary of Audit Work in 2021/22**

3.1 Most audit work concludes with an assurance-based opinion,

ASSURANCE >		Substantial	Adequate	Limited	None
ACTIVITY					
Core Financial Systems & Arrangements		50%	50%	0%	0%
Other Financial & Business Controls		22%	38%	32%	8%
Schools		83%	17%	0%	0%
Follow Up		58%	14%	28%	0%
OVERALL ASSURANCE		59%	26%	13%	2%
Positive assurance		85%			
Negative assurance				15%	

The total sample size was 47.

3.2 The total volume of work in 2021/22 was 47 planned and unplanned routine audit tasks that resulted in an opinion and 5 investigations. 15% of work concluded with an adverse opinion against a corporate target/long term average of 20%. This was 18% in 2019/20 and 29% in 2020/21 (albeit 2020/21 was abnormal). The sample is quite small, and the substantial assurance is distorted somewhat by a very high score at this level amongst schools.

3.3 There were some areas of significant operation about which only limited assurance could be provided this year. These included certain aspects (but not all) of areas including procurement (school meals, construction sub-contractors), building control, schools transport, adults emergency duty. There was one “no assurance rating”, where some aspects of the service delivery suggested neither adequate procurement records nor control arrangements.

3.4 Follow up audits in areas found inadequate in the past were also quite positive, all had improved (although in two cases these remained inadequate).

3.5 There were several investigations reported during the year, detailed in the quarterly reports, that relate to (various) covid grants, emergency accommodation, aspects of the misuse of transport, staffing in the children’s emergency duty team, and waste related contracts.

- 3.6 Audit time has also been spent on routine projects and activities such as:
- Support to governance and control arrangements generally.
 - Preparation of the Annual Governance Statement, although this year there was no monitoring of progress in relation to the action plan.
 - Monitoring and updating Contract Procedure Rules (CPRs) and Financial Procedure Rules (FPRs).
 - Financial appraisal and scoring of applicants for contracts and other aspects of assessing or approving the Council's contractual arrangements.
 - Support to the Information Governance Board, and implementation of GDPR /Data Protection Act
 - Forming a part of the Whistleblowing assessment process by carrying out initial assessment of whistleblowing to decide on the extent to which an allegation may have sufficient merit to justify further investigation.
 - Verification/certification relating to grants, such as various highways and covid grant regimes.
 - Support to corporate projects (such as waste management, district heating)
 - Troubled Families and Life Chances grant analysis
 - SAP control updates
- 3.7 National and local requirements have continued to require remote working methods, in many cases, which have resulted in a greater use of virtual records and information. Whilst much of this is very powerful, some of the normal forms of information gathering, by direct observation, and sight of paper records have often not been possible, and in some cases sample sizes have also been reduced. This may impact on the quality of the opinion. In addition, this remote working means that some work takes longer. This has contributed to a below typical set of internal audit outputs in 2021/22.
- 3.8 Changes made to the risk management processes, in line with the Risk Management Statement have continued in 2021/22. A more structured approach to Risk Panel meetings and assessments has been followed, and reporting was improved during much of 2021/22, although final reporting on to Leadership Management Team was not consistent, regular interaction has taken place with corporate scrutiny processes. The Corporate Risk Matrix, which lists the "fairly stable" set of risks and threats to the organisation, was amended somewhat to reflect the continuing pandemic, although its contents now reflect again many of the broad, constant themes of the matrix. Good practice expects that any Internal Audit planning will recognise the risk management processes of the organisation. However, where risk management arrangements do not provide an assured picture, audit planning is adjusted to recognise this.
- 3.9 Although the Council used a risk-based audit plan in achieving the coverage of business and activity areas on which this opinion is based, the assurance framework delivered by Internal Audit is necessarily not comprehensive. Whilst coverage of financial (and commercial) business processes and governance is risk based, it does not assess the areas that involve professional judgement, particularly in relation to care related services and some other assessments that relate to individual needs.

- 3.10 The Corporate Governance & Audit Committee can gain wider governance assurance from some other sources, (E.g., health & safety, information governance and corporate complaints/ombudsman) although this could perhaps be more structured and extensive, (a matter that will be separately reported).
- 3.11 Work continues to be performed for Kirklees Active Leisure (KAL). Outcomes are reported to KAL's own Audit Committee. Audit work is also carried out for West Yorkshire Fire & Rescue Service (WYFRS), who make substantial use of Kirklees financial systems. WYFRS has its own Audit Committee.
- 3.12 There was no working with Calderdale Council's Internal Audit team during the year.
- 3.13 The staffing position in the Internal Audit team was difficult at times, with one member of staff on maternity leave, and three staff leaving. Two additional employees were recruited toward the end of the year.
- 3.14 As noted in 2.1, the Financial Procedure Rules and the Audit Strategy and Charter document allow Internal Audit unrestricted access to consider areas of activity as they see fit in providing this audit opinion. At no point during the year has any Officer or Member sought to influence or restrict the scope or areas of activity of any piece of work.
- 3.15 The conclusions reached in all the work presented are those of Internal Audit.
- 3.16 Internal Audit operates within the Public Sector Internal Audit Standards (PSIAS), which is a derived form of the international internal auditing standards. Internal compliance testing indicates that the operation was in accordance with PSIAS standards during 2021/22. The function was subject to an external assessment at the end of the financial year 2017/18. The assessment concluded that the activity operated at the highest standard – “generally conforms” to the PSIAS and Code of Ethics. Issues raised related to the time devoted by the Head of Internal Audit, the post holder's role in relation to risk management, training and skills, and performance indicators, including customer feedback. A further external assessment will be required during 2022/23. Appendix 2 provides additional information.
- 3.17 During 2021/22 the Head of Audit & Risk carried out some wider organisational duties that might be considered to conflict with the purely independent role of the Head of Internal Audit. These relate to roles in relation to Council corporate risk management processes, supervision of the insurance function, and limited contract and project advice. Any conflicts are handled by independent reporting, and the conflict is stated in any Internal Audit reports- such as the quarterly reports.
- 3.18 The information then exists to reach an opinion on the overall control environment that applied in 2021/22 can be considered to be:
- (1) The assurance work for 2020/21- 85% of which overall was positive, and all the core financial assurance areas were deemed to provide substantial or adequate assurance (although this sample was both small, and addressed some areas

- that were not fundamental – such as business rates, BACS control, housing rents, and accounting transfers from the former subsidiary KNH to the Council)
- (2) Other assurance information provided to the Committee during the year, e.g., from the Investigator of Regulatory Powers, from the external auditor regarding their work on the 2020/21 accounts and internally re Information Governance, Health & Safety and Customer Complaints.
 - (3) The Head of Internal Audit's wider knowledge- heavily subordinate to the other 3 aspects above- about the broad operation of the control environment of the organisation.
- 3.22 From work during 2021/22 85% of the assessments of the Council's governance, risk management, financial and business controls that were examined were sound and effective. There are though areas of operation where procedures can and should be improved.
- 3.23 It is thus concluded that (subject to the observations above) the Council can be considered to have an adequate control environment.

4. Performance Measures of Internal Audit

- 4.1 There is very little comparative benchmarking available about the costs of Internal Audit. Comparison of staffing numbers locally suggest that taking account of Council (and other) activity, the Kirklees IA team remains smaller than others, some of which have recently looked to strengthen their internal audit coverage.
- 4.2 The continuing somewhat abnormal arrangement means that the usually reported local performance criteria- such as reports completed on time, or within a certain number of days, have not been collated as an appropriate measure for the year. These control measures will be reported again during 2022/23. Otherwise, it may be necessary to reset a reasonable set of benchmarks of performance, by consultation with similar providers.
- 4.3 A quality assessment (13% sample) based on the consistent assessment criteria did find that all the work was compliant with the Standards.

5 Effectiveness of the system of Internal Control

- 5.1 The Accounts & Audit Regulations (England) require an Authority to conduct an annual review of the effectiveness of their system of internal control. An understanding of the arrangements of Internal Audit supports the ability to utilise the opinion of the Head of Internal Audit on the internal control environment as a key source of evidence in the Annual Governance Statement. As noted previously, the systems of assurance about internal control come from a wider source than just Internal Audit, although it is a primary source of assurance.
- 5.2 Financial Procedure Rule 5.6 requires the Head of Audit & Risk to review the systems of Internal Audit on an annual basis. The Public Sector Internal Audit Standards (PSIAS) make it a responsibility of the Head of Internal Audit to carry out periodic internal reviews and every 5 years have an external review of the

Internal Audit function and report these to this Committee. The Standard is complex and the recommended evaluation criteria (as codified by CIPFA) are quite cumbersome, and some are difficult to evaluate. Information about these reviews, finding and actions are provided at Appendix 2 to this report.

- 5.3 Members can gain assurance from several routes including their assessment of this and other reports (particularly the four quarterly reports). They can also gain assurance using factors such as performance indicators, quality assurance and consultation with senior management, although it is acknowledged that for 2021/22, again, this information is very limited.

6. **Internal Audit in 2022/23**

- 6.1 The responsibility for an effective audit function is a shared responsibility between the organisation, and its Head of Internal Audit, with the organisation recognising the importance of adequate and effective arrangements for governance, risk management and internal control, and the Head of Internal Audit ensuring an independent function looking to achieve best practice, that effectively engages with the organisation and the Corporate Governance & Audit Committee.

A risk based draft plan is presented for consideration by this Committee at Appendix 1, which has been subject to consultation with Strategic Directors and their management teams. There are no longer Service specific audit plans, although operational staff, Heads of Service and Directors are still expected to participate in audit planning, delivery, and response to findings.

The performance targets for Internal Audit are at Appendix 3. The schedule of key systems, organisational and business controls is attached as Appendix 4.

- 6.2 Every activity will still – at least theoretically- be in view for Internal Audit, albeit this will be over a timescale of longer than 5 years. Under resourcing for some years, and the very serious impairment to a normal set of assurance reviews for 2020/21, and to a lesser extent 2021/22 means that there is an accumulating list of audits that should be priorities.
- 6.3 The Plan for 2022/23 is prepared around objectives to:
- a) Look at high value or high-risk activity and core systems and basic financial operations, and any that have not been reviewed since 2019/20, and or have been subject to changes in processes or procedures
 - b) Identify and document the wider assurance environment that operates across the organisation and determine if additional processes are needed to achieve a full set of entity control and assurance.
 - c) Ensure basic compliance with processes.
 - d) Have resources to investigate fraud and inappropriate behaviour
 - e) Carry out work contributing to the organisational objective of understanding and improving value for money. and
 - f) Complete the new approach to risk management

- 6.4 The plan is based on a reasonable level of productivity during the year, and no further diversion of resources, or significant impediments to delivery of work. If these cannot be fulfilled, this will impact again on the overall volume of work that can be achieved.

It is hoped that the whole draft plan, or a substantial part of it will be delivered. There must be a recognition of the need for flexibility, and to provide the Head of Internal Audit with authority to flex the plan to meet organisational needs in relation to assurance that processes being operated are sound and free from inappropriate actions or influences.

- 6.5 During 2021/22 a review of the Council's customer fraud risk arrangement - the Welfare and Exchequer Service "Fraud Team"- concluded that the service should be transferred to the Risk Service, to work more closely with Internal Audit on fraud investigation. This reflected a practice developed during 2021/22 when the Fraud team and IA team members were jointly investigating suspected cases of covid business grant fraud. The team has otherwise latterly focused on right to buy, tenancy and blue badge fraud, which will continue during 2022/23. However, the overall Council approach to fraud - awareness and prevention, as well as investigation -will need further attention in 2022/23, to ensure that the Council's arrangements are both effective and efficient. A further report will follow.
- 6.6 Risk management has been substantially operated by the Head of Risk and Internal Audit for some time. As noted in the section relating to 2021/22, there has been continued action to try to improve risk management arrangements, such as more regular consideration of risk and reporting. A new employee has been appointed, who will take up the role of ensuring sound risk management across the organisation. This will be by coordinating the work of the risk panel, ensuring adequate engagement of strategic and service directors and senior managers in risk identification, understanding, managing and reporting and carrying out additional challenge.
- 6.7 Audit work will be performed in accordance with the Audit Strategy and Charter, the 2022 version is shown at Appendix 6 for approval. (Substantial changes are shown by "track" marking).
- 6.8 The Council's Internal Audit function must operate within the International Internal Audit Standard, codified for UK public sector operations by the Public Sector Internal Audit Standards (PSIAS). The international and national standards require an external assessment be conducted every 5 years, which for Kirklees is by 31st March 2023. This external review must be by a competent independent person, who can be a contractor, or by way of peer review. Joining peer review arrangements requires coordination (as some authorities undertook their previous reviews in 2015 or 2016). Under PSIAS requirements, it is the responsibility of the Head of Internal Audit to make external review arrangements under the instruction/guidance of the Chair of the Audit Committee. The Head of Internal Audit consulted the previous Chair of this Committee in 2019/20 about the choices of joining a peer group or seeking a contractor and the choice made at that time was to join a peer arrangement. As

peer arrangements involve providing a service to another authority, which cannot be the same authority as that which carries out the review, Kirklees reviewed Calderdale Council in 2021, and the Head of Internal Audit at Doncaster Council will carry out a review of Kirklees during 2022/23. It is expected that the review will be carried out in Autumn 2022, with a report back early in 2023. The Chair of the Committee will be kept informed during the process.

7. **Conclusions**

- 7.1 This report has summarised the activities of Internal Audit during 2021/22. Detailed information has been provided to Corporate Governance & Audit Committee during the year.
- 7.2 Despite some continuing difficulties during the year, there is evidence to demonstrate that the Council's system of governance, risk management and internal control is effective and that the opinion of the Head of Internal Audit on the internal control environment can be relied upon as a key source of evidence in the compilation of the Annual Governance Statement, although there are caveats:
- (a) That the assurance coverage is risk based and not absolute across the entire range of organisational activity and
 - (b) Other matters as described in this report.
- 7.3 The proportion of audit work which resulted in an assessment providing at least adequate assurance is 85%. The remaining 15% consists of "limited assurance", with one (2%) "no assurance" this year.
- 7.4 There are no areas where, following audit recommendations, management have formally chosen to refuse to implement recommendations for action (and accordingly overtly accepted the potential consequences as a risk).
- 7.5 The opinion from the work performed - the scope of which does not cover every area of entity risk - is that, although there are some weaknesses in some systems of control, the overall framework of the Council's governance, risk, business and financial systems, processes, controls, and its management of assets, is sound.
- 7.6 It is concluded that, overall, the Council has an adequate and effective control environment.

8. **Annual Governance Statement**

- 8.1 Information generated by Internal Audit forms a key part of the Council's assessment of the quality of its organisational and business controls and the degree of assurance that can be placed upon their operational effectiveness. This information is used in preparing the Council's Annual Governance Statement which accompanies the Statement of Accounts.

8.2 The positive opinion that the Council's arrangements provide an adequate and effective control environment needs to be considered in the context of the breadth of assurance provided by Internal Audit, and the comments contained in this report. There are several areas that might appropriately be escalated to the Annual Statement of Governance, and these are covered in a separate report to be considered by the Committee in due course.

Contact Officer

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Appendix 1

DRAFT INTERNAL AUDIT PLAN 2022/23

Follows after this report as a separate document

Notes

- Given the continuing constraint on resources, and operating methods, the audits listed above are the proposed core menu from which a priority list of work based on capacity and skills will be drawn.
- The draft plan has been prepared in accordance with the Public Sector Internal Audit Standards.
- Follow up audits relate to audits in 2021/22 which produced a *Limited Assurance* opinion.
- The audit planning process is risk based and attributes a score to each activity in the audit universe. Whilst most audits proposed above have a high “risk” score some lower risk audits have been scheduled to give a broader picture of the control environment across the organisation.

Appendix 2

Recommendations from the External Assessment of Internal Audit 2018

Actions linked to these matters were reported to Corporate Governance & Audit Committee on 25th January 2019

	Recommendations	Progress
1	Time devoted by the head of internal audit to the strategic and operational management of the function.	See table that follows
2	Promoting a split between the creation and management of risk information, and the separate roles of internal audit in challenging entity risk identification and assessment and supporting this Committee in its role in overseeing risk arrangements.	Head of Risk continues to have role in risk management. There is a clearer set of activities re Risk Management, such as the risk panel. A new member of staff has been appointed to take responsibility for risk oversight and coordination.
3	Accessing the skills necessary to address speciality work areas (e.g., cyber-IT) and more generally to secure a sustainable workforce. (2.1).	Recognition that super-speciality skills not practically available, but as a recognition of workforce development trainee accountants recruited in last few years, who will spend some time in Internal Audit
4	Increasing the number of performance measures that are used to assess the effectiveness of internal audit (3.1)	Some additional information provided for those charged with governance. Monitoring targets/comparatives are not valid or appropriate for 2021/22, but new comparators need to be sought.
5	The need to improve feedback/ client engagement information (4.2)	There is equally an absence of any adverse commentary, and attempts to improve feedback have proved challenging (the last 2 years of different pressures have perhaps not helped)
6	Making sure that process documentation is fully completed. (8.1)	Ongoing supervisions and quality checking.

Time spent analysis by Head of Audit & Risk		2021/22 % all year	2020/21 % all year
Specific IA projects, investigations		9	8
General Advice	Childrens	4	1
	Adults	6	5
(#) advice includes corporate projects	Environment & Regeneration	25#	21#
	Corporate	9	10
	Housing	3	6
Procurement & FPRs & CPRs		5	13
Risk Management		6	7
Trust Funds		14	10
CGAC advice		6	5
Management & Supervision		13	14

Annual Review of Internal Audit – 2021- Action

	Recommendations	Actions	Update
1	Explore potential for more rotation of assignments to avoid over familiarity (1130 Impairment)	To be considered on a personal basis based on skill and knowledge	Some staff rotation to new duties/areas, plus new staff appointed
2	Explore further options to obtain customer feedback (1311 assessment)	Consider other options	Not successfully progressed, though more engagement with senior management on planning
3	Is there an adequate audit brief for each audit? (6.3/2200 Engagement Planning)	To consider if client and auditor are clear about objectives, scope etc of each audit	Some greater briefing achieved
4	Potential concern that skill mix does not match workload and aspirations (1200 Proficiency)	Assess skills and options and report back	New staff appointed should widen skill mix
5	Improve corporate reporting to senior management (20101 Planning/ 2060 Reporting)	Agree with Chief Executive what reporting should be provided to ET	Interlinks with corporate assurance and risk reporting
6	Additional work required on "other assurance" sources (2050 Coordination)	Additional work required on "other assurance"	Progressed to reporting stage

Annual Review of Internal Audit - 2022

	Recommendations	Actions	Update
1	Some elements of the Strategy and Charter do not align with recommended practice	Amend Charter/Strategy	April 2022
2	Explore further options to obtain customer feedback (1311 assessment) (from 2021)	Consider other options	Summer 2022
3	Potential concern that skill mix does not match workload and aspirations (1200 Proficiency) (from 2021)	Assess skills -especially of new staff- and options and report back	Autumn 2022
4	Ensure full involvement of senior management in processes (20101 Planning/ 2060 Reporting)	Share charter with senior management	April 2022
5	Progress work on wider "other assurance" sources (2050 Coordination)	Determine if additional work still required on "other assurance"	Summer 2022

Appendix 3

INTERNAL AUDIT PERFORMANCE TARGETS 2022/23

The operating methods did not make pursuing these targets practical in 2020/21, or 2021/22.

They will be reintroduced for 2022/23

<u>Objectives</u>	<u>Performance Measures</u>
Achieve planned audit work as adjusted	80% of planned audits achieved
Achieve each planned audit within budgeted time allowed	80% of planned work achieved within initial time budget
Achieve high level of work quality and customer satisfaction	90% good or better responses to customer questionnaires
Delivery of completed audit work	85% of draft reports issued within 10 days of completion of site work

Appendix 4

KEY CORPORATE SYSTEMS 2022/23

Financial Systems & Controls

Payroll (SAP)
Debtors (SAP)
Procurement / Creditors (SAP)
Council Tax
Business Rates
Council Tax Reduction Scheme (residual Benefits)
Housing Rents
Treasury Management
Payments for Social Care
School Payments
Internal Recharging

Key Organisation & Business Controls

Code of Corporate Governance
Contract Procedure Rules
Financial Procedure Rules
Contract Management
HR Operations
Risk Management
IT Controls
Performance Management Systems
Partnership Governance
Emergency & Business Continuity Planning
Information Security
Health & Safety
Fraud, Bribery & Corruption Risk
Corporate Complaints
Whistleblowing

Appendix 5

DETAILED PERFORMANCE STATISTICS FOR 5 YEARS

	2021/22	2020/21	2019/20	2018/19	2017/18
Number of days spent on planned and unplanned audit work	957	1,195	1,376	894	976
Number of financial processes and systems examined	11	14	32	11	16
Percentage offering limited assurance.	36%	36%	16%	27%	44%
Number of location/ establishment audits undertaken.	0	0	0	0	3
Percentage offering limited assurance			n/a	n/a	0%
Number of school audits undertaken	23	12	29	34	35
Percentage offering limited assurance	0%	0%	10%	6%	3%
Follow up audit work carried out	5	12	13	9	18
Percentage offering limited assurance	28%		31%	55%	44%
Number of business control audits undertaken	6		15	14	12
Percentage offering limited assurance	17%	50%	27%	36%	18%
Number of investigations into irregularity	6	0	7	2	5
Number of managements, governance or value for money studies	0	5	3	0	4
Number of grant audits, consultancy, projects	15	17#	13	19	11
Completed formal tasks	68	43	112	89	104
Overall percentage of reported audits providing only limited assurance/ *unsatisfactory (Corporate target 20%)	15%	29%	18%	22%	22%

included "non audit/ assurance" tasks

INTERNAL AUDIT

DRAFT AUDIT PLAN

2022/23

Draft Council Internal Audit Plan 2022/23 (80 audits)

79 identified + 4 provisional @ 8/4/22

CHILDREN AND FAMILIES

Child Protection and Family Support (2)

Yorkshire Adoption Agency
Domestic Violence Team

Learning and Early Support (32)

High Schools x 2
Primary Schools x 25
Troubled Families Grant Claims
School Exclusion Pathway bf Provisional
Sendif grants scheme
CKC as a client
CKC as a business

CORPORATE STRATEGY, COMMISSIONING & PUBLIC HEALTH

Strategy and Innovation (3)

Cyber Security bf
Communications Policy (New policy being adopted start 22/3; Q4(22/3), or 23/24)
SAP Security

Governance and Commissioning (3)

Risk Management bf (*)
Whistleblowing
Corporate Complaints

Finance (3)

Business Rates Reliefs & Exemptions bf (+)
Recovery and Enforcement (+)
Debt Recovery (+)

People Services (3)

Attendance Management bf (+)
Mandatory Staff Training bf
Hybrid working (asset control, GDPR, Info Governance/safe working/safeguarding)

Public Health (4)

Wellness Model bf
Healthy Child Contract bf
Business Continuity (Provisional; likely to be amending arrangements- Q4 or defer to 23/24)
Health & Safety bf

ENVIRONMENT AND CLIMATE CHANGE

Highways & Streetscene (3)

Grounds Maintenance External Income (follow-up) bf
Winter Maintenance
Highways Stores (+)

GROWTH AND REGENERATION

Skills & Regeneration (4)

Cultural Heart
Planning Consent and Enforcement (+)
Business Centres
Business Improvement District (finance & control)

Homes & Neighbourhoods (8)

HRA Ring Fence (cost allocations) Provisional (to agree best approach with Accountancy and external auditor)
Regulatory Compliance (Fire & Other Safety)
Stores including van stocks bf (+)
Plant and Equipment Hire (follow-up) bf (+)
Procurement of Works (Sub Contractors) (follow up)
Procurement of Temporary Accommodation (follow up) (+)
Rent Setting (new system)
Excellent Homes for Life

ADULTS & COMMUNITIES

Adults Social Care Operation (11)

Fair Cost of Care Assurance (A)
Payments to suppliers for Domiciliary Care (#A)
Payments to suppliers for Private Residential Homes (#A)
Care Account Assurance process(B)
Assessment of Care (#B)
Assessed Contributions(#B)
Client Finances(#B) (+)
Home Care Charges (Income)(#B)
Debtors (#B)
Deferred Charges (#B) (+)
Emergency Duty Team (follow up)
(Exact pattern of work to be determined. Basic assurance work - marked # - will support strategic assurance under the topics marked A and B)

Customers and Communities (2)

Channel arrangements (adults and children believed vulnerable to radicalisation, extremism, terrorism) Provisional,
pending agreement on scope
Interpretation and language support to communities (& Community Language Services)

CORPORATE (7)

Pool Car Usage (+)
NFI (+)

Purchasing Cards 9+)
Ethical Standards
Third Party Relationships (KCA, KAL)
Health & Safety- lone working arrangements
CCTV strategy (operations and risks)

Notes

- The draft plan has been prepared in accordance with the Public Sector Internal Audit Standards
- Follow up audits relate to audits in 2021/22 which produced a *Limited Assurance* opinion
- Audits marked (*) relate to Significant Governance Issues in the 2021/22 AGS
- Audits marked (+) The Audit Plan recognises a perspective of fraud risk, A detailed assessment of good practice for fraud strategy and practice was undertaken to draft stage at the end of 2021/22, and an action plan is being prepared which will be brought for consideration during 2022/23
- The audit planning process is risk based and attributes a score to each activity in the audit universe (using a 4x3 matrix). Audits are then undertaken on up to a 5-year cycle. Whilst most audits proposed above have a risk score of 9 or above, some lower risk audits have been scheduled to give a broader picture of the control environment across the organisation.

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KIRKLEES COUNCIL

INTERNAL AUDIT **STRATEGY & CHARTER**

20221-232

EXECUTIVE SUMMARY- INTERNAL AUDIT STRATEGY & CHARTER

1. Internal Audit supports the organisation and its management in achieving its objectives. Its work will involve.
 - a) Assurance about the internal financial and (other) business controls, and the Council's broader assurance framework, including both a programme of planned assurance based internal reviews, and other more ad hoc assurance based work and projects
 - b) 'Consultancy' work, as commissioned, relating to business, financial and process controls and value for money, efficiency, and effectiveness.
 - c) Development of anti-fraud, anti-corruption and anti-bribery measures and investigation of any suspicions of inappropriate behaviour.
 - d) Information, advice, advocacy, and training in respect of best practice in achieving a high level of internal control, including Financial and Contract Procedure Rules.
 - e) Contributing to corporate/high impact projects, particularly those involving partnership and procurement.

Internal Audit coverage will apply to all the Council's direct operations, all wholly owned or controlled organisations or subsidiaries, including limited companies, and other partnership bodies (where the Council so determines).

2. Internal Audit work will address all the business controls of the organisation, prioritised based on risk. This involves a full coverage of all aspects of the Council's operation, including financial systems, processes and activities, all other business processes, risk management, governance arrangements, information management and appropriate use of technology:-
3. Internal Audit activity will be planned, carried out and reported within a general philosophy of providing evidence-based analysis and helpful advice to all levels of management and achieving positive consequential progress.
4. Except where otherwise agreed, written reports will provide summary information, detail on any findings of note, conclusions and recommendations to advise and inform managers at all levels.
5. Establishing effective systems of operation and implementation of audit recommendations is the responsibility of management. It is not the role of Internal Audit to act as a proxy for appropriate performance management of, or by, senior management.
6. Internal Audit will follow up the implementation of accepted recommendations in all cases where there were concerns about a system,

process, or activity, or where recommendations result from an investigation. Other agreed recommendations may be followed up on a sample basis.

7. Internal Audit will co-ordinate the overall corporate assessment of business controls and risk management. It will help develop and monitor the Risk Management Statement.
8. Internal Audit will operate in accordance with the (mandatory) Public Sector Internal Audit Standards (PSIAS) and the supplementary CIPFA guidance. Internal Audit officers will act with independence, objectivity and integrity and respect the confidentiality of organisational information.

CONTENTS

1. Introduction
2. Objectives of Internal Audit
3. Independence, Responsibilities and Authority
4. Performance Management and Quality Control
5. Reporting
6. Internal Audit Delivery
7. Partnership; Obtaining & Providing Assurance to Others

Appendix 1 Control Environment (definition)

Appendix 2 Financial Procedure Rules (extract)

Appendix 3 Role of the Audit Committee

Appendix 4 Audit Planning, Resourcing & Reporting (detail)

Appendix 5 Public Sector Internal Audit Standards

Appendix 6 Statement of the Responsibilities of Management

1. INTRODUCTION

1.1 Local Authorities are required under the Local Government Acts and the Accounts and Audit Regulations 2015 to have a continuous internal audit of their financial and other business controls. It will be delivered in compliance with the Public Sector Internal Audit Standards (PSIAS). This is mandatory guidance which states the fundamental requirements for the professional practice of internal auditing and for evaluating the effectiveness of Internal Audit's performance. These standards in Local Authorities are supplemented by additional guidance from CIPFA that has regulatory authority for local government in the UK.

1.2 The PSIAS require that there is a formal Internal Audit Charter defining the purpose, authority and responsibilities of Internal Audit, which must be consistent with the PSIAS definition of internal audit, code of ethics and professional standards. For the purposes of comparability the following terms apply

<u>PSIAS Term</u>	<u>Kirklees Arrangement</u>
<u>The Board</u>	<u>Corporate Governance & Audit Committee</u>
<u>Senior Management</u>	<u>Chief Executive & or Executive Team</u>
<u>Chief Audit Executive</u>	<u>Head of Internal Audit</u>

1.3 The main purpose of Internal Audit is to support the organisation in achieving its objectives, and particularly to play a key role in the Council's Corporate Governance arrangements in ensuring Members and Corporate Managers have adequate assurance that they are meeting their responsibilities.

1.4 The role of Internal Audit is also to support the Council's statutory officers (Head of Paid Service, Chief Finance Officer and Monitoring Officer) in carrying out their roles, and equally needs their support in fulfilling its role.

1.5 This document has been prepared to set out:

- The objectives of Internal Audit
- The scope of its operation
- Its rights and responsibilities
- The responsibility of others
- The Audit planning process
- The Audit reporting process

1.6 This Strategy and Charter will be regularly presented to senior management and reviewed regularly by the Corporate Governance & Audit Committee. Its purpose is to set out the purpose, nature, objectives, outcomes and responsibilities of the internal audit service.

2. OBJECTIVES OF INTERNAL AUDIT

2.1 Internal Audit's objectives can be defined as:

“Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”. (PSIAS)

This definition goes beyond basic compliance by evaluating and improving the effectiveness of the entire risk, control and governance arrangements (including financial and non-financial control systems). As an independent appraisal function Internal Audit can offer assurance on the effectiveness of internal control arrangements, contributing to the efficient use of resources and generally helping management to monitor performance, improve operational efficiency and target objectives. These actions will add value by supporting the organisation in achievement of the Council's objectives.

2.2 Specifically the role is to provide:

- *Assurance, principally by a review of the control environment* - The 'control environment' comprises the business systems which are operated to implement the Council's statutory obligations and its policies and objectives. This includes systems and processes, governance and decision making, and risk identification and management. It involves the review of all the major financial and accounting systems and practices, and controls of other kinds (such as purchasing and human resources). For financial controls it involves a more detailed review of information, records, assets and other resources to identify appropriate financial stewardship. (See Appendix 1). It also includes matters relating to organisational ethics, use of technology and matters such as management of data and information.
- *Consultancy* - Undertake, when commissioned, other reviews and projects which use investigative, analytical and consultancy skills. This work can be specific or involve on-going advice and may include value for money related activity. Where this advice is provided it is given notwithstanding the responsibility to provide assurance as above. Any work performed will be accepted only within the competencies of staffing.
- *Assurance and Investigation into suspected Fraud, Corruption and Bribery* - ~~It is essential that Internal Audit has awareness of issues of fraud, bribery and corruption, as a part of gaining assurance about the control environment (as above). In some circumstances it may be appropriate for Internal Audit to undertake investigations into suspected irregularity, fraud, or corruption.~~ Internal Audit ~~also prepares and maintains~~ oversees the Corporate Anti-Fraud, Anti-Corruption and Anti-Bribery ~~Strategy, policies and and undertake investigations into suspected irregularity, fraud, or corruption,~~ provides guidance for managers and Members and ~~thus~~ helps to promote good corporate governance and the highest ethical standards. It also coordinates the Council's approach to the mandatory national fraud initiative. (NFI). The Head of Audit is also required to be notified of all cases of suspected or detected fraud, corruption or impropriety.
- *Advice* - Provide operational advice on the development of processes and systems and on the interpretation of the Council's rules (principally Financial Procedure Rules and Contract Procedure Rules).

- 2.3 Audit advice and recommendations are given in all cases without prejudice to the right of Internal Audit to review the relevant policies, procedures and operations at a later date.
- 2.4 The Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal Audit advises the Council on whether effective and efficient arrangements exist, cumulating in the annual opinion of the Head of Internal Audit, which informs the Annual Governance Statement. Optimum benefit to the Council should arise when Internal Audit work in partnership with management to
- improve the control environment
 - achieve organisational objectives.

3. **INDEPENDENCE, RESPONSIBILITIES AND AUTHORITY**

An effective internal audit function must be independent, objective and unbiased.

3.1 **Governance**

It is the responsibility of the Council, and its senior management, and in particular the statutory officers (Head of Paid Service, Chief Finance Officer and Monitoring Officer) to ensure that the organisation has all appropriate operational and business control arrangements.

Internal Audit is a part of the Directorate of Legal, Governance, Commissioning and Risk, within the Corporate Resources and Public Health Strategic Directorate and reports both to the senior management and to the Corporate Governance & Audit Committee.

Details about internal audit, its authority and the role of the Head of Internal Audit are in the sections below

3.2 **Authority**

Internal Audit has authority to:

- Enter at all times any Council premises, land or location from which Council services are provided (including those of partners and contractors).
- Have access to all property, records, documents, correspondence, data (in all forms) relating to all activities of the Council.
- Require and receive explanations in respect of any matter; and
- Require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.
- Require the assistance of any employee, such as by the attendance at meetings (of any form), submission of information in any required media,

or any other reasonable action to enable Internal Audit to fulfil its role and objectives.

The rights and responsibilities of Internal Audit are set out in Financial Procedure Rules (an extract is included at Appendix 2)

3.32 ~~Responsibilities of t~~**The Head of Internal Audit**

~~(The Head of Internal Audit has the formal title in the Council's structure of Head of Risk)~~

~~The Head of Internal Audit.~~

- ~~Reports functionally to the Corporate Governance & Audit Committee which operates as the Audit Committee of the Council, and issues reports under his own name.~~
- ~~Reports managerially to the Chief Executive, Service Director for Finance and Service Director, Legal, Governance & Commissioning (Monitoring Officer) and for supervisory purposes to the Service Director, Legal, Governance & Commissioning~~
- Has the right to communicate directly with any Strategic or Service Director, or any other Council officer. The Head of Internal Audit may also communicate with any Cabinet Member or Councillor, or other person.
- Has the right to communicate confidentially with the Chair of the Corporate Governance & Audit Committee on any matters.
- Must advise the Corporate Governance & Audit Committee on any matter where any significant risk or threat to the organisation, identified through audit assurance work, has not been adequately addressed by management.
- Is responsible for the delivery of the Internal Audit function and achievement of the standards described within this document.

~~The Head of Internal Audit has responsibility for ensuring compliance with statutory requirements, in particular the Data Protection and Freedom of Information Acts, and Council Policy concerning records management in operation of the internal audit activity. All audit work will be done in accordance with the principles of Data Protection/Freedom of Information legislation, unless certain exemptions apply to individual circumstances, so that, for example, personal data will be kept securely and disposed of correctly when it is no longer required for audit purposes. Information collected by way of audit work will be stored on paper and or electronically. Permanent file data, such as system notes will be kept until it is no longer valid. Reports, correspondence working papers and supporting evidence will be kept up to 6 years, but normally until after the next audit of the activity is completed, (or longer where an Audit Manager considers that this is necessary to facilitate service provision).~~

The Head of Internal Audit will ensure that audit work is shared with Strategic Directors, Service Directors and other senior managers and their

appointees, and commissioning officers for investigations and reviews. Additionally, summaries will be provided to the Corporate Governance & Audit Committee, individual Members or others (e.g., whistle-blowers) who refer matters to Internal Audit, the external auditor and to other authorities and agencies to facilitate joint and partnership working as appropriate. Audit work will (except when otherwise agreed) be treated as confidential, but in certain circumstances may be wholly or partially subject to disclosure under the Freedom of Information Act.

~~Operationally, Internal Audit reports to the Chief Executive, statutory Chief Financial Officer and Monitoring Officer.~~

3.43 Responsibilities of Internal Audit

The responsibilities and objectives of Internal Audit are as follows:

- To provide soundly based assurances to management on the adequacy and effectiveness of their internal control, risk and governance arrangements, including ethics, information management and technology.
- To review, appraise and report on the extent to which the assets and interests of the Authority are accounted for and safeguarded from loss.
- To review, appraise and report on the suitability and reliability of financial and other management data and information.
- To assess the adequacy and effectiveness of the Authority's procurement, contract and partnership arrangements.
- To support schools in achieving high standards of control and governance.
- To assess the corporate risk management processes.
- To evaluate the risk of fraud and how it is managed and controlled. To provide corporate fraud and irregularity prevention, detection and investigation services in accordance with the Anti-Fraud, Anti-Corruption and Anti-Bribery Strategy.
- To reach conclusions about the effectiveness of the Council's control environment, and to recommend improvements to management.
- To contribute to assurances in relation to the robustness and reliability of internal controls and governance to support the Annual Governance Statement (AGS).
- To support the achievement of efficiency, value for money and effective change management.
- To provide advisory and consultancy services intended to add value and improve value for money, governance, risk management and control processes.
- To provide advice in respect of the development of new or significant changes to existing programmes and processes including the design of appropriate controls. This is usually through membership of groups, boards or working parties as well as direct contact with officers within Services.

- To support effective procurement.
- To support activities of the Corporate Governance & Audit Committee to discharge its responsibilities.
- To support the Service Director of Finance as the Council's Chief Financial (s151) Officer and all senior management in meeting their corporate responsibilities.
- To monitor the implementation of agreed recommendations.
- To plan, manage and operate the internal audit function in an efficient and effective manner.

3.54 **Responsibilities and expectations of Internal Auditors**

Internal Auditors must exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined, working with honesty, diligence and responsibility. They must always observe the law and respect and contribute to the legitimate and ethical objectives of the Council.

Objectivity:

Internal Auditors must make a balanced assessment of all the relevant circumstances and not be, or appear to be, unduly influenced. This means.

- Not taking part in any activity or relationship that may impair or be presumed to impair their unbiased assessment.
- Declaring any real or perceived interests on an annual basis, or at any time that they recognise any impairment to the objectivity.
- Not accepting anything that may impair or be presumed to impair their professional judgement such as gifts, hospitality, inducements or other benefits from employees, clients, suppliers or other third parties.
- Disclosing all material facts known to them that, if not disclosed, may distort the reporting of activities under review.
- Not using information obtained during duties for personal gain and.
- Complying with the Bribery Act 2010.

Confidentiality:

Internal Auditors must.

- Act prudently when using information acquired in the course of their duties and protecting that information, and
- Not use information (derived or obtained through their official role) for any personal gain.

All records, documentation and information accessed while undertaking internal audit activities are to be used solely for the conduct of these activities. The Head of Internal Audit and all Internal Audit staff are responsible and accountable for maintaining the confidentiality of the information they receive during their work.

Integrity:

In the conduct of audit work, Internal Audit staff will:

- Comply with relevant professional standards of conduct and perform their work with honesty, diligence and responsibility.

Competency:

Internal Auditors are expected to be competent in their role by:

- Possessing the knowledge, skills and technical proficiency relevant to the performance of their duties.
- Being skilled in dealing with people and communicating audit, risk management and related issues effectively.
- Maintaining their technical competence through a programme of continuous professional development.
- Exercising due professional care in performing their duties; and
- Complying with all requirements of the PSIAS.

Awareness:

- Being alert to the issue of fraud and corruption.

Internal Audit staff must declare any conflict of interest, or potential conflicts of interest, actual or perceived, to their Manager.

3.65 Independence & Objectivity

Internal Audit has no operational or non-audit functions to perform and is therefore totally independent of all Council operational activities that it audits. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records or engage in any other activity that may impair an internal auditor's judgement. This allows Internal Audit to make independent, impartial and effective professional judgements and recommendations on the area under review. The internal audit activity will remain free from undue interference from any part of the Council, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of a necessary independent and objective mental attitude.

Internal auditors will have no direct operational responsibility or authority over any of the activities audited and will exhibit the highest level of professional objectivity in gathering, evaluating and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all of the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgements.

Audit responsibilities are periodically rotated to avoid over-familiarity and complacency and to provide for service continuity and resilience. Internal Auditors are not involved in undertaking non audit activities and an Auditor will not be involved in the audit of any system or process for which they had previous operational responsibility

3.7 Statement of pre-existing areas of conflict in current audit activity

The Head of Internal Audit – as “Head of Risk” has direct operational responsibility for the Insurance, Risk Management and Corporate Customer Standards (complaints) functions and provides input into certain procurement functions and corporate projects. When audits are required of these areas, the Audit Manager reports direct to the Service Director Legal, Governance & Commissioning. This arrangement helps maintain independence and avoid any conflicts of interest.

On a Consultancy basis, but as a matter of routine, Internal Audit staff provide advice about the methods of financial evaluation of contracts and contractors and carry out on a task specific basis financial evaluation of prospective suppliers to the Council.

~~Except for these activities, the Internal Audit function has no responsibility for developing or implementing procedures or systems and does not prepare records or engage in processing functions or business activities.~~

~~Internal Auditors are not involved in undertaking non-audit activities and an Auditor will not be involved in the audit of any system or process for which they had previous operational responsibility (or advised in a consultancy capacity) for a period of two years. This will also apply where an internal auditor is temporarily required to carry out other duties.~~

~~Audit responsibilities are periodically rotated to avoid over-familiarity and complacency and to provide for service continuity and resilience.~~

4. PERFORMANCE MANAGEMENT AND QUALITY CONTROL

4.1 Performance Management

The Corporate Governance & Audit Committee will establish performance measures for the Council, in respect of the control environment, and for the Internal Audit function, and consider performance against those measures in reviewing the activity of Internal Audit.

4.2 Quality Control

The PSIAS requires the operation of quality assessment and review mechanisms, which must be assessed internally at least annually, and by an external assessor at least every 5 years.

The Head of Internal Audit is responsible for advising the Committee on the appropriateness of measures and targets, and on collecting this information.

The Head of Internal Audit will establish internal quality control and review practices consistent with the requirements of the PSIAS, and report on the outcome of this review work to the Corporate Governance & Audit Committee as a part of the Annual Report.

Quality control will include direction and supervision of work performed, the retention of appropriate, reliable and relevant evidence to justify findings and conclusions and recommendations, and the internal review and assessment of work, including its preparation in accordance with detailed standards, and compliance with the requirements of PSIAS and CIPFA.

The Head of Internal Audit is responsible for arranging for the external assessment, providing the necessary information, and acting on any outcomes from the assessment. This will be done under the oversight of the Chair of the Corporate Governance & Audit Committee.

The external auditor and other external review agencies may evaluate the work of Internal Audit as part of their assessment of Council activity.

5. REPORTING

The Head of Audit and Risk will report to the Corporate Governance & Audit Committee.

- Quarterly on each piece of work completed in the period, the opinion arising from that work and performance of internal audit (achievement of the annual audit plan (as revised when required), client satisfaction and quality assessment).
- Annually on the overall achievement and assessment of the Council's internal audit work programme, including an opinion on the control system, risk management and governance arrangements, and performance information, such as issuing reports on time, completing work within time allocated.
- Annually on the overall risk environment and the overall planned work on assurance in the forthcoming year, plus any investigative and consultancy tasks. This will include an assessment on the availability of resources, and any impact this may have on the ability to assess the control environment.
- As necessary on any matter impacting on the overall integrity of the Council's control environment, typically indicated by a "no assurance" audit opinion, or on any operational matter that seriously impacts on the delivery of the audit plan or resourcing of the internal audit function.

Internal Audit reports to all levels of management, with reporting of detailed operational work usually being to Service-Directors. The Chief Executive and Strategic Directors receive the full Council wide summary of activity.

6. INTERNAL AUDIT DELIVERY.

- 6.1 The Head of Internal Audit is responsible for the effective use of resources to deliver the Audit Plan.

- 6.2 Delivery is by direct employees of the Council, including trainees and secondees and, where necessary, temporary and casual employees. The use of specialist consultancy and contractors will be considered, if necessary, to deliver specific elements of the workload.
- 6.3 At least annually, the Head of Internal Audit will submit to the Corporate Governance and Audit Committee a risk based Internal Audit Plan for review and approval. The plan will consist of a schedule of planned assurance and consultancy work (including some contingency) which will establish resource requirements for the next financial year. This will be balanced between resource requirement and capacity. The standard requires the Head of Internal Audit to advise the Corporate Governance & Audit Committee if the amount of resources available compromises the ability to offer appropriate levels of assurance.
- 6.4 The internal audit plan is based on a risk-based assessment. The current standard is to potentially cover all areas of activity from the most significant to the most minor, although prioritisation is to ensuring that assurance coverage concentrates on those areas of highest risk in terms of potential exposure or likelihood of failure, covering both financial and other business controls (where assurance work utilise the responsibilities and processes for control effected by other teams such as Health & Safety).
- 6.5 Necessary material variations from the approved Internal Audit Plan are reported to and approved by the Corporate Governance & Audit Committee.

7. PARTNERSHIP; OBTAINING & PROVIDING ASSURANCE TO OTHERS

- 7.1 In respect of operations through partnership and semi-independent organisations:
- (i) Usually, the Council will require its internal auditors to have access to property, records, documents and correspondence in respect of any activity operated or controlled by the organisation working for the Council, and for its auditors to be provided with explanations by officers of the organisation. Contracts and agreement documents will set out these rights where it is appropriate.
 - (ii) The Council (through agreement by the Head of Internal Audit) may agree that alternative review arrangements operated by or on behalf of the organisation, or independently, will provide sufficient evidence to enable the Council to secure assurance conclusions about the aspects of the effectiveness of the Council's control environment to which the partnership relates, although the Council will retain an ultimate right to review any activity dependent on the Council's funding. In this context the Head of Internal Audit will seek to develop relationships, formalised where practical, with other internal auditors and other review agencies to facilitate this. This may include obtaining all or some elements of assurance from the internal auditors employed by the organisation,

and/or participating with other internal auditors (e.g. employed by local authorities in the sub region) to evaluate the procedures operated by shared partners (such as a regional wide public body) and using such assurance instead of obtaining direct assurance.

- (iii) The Council will, when requested and appropriate, provide assurance (based on work performed) to other partner organisations.

7.2 The Council's external auditor has full and free access to any records and work performed by Internal Audit. Action will be taken to coordinate work to avoid any duplication, and to ensure effective mutual working.

7.3 The Council provides Internal Audit services to:

- Kirklees Active Leisure, which is a charitable trust under a service level agreement. Although the Council is the main partner of KAL, audit accountability and reporting is to Kirklees Active Leisure only.
- The West Yorkshire Fire & Rescue Authority, which is a separate public body. This organisation makes significant use of the Council's financial systems. Audit accountability and reporting is to West Yorkshire Fire & Rescue Service only.

CONTROL ENVIRONMENT

The Control Environment comprises the Council's policies, procedures and operations in place to:

- a) Establish and monitor the achievement of the organisation's objectives.
- b) Identify, assess and manage the risks to achieving organisational objectives.
- c) Facilitate policy and decision making.
- d) Ensure the economical, effective and efficient use of resources
- e) Ensure compliance with established policies (including behavioural and ethical expectation), procedures, laws and regulations.
- f) Safeguard assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption; and
- g) Ensure the integrity and reliability of information, accounts and data, including internal and external reporting and accountability processes. This encompasses elements of corporate governance and risk management.

Control Environment audit work utilises a risk based, systematic approach for all control environment work to:

- i) Identify and record the objectives, controls and risks of the system or process.
- ii) Establish the congruence of operational objectives with higher-level corporate objectives.
- iii) Evaluate and review the application of risk management processes and documentation.
- iv) Evaluate the controls in principle to decide whether, or not, they are appropriate and can be reasonably relied upon to achieve their purpose.
- v) Identify any instances of over-control.
- vi) Determine and undertake appropriate tests of the effectiveness of controls, i.e., through compliance or substantive testing.
- vii) Arrive at conclusions and recommendations; and
- viii) Provide a written opinion on the effectiveness of the control environment.

EXTRACT OF FINANCIAL PROCEDURE RULES

(if approved the amended FPRs for 2021 will be incorporated here)

5. **INTERNAL AUDIT (2019 version)**

Responsibility & Authority

- 5.1 *The Chief Executive (in consultation with the Chief Finance Officer and Monitoring Officer) must arrange and direct a continuous internal audit, which is an independent review of the accounting, financial and other operations of the Council.*
- 5.2 *The Head of 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.*

The chief finance officer has the same authority for any accounting or associated purpose.

Planning & Reporting

5.4 *The Head of Risk must plan and report (in accordance with the approved Audit Strategy and Charter, Public Sector Internal Audit Standards and any instructions 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.

5.5 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.

5.6 The Head of Risk will provide a written summary of the activities of the Internal Audit function to the Cabinet and Corporate Governance & Audit Committee at least four times per year and an Annual Report produced for consideration by Management Board, Cabinet and Corporate Governance & Audit Committee, including an audit opinion on the adequacy and effectiveness of the Council's risk management systems and internal control environment.

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

Investigations and Suspected Fraud, Corruption or Bribery.

5.7 The Chief Executive and Directors must ensure that all Members and employees are: -

- a) Aware of the Council's Anti-Fraud, Anti-Corruption and Anti Bribery Strategy.*
- b) Aware of the Whistleblowing Strategy; and*
- c) Operating in a way that maximises internal check against inappropriate behaviour.*

The 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.

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

5.9 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 investigated by the Revenue & Benefits Service).

ROLE OF THE AUDIT COMMITTEE

<p>Extract from Terms of Reference of Corporate Governance & Audit Committee (May 2019) from the Council Constitution.</p>
<p>6. To consider the Council's arrangements relating to Internal Audit requirements including:</p> <ul style="list-style-type: none">(a) considering the Annual Internal Audit report, reviewing and making recommendations on issues contained therein(b) monitoring the performance of internal audit(c) agreeing and reviewing the nature and scope of the Annual Audit Plan <p>7. To review the adequacy of the Council's Corporate Governance arrangements. This will include (but not be limited to) the following:</p> <ul style="list-style-type: none">7.1 Internal control and risk management;7.2 Oversight of whistleblowing and the Council's whistleblowing policy;7.3 Oversight of the complaints process and the role of the Local Government Ombudsman;7.4 Oversight of Information Governance and the role of the ICO;7.5 To review and approve the annual statement of Corporate Governance. <p>8. To agree and update regularly the Council's Code of Corporate Governance, monitoring its operation and compliance with it, and using it as a benchmark against performance for the annual Statement of Corporate Governance.</p>

Monitoring the performance of Internal Audit might include: -

- i) Reviewing the scope, effectiveness and resourcing of the Internal Audit function;(including ensuring its budget is sufficient to achieve the work programme that the Committee considers to be necessary)
- ii) Assessing the balance between routine/unplanned/investigative work and systems /process/probity/unit/investigations/vfm studies/best value review/other work.
- iii) Appraising the accuracy and coverage of the work carried out.
- iv) Reviewing issues arising out of Internal Audit work.
- v) Reviewing management commitment to implementing audit recommendations.
- vi) Performance Management of Internal Audit work.

The Corporate Governance & Audit Committee can in support of its role:

- i) Call for Internal Audit reports to be submitted to it for consideration.
- ii) Commission specific pieces of Internal Audit work; and
- iii) Summon officers, Members or other persons to explain their actions, or inactions, in relation to Internal Audit work.

AUDIT PLANNING, RESOURCING AND REPORTING (Detail)

1 Corporate Audit Planning

- 1.1 The Head of Internal Audit is responsible for appropriate planning and deployment of Internal Audit resources by production of:
 A Strategic Statement of Areas of Auditable Activities and risk.
 A detailed Annual Audit Plan setting out the specific assignments planned for the year, reflecting risk and priorities and matched to the available resources.
- 1.2 The Annual Audit Plan will identify the work which is necessary to fulfil the following obligations: Assurance on effectiveness of internal controls to deliver efficient operations, safeguard the Council's assets and ensure compliance with relevant legislation, regulations, policies and procedures including:
- (i) Assurance on key internal controls
 - (ii) Assurance on financial processes and systems.
 - (iii) General assurance on other business systems and processes.
 - (iv) Opinion on Risk Management
 - (v) Opinion on Governance Arrangements
- 1.3 The level of resources allocated and work planned need to be balanced, to provide the levels of assurance, and other activities, that are expected as outcomes.

2 Risk Assessment

- 2.1 Both of the Strategic and Annual Plans are prepared based on an assessment of risk. Although this can be made ostensibly scientific, at its heart is professional judgement about the: -
- i) Importance of a risk area.
 - ii) Existing level of internal control and risk management.
 - iii) Materiality.
 - iv) Significance in terms of organisational impact, sensitivity and accountability.
 - v) Previous coverage and experience and knowledge gained by Internal Audit; and
 - vi) Coverage by other review agencies.
- 2.2 The key financial systems will usually be subject to triennial review. The frequency of review of other business, governance and major and medium risk financial systems and processes will typically be between 3 and 5 years.-Some operational units and minor financial and business processes will be subject to audit work less frequently than every 5 years.
- 2.3 Any consultancy work will be separate from the control environment work and be based against specific objectives agreed with the Director responsible before the work commences.

3 Other Audit Work

- 3.1 Internal Audit will have the opportunity to determine if they wish to investigate any suspected irregularity or inappropriate behaviour by officers of the Council, its partners, suppliers or Service Users which involves the potential misuse or loss of the Council's resources, including cash, stores, or other amounts. The Anti-Fraud, Anti-Corruption & Anti-Bribery Strategy and the Financial Procedure Rules set down a procedure for investigation, reporting and decision making. The exceptions to this are the investigation of customer claims for Council Tax Reduction, Housing Benefit, Blue Badges, Right to Buy and other means tested care provision (which are ~~investigated by the Fraud Team, at April 2020 the responsibility of the Investigation Team, Revenue & Benefits Service, although arrangements for the management of this team may change during 2020/21 a separate part of the Risk Service~~) and investigations into the misuse of Council paid time (e.g. inappropriate absence from work) which, along with non-resource based disciplinary matters, are the responsibility of Service management.
- 3.2 In order to test compliance by management in implementing agreed recommendations, Internal Audit will follow up all cases where planned audit work identified that a system or process was considered to offer only limited assurance, or no assurance (see tables 6.3 and 6.4) and in a sample of other cases. In the case of investigations, or consultancy, any outcome which results in agreed recommendations for improvements to process will also be subject to further review

4 Audit Resources

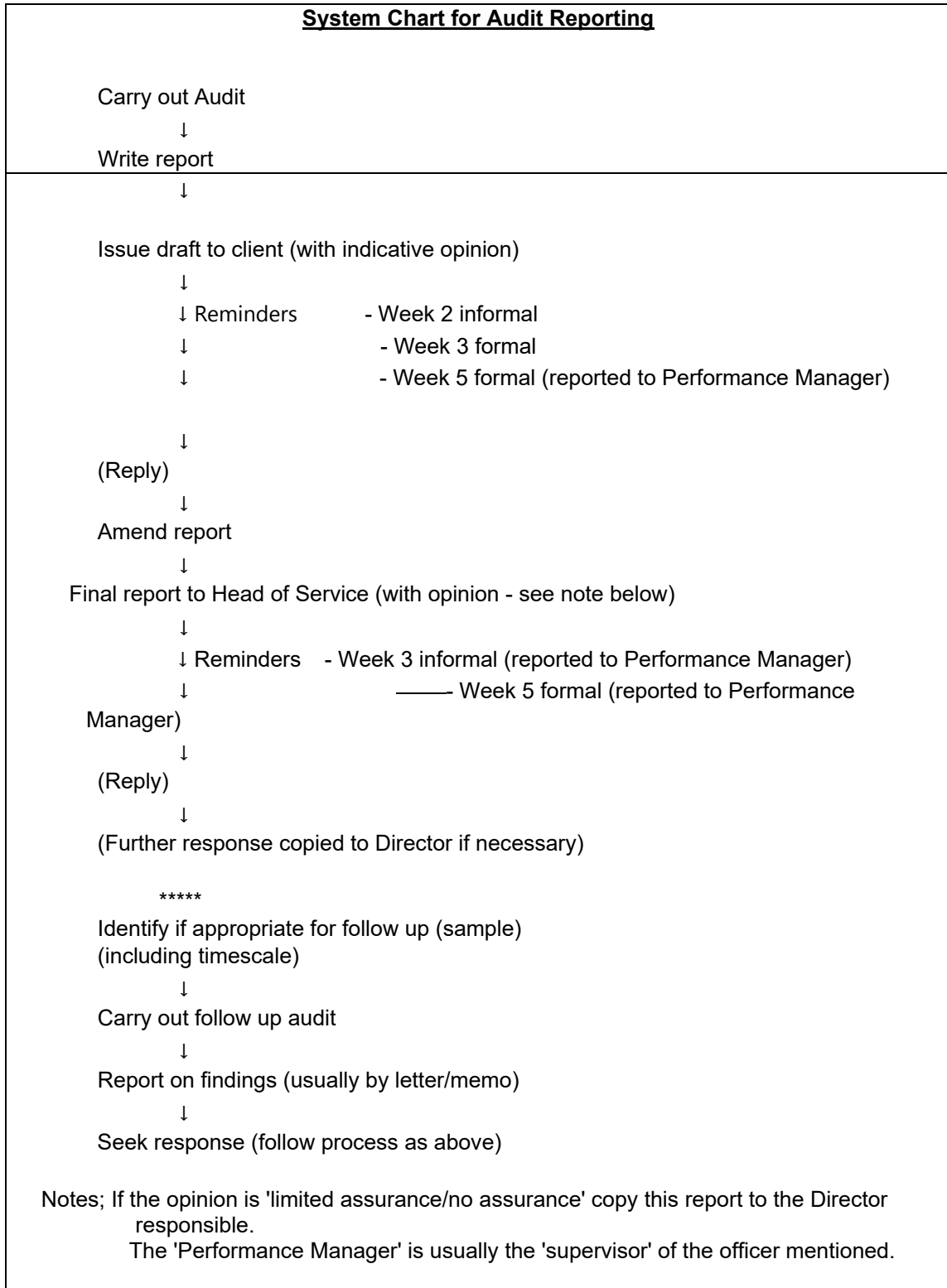
- 4.1 The Strategic Audit Plan includes a schedule of risk areas with an assessment of their nature and potential severity in terms of probability and impact.
- 4.2 At the start of each year, an Annual Plan will be prepared that looks at the degree of risk, based on the extent of assessed severity, and the date and findings of the previous work.
- 4.3 The Annual Plan needs to be interactively monitored against emerging risks, with the Plan being amended to reflect need, to ensure that resources are deployed on a priority basis.
- 4.4 The Head of Internal Audit will have the authority to change the plan to achieve this objective, and report back as a part of quarterly reporting of any significant changes made.
- 4.5 The Head of Internal Audit must monitor to ensure that there is sufficient resource to enable adequate coverage, and report at least annually on this.
- 4.6 The Annual Plan (IA control version) will include an allocation of days for each assignment (based on an expectation of an adequate arrangement)
- 4.7 In addition to the programmed audit work there needs to be time allowed:
- i) As a contingency for dealing with unexpected issues/delays in planned work.
 - ii) To allow for un-programmed work and investigations.

5 Audit Assignments

- 5.1 Each specific Internal Audit assignment will identify its objectives and a time allocation and be either:
- (i) Subject to a routine audit programme developed in relation to the activity; or
 - (ii) Subject to a specific audit brief developed for the specific task and agreed with the client. (This can be either an infrequent piece of assurance work, or a unique piece of consultancy).
- 5.2 Prior to the commencement of routine audits, Internal Audit will usually inform the manager responsible for the Service area under review about the purpose, scope and expected timing of the work. However, for some types of audit, such as special investigations, advance warning of the audit visit may not be appropriate, and this is at the discretion of the Head of Internal Audit.
- 5.3 Internal audit work will look to assess and provide information on the:
- i) Soundness, adequacy and application of the financial and other management controls and systems within each Service.
 - ii) Extent of compliance with, and the financial effects of, established policies, plans and procedures.
 - iii) 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.
 - iv) Suitability, accuracy and reliability of financial and other management data within the organisation; and (where applicable)
 - v) Value for money aspects of service provision
- 5.4 During the conduct of reviews, Internal Audit staff will consult, orally and/or in writing, with relevant officers to:
- i) Ensure information gathered is accurate and properly interpreted.
 - ii) Allow management to put their case to ensure that a balanced assessment is made.
 - iii) Keep management informed on the progress of the audit.
 - iv) Ensure recommendations are cost effective and practicable; and
 - v) Ensure that all recommendations agreed are followed up and that action has been taken leading to implementation.
- 5.5 Whatever the source of the evidence, Internal Audit must be satisfied as to its nature, reliability, completeness and relevance before drawing conclusions.
- 5.6 Internal Audit working papers (paper and electronic) will contain the principal evidence to support reports and they also provide the basis for review of work by documenting: -
- i) Planning.
 - ii) Examination and evaluation of the adequacy and effectiveness of internal controls.
 - iii) The audit procedures employed, the information obtained, and the conclusions reached.
 - iv) The management reviews
 - v) The report; and (as applicable, if any)
 - vi) Follow up.

- 5.7. The Auditor and Audit Manager will use their best endeavours to deliver the completed assignment within the time allocated and the timescale determined. This may not be possible due to inability to access key staff, other programming difficulties, the state of the records and information presented.

6 Audit Reporting



6.1 Internal Audit Reports

In respect of each assignment Internal Audit will produce a written report. This will usually set out summary information about the objectives and the work performed, providing detail of any adverse findings on an "exception only basis" setting out the extent to which operations fail to conform to the established standard and other important matters identified, stating the conclusions reached and recommendations, with an Action Plan to address these recommendations.

Where a report is issued, generally this will initially be in the form of a draft report, issued to the auditee and line manager, for comment on factual accuracy and the potential practicality of draft recommendations. Services can indicate at this stage if they agree with the recommendations and how they intend to action them. This will be usually issued by email.

In respect of investigative work, the draft report (when produced) will be discussed with the responsible Director (or nominee). For consultancy work, the draft will be discussed with the commissioning manager.

On occasions where there are no adverse findings or recommendations, a report may progress to final stage without a draft being necessary.

The final Internal Audit report will be issued to the Service Director (or where agreed, the Strategic Director). An accompanying letter or email will indicate the Internal Audit opinion on the state of the system / process at the time the audit was undertaken, (and if the report is to feature in detail in subsequent reporting, a summary text).

6.2 Management Response

A formal written reply is required. This should indicate specifically:

- i) That the recommendations are accepted and actions are to be taken, including timescale and the names of individual officers who are specifically responsible for their implementation.
- ii) That specific recommendations are not accepted. The reason should be provided, and any alternative actions should be listed.

A reply is not required where there are no recommendations, or when a detailed response was made at draft stage.

At this stage the matter will be considered to be finalised, except where the actions / inactions proposed under (ii) appear unjustified or unclear whereupon if the Head of Internal Audit believes the rejection or alternatives are unreasonable, further discussions will take place and, if necessary, the matter will be reported to the relevant Strategic Director, or through the Internal Audit reporting process to the Corporate Governance & Audit Committee.

Management should respond to Internal Audit reports as quickly as possible, and within the following maximum timescales established in FPRs.

Draft Reports: Within 2 weeks of issue

Final Reports: Within 4 weeks of issue

Failure to adhere to the above timescales will be reported to Corporate Governance & Audit Committee on a quarterly basis.

6.3 Audit Opinion

The report will express an opinion on the level of assurance that is offered by the system/process at the time the audit work was undertaken.

In respect of any audit work where the specific objective is to assess value for money, the opinion will reflect the assurance of the extent that current arrangements do, or are likely to, deliver value for money. Where value for money is one of several objectives, a separate opinion will be stated (on the grounds that a system may be highly effective in respect of the controls that it provides but does not do so in a way that is efficient).

Assurance level	Control Adequacy	Control Application
Substantial Assurance	A robust framework of all key controls exists that is likely to ensure that objective will be achieved	Controls are applied continuously or with only minor lapses
Adequate Assurance	A sufficient framework of all key controls exists that is likely to result in objectives being achieved, but the overall control framework could be stronger	Controls are applied but with some lapses
Limited Assurance	Risk exists of objectives not being achieved due to the absence of several key controls in the system	Significant breakdown in the application of several key and/or other controls
No Assurance	Significant risk exists of objectives not being achieved due to the absence of key controls in the system	Serious breakdown in the application of key controls

6.4 The assurance is judgement based, around the following criteria

Assurance Level	Fundamental	Significant	Merits Attention
Substantial Assurance	There are no fundamental recommendations	There is no more than 1 significant recommendation	There are no more than 5 merits attention recommendations
Adequate Assurance	There are no fundamental recommendations	There are 2 to 4 significant recommendations	There are 6 to 10 merits attention recommendations
Limited Assurance	There are 1 or more fundamental recommendations	There are more than 4 significant recommendations	There are more than 10 merits attention recommendations
No Assurance	The number of fundamental recommendations made reflects an unacceptable control environment	Not applicable	Not applicable

Although the above is a general assessment model, there will be an element of discretion, as a single fundamental failing can, in certain circumstances, mean that an entire operation offers no assurance.

6.5 Prioritisation of Recommendations

Audit recommendations are allocated a priority rating to signify the risk, or level of internal control weakness, associated with the issue identified. The ratings used are: -

Priority Rating	Guidance
Fundamental	A recommendation, often requiring immediate action, that is key to maintaining an appropriate control environment and thereby avoiding exposure to a significant risk to the achievement of the objectives of the system, process or location under review.
Significant	A recommendation requiring action that is necessary to improve the control environment and thereby avoid exposure to a risk to the achievement of the objectives of the system, process or location under review.
Merits Attention	A recommendation where action is advised to enhance control or improve operational efficiency.

6.6 Acting on Audit Reports

~~It is the responsibility of senior management to consider audit reports and the responsibility for implementation of audit recommendations. —and the right to reject Internal Audit advice —lies with I the Service Director has the right to accept or reject internal audit advice. Where audit work identifies that a system or process is unsatisfactory (or the management actions proposed to a system which is generally satisfactory are considered inappropriate) Internal Audit will advise the relevant Director.~~

6.7 Consolidating Information to form Overall Opinions and Advice

In respect of key financial systems, the overall opinion on the system will often be informed by several discrete pieces of work.

In addition, Internal Audit will also analyse various discrete audit assignments to ascertain if information or advice of benefit to a wider audience of managers can be obtained and distributed.

6.8 Corporate Management Reporting

Internal Audit will produce:

- i) A Quarterly Report on Internal Audit activity
 - ii) An Annual Report on Internal Audit activity expressing an opinion on the integrity and appropriateness of all significant financial systems and business control systems.
- The Quarterly Report will contain details of work which has been finalised and agreed in the period, including:
- i) Specific details of all investigations, special studies and reviews and non-standard work.

- lii) Summary information on systems and processes reviewed, and key reasons or findings when the system is providing only 'limited assurance' or 'no assurance'.
- iii) Information about all follow up work; and
- iv) Information about any senior managers who have failed to comply with their obligations.

The report will indicate if:

- i) At the time of the audit, the system or process reviewed provided "substantial", "adequate", "limited" or "no" assurance.
- ii) Management have not agreed the recommendations; and
- iii) In the case of follow up work, if agreed recommendations have not been implemented.

The report will be presented to the Chief Executive and Strategic Directors and formally to the Corporate Governance & Audit Committee.

The Annual Report will use information from the Quarterly Reports and analyse this against systems and across Service areas to provide an opinion in respect of those systems and arrangements that have been subject to review during the year of:

- i) All major financial and business systems.
- ii) Other business control systems.
- iii) The overall quality of the operation of control systems in individual Service areas; and
- iv) An overall assessment of risk, and governance.

The report will be presented to the Chief Executive and Strategic Directors and formally to the Corporate Governance & Audit Committee.

7. Management responsibilities

- 7.1 It is the responsibility of operational managers, Heads of Service, Service Directors, Strategic Directors and Cabinet Members to implement and operate control systems which accord with statute, Council policy and organisational rules (e.g. Financial Procedure Rules).
- 7.2 They must ensure that appropriate records are kept and maintained as necessary to comply and demonstrate compliance with their requirements, and ensure that staff employed are suitably skilled and trained.
- 7.3 Managers must ensure that appropriate access is granted for Internal Audit - to employees, premises, and records.
- 7.4 Accountability for the responses to the advice and recommendations of Internal Audit lies with management, who must either accept and implement the advice, offer an alternative action that addresses the deficiency identified (which is acceptable to Internal Audit), or formally reject it.
- 7.5 It is the responsibility of managers to establish systems and procedures to deter, prevent and detect fraud, corruption and bribery and suspected fraud, corruption and bribery.

The Public Sector Internal Audit Standards (PSIAS)

The Public Sector Internal Audit Standards took effect from 1 April 2013 and apply to almost all public organisations in the UK. They are based on a development of international standards for internal auditing, largely developed by the Institute of Internal Auditors.

The document produced is mandatory guidance which states the fundamental requirements for the professional practice of internal auditing and for evaluating the effectiveness of Internal Audit's performance.

These standards in local authorities are supplemented by additional guidance from CIPFA that has regulatory authority for local government in the UK. This includes substantial checklists of process and procedure.

The Public Sector Internal Audit Standards use several specific terms. These include terms which in the Council are as shown below in preparing this charter.

Term in the Public Sector Internal Audit Standards	Interpretation in this Charter Document
Chief Audit Executive	Head of Audit & Risk
Board	Corporate Governance & Audit Committee
Senior Management	Chief Executive and Strategic Directors

The Public Sector Internal Audit Standards document makes several statements as regards employment arrangements of the Chief Audit Executive. Whilst the UK standard and CIPFA identifies that some of the stated practices are not relevant to local government, these rules do look to transfer some employment related matters away from purely the executive arm of the organisation, by involving requirement of the Board.

Statement of the Responsibilities of Management

1. It is the responsibility of management to establish sound and adequate operational systems and processes designed to achieve the organisation's objectives efficiently and effectively. It is their responsibility to organise operations efficiently in a way that achieves required outcomes, statutory compliance and adequate levels of internal control including, as appropriate, matters such as the correct management of information. Senior managers must ensure that operational managers understand their role, operate systems as designed and intended, train staff appropriately in the required systems and procedures, and keep and retain adequate records. It is the responsibility of managers to establish systems and procedures to deter, prevent and detect fraud, corruption and bribery
2. In dealing with Internal Audit managers should.
 - Arrange appointments for planned audit work promptly.
 - Respond diligently and promptly to any unplanned visit or request for information.
 - Have appropriate records and accesses available as necessary to assist the audit work.
 - Have the appropriate staff available to describe any system or arrangement, and answer questions or resolve queries as the audit work progresses.
 - Be available to discuss the conclusions of audit work and any recommendations.
 - Reply promptly to any draft audit report.
 - Reply promptly to any final audit report.
 - Complete any necessary action plan indicating agreement or otherwise.
 - Implement agreed actions.
3. In respect of assurance, consulting or other activity (such as investigations) it is the role of Internal Audit to assess and report independently on systems and process and the efficiency and effectiveness of an activity. Whilst management will be consulted, and their comments considered, and can seek to offer advice and opinion, the auditor is responsible for production of the report based on the evidence that they have available. Managers are not required to agree with the conclusions reached.
4. Managers are not required to implement audit recommendations. Where they believe that a recommendation is inappropriate, they should say why. Where they would prefer an alternative action, they should propose this.
5. Although internal auditors will always attempt to be helpful, their role is to provide assurance and specific consulting, and it is not their prime role to offer advisory services, although they can often be a useful final arbiter if there is a lack of clarity about appropriateness of a procedure, or interpretation of a rule or requirement.
6. The Chief Executive, Chief Financial Officer (s 151 officer) and Monitoring Officer are ultimately responsible for the implementation of matters as required by their statutory responsibilities.



Name of meeting: CORPORATE GOVERNANCE & AUDIT COMMITTEE
Date: 22 APRIL 2022
Title of report: QUARTERLY REPORT OF INTERNAL AUDIT Q4 2021/22
 JANUARY 2022 TO MARCH 2022

Purpose of report.

To provide information about internal audit work in quarter 4 of 2021/22

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 Strategic Director & name	not applicable
Is it also signed off by the Service Director for Finance IT and Transactional Services?	not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	not applicable
Cabinet member portfolio	not applicable

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public with a private appendix

The appendix to this report is recommended for consideration in private because the information contained in it is exempt information within part 1 of Schedule 12A of the Local Government Act 1972 namely that the report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.

Have you considered GDPR? Yes

1. Summary

1.1 This report sets out the activities of Internal Audit in the final quarter of 2021/22.

- 1.2 A full normal work pattern has not yet been resumed. The working patterns of the entire council (“working from home”), and an inability to visit sites (and conducting some such audits virtually) continues to an extent to frustrate the ability to do internal audit work, and provide a strong level of assurance, and or requires substantial additional time for work to be completed (both from the auditor and the client). Notwithstanding this, the report provides information about two investigations regarding the cumulation of a significant business rate grant fraud investigation, and allegations about a contractor. There are 17 formal completed pieces of work, which included 6 schools (all substantial assurance) and 5 follow ups (intro areas such as community grants, bank reconciliation) all with positive assurance outcomes. Of the new work there were positive outcomes in most areas (including residential placements, climate change actions, and It networks), but a need for improvement in relation to aspects of adults emergency duty services and school transport.
- 1.3 Internal Audit also continued with its activity to support several governance areas and has reviewed certain grants and payment regimes,
- 1.4 It was agreed at March 2018 Council that this committee consider any surveillance activities under the Regulation of Investigatory Powers Act 2000. There are none this quarter.

2. **Information required to take a decision**

- 2.1 The detail of the audit work performed this quarter is contained within the private Appendix.

3. **Implications for the Council**

- 3.1 **Working with People** – None directly
- 3.2 **Working with Partners** – None directly
- 3.3 **Place Based Working** – None directly
- 3.4 **Improving outcomes for children**– None directly
- 3.5 **Climate change and air quality**- None directly
- 3.6 **Other (e.g., Legal/Financial or Human Resources)**- Although each of the sub categorisations above suggest no direct implications, the work of internal audit covers all aspects of the Council’s operations, including elements of the above, either specifically, indirectly or on a commissioned basis. The main issues relate to those areas highlighted above- where there are risks associated with basic processing arrangements and delivering sound governance and control.

4. **Consultees and their opinions**

There are no consultees to this report although heads of service/directors are involved in and respond to individual pieces of work

5. **Next steps and timelines**

- 5.1 To consider if any additional activity is sought. (Limited assurance audit outcomes are routinely followed up)

6. **Officer recommendations and reasons**

- 6.1 Members are asked to note the Internal Audit Quarterly Report and determine if any further action is sought on any matter identified.

- 6.2 Members are also asked to note that there has been no Regulation of Investigatory Powers Act activity during the period quarter 4 2021/22.
7. **Cabinet portfolio holder's recommendations**
Not applicable
8. **Contact officer**
Martin Dearnley, Head of Risk & Internal Audit (01484 221000 x73672)
9. **Background Papers and History of Decisions**
Previous Quarterly Reports, Audit Plan, and confidential appendix.
10. **Service Director responsible**
Not applicable

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Document is Restricted

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