

# Public Document Pack



**Service Director – Legal, Governance and  
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Thursday 12 February 2026

## Notice of Meeting

Dear Member

### **Corporate Governance and Audit Committee**

The **Corporate Governance and Audit Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **10.30 am** on **Friday 20 February 2026**.

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 'S Lawton'.

**Samantha Lawton**

**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 John Taylor (Chair)  
Councillor James Homewood  
Councillor Caroline Holt  
Councillor Harry McCarthy  
Councillor Kath Pinnock  
Councillor Angela Sewell  
Councillor Adam Zaman  
Nicholas Booth (Co-Optee)  
Andrew North (Co-Optee)

When a Member of the Corporate Governance and Audit Committee cannot attend the meeting, a member of the Substitutes Panel (below) may attend in their place in accordance with the provision of Council Procedure Rule 35(7).

### **Substitutes Panel**

#### **Conservative**

D Bellamy  
D Hall  
M Thompson

#### **Green**

K Allison  
A Cooper  
S Lee-  
Richards

#### **Labour**

B Addy  
M Ahmed  
M Crook  
M Sokhal  
J Rylah  
S Ullah E Firth

#### **Liberal**

**Democrat**  
PA Davies  
J Lawson  
D Longstaff  
A Marchington  
A Munro  
A Pinnock  
A Robinson  
A Smith

#### **Community Alliance**

A Anwar  
C Scott

#### **Kirklees**

**Community  
Independents**  
A Arshad  
JD Lawson

### **Ex Officio Members**

Councillor Bill Armer  
Councillor Cahal Burke  
Councillor Nosheen Dad  
Councillor Graham Turner

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

To receive apologies for absence from those Members who are unable to attend the meeting and details of substitutions and for whom they are attending to the Committee membership.

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**2: Minutes of Previous Meeting**

1 - 6

To approve the Minutes of the meeting of the Committee held on 30<sup>th</sup> January 2026.

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**3: Declaration of Interests**

7 - 8

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

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**4: Admission of the Public**

Most agenda items take place in public. This only changes where there is a need to consider exempt information, as contained at Schedule 12A of the Local Government Act 1972. You will be informed at this point which items are to be recommended for exclusion and to be resolved by the Committee.

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**5: Deputations/Petitions**

The Committee will receive any petitions and/or 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 submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four deputations shall be heard at any one meeting.

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## **6: Public Question Time**

To receive any public questions.

In accordance with Council Procedure Rule 11, the period for the asking and answering of public questions shall not exceed 15 minutes.

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

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## **7: External Auditor Progress Update**

To receive a verbal progress update.

Contact: Grant Thornton, External Auditor.

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## **8: Proposed Revisions to Financial Procedure Rules**

9 - 58

To receive the Proposed Revisions to Financial Procedure Rules report.

Contact: Martin Dearnley, Head of Risk

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## **9: Proposed Revisions to Contract Procedure Rules March 2026**

59 - 152

To receive the Proposed Revisions to Contract Procedure Rules March 2026 report.

Contact: Ruth Calladine, Head of Procurement.

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## **10: Constitution Updates**

153 -  
178

To receive the Constitution Updates report.

Contact: Samantha Lawton, Service Director Legal & Commissioning  
(Monitoring Officer).

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**11: Internal Audit Quarterly Report 3 2025-26 (October 2025 to December 2025)** 179 - 196

To receive the Internal Audit Quarterly report 3 2025-26, October 2025 to December 2025.

Contact: Martin Dearnley, Head of Risk

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**12: 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 Agenda item 13 on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

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**13: Internal Audit Quarterly Report 3 2025-26 (October 2025 to December 2025)** 197 - 198

Exempt appendix in relation to agenda item 11.

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**14: Agenda Plan** 199 - 200

To review the 2025-26 Agenda Plan.

Contact: Helen Kilroy, Assistant Democracy Manager.

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Contact Officer: Nicola Sylvester

## KIRKLEES COUNCIL

### CORPORATE GOVERNANCE AND AUDIT COMMITTEE

**Friday 30th January 2026**

- Present: Councillor John Taylor (Chair)  
Councillor Paola Antonia Davies  
Councillor Angela Sewell  
Councillor Mohan Sokhal
- Co-optees Nicholas Booth  
Andrew North
- In attendance: Steve Mawson, Chief Executive  
James Anderson, Head of Accountancy  
Ginette Beal, Grant Thornton  
Greg Charnley, Grant Thornton  
Martin Dearnley, Head of Risk  
Rachel Firth, Finance Manager  
Nick Howe, Policy and Partnership Manager  
Grant Mills, Grant Thornton  
Kevin Mulvaney, Service Director Finance (S151 Officer)  
Rachel Spencer-Henshall, Deputy Chief Executive and  
Executive Director for Public Health and Corporate Resources  
Samantha Lawton, Service Director Legal and Commissioning  
(Monitoring Officer)  
Leigh Webb, Head of Governance
- Apologies: Councillor James Homewood  
Councillor Caroline Holt  
Councillor Harry McCarthy  
Councillor Kath Pinnock  
Councillor Graham Turner (ex-Officio)

#### **62 Membership of the Committee**

Apologies for absence were received on behalf of Councillor Harry McCarthy, Councillor Caroline Holt, Councillor James Homewood, Councillor Kath Pinnock and Councillor Graham Turner (Ex-Officio).

Councillor Mohan Sokhal substituted for Councillor James Homewood and Councillor Paola Davies substituted for Councillor Kath Pinnock under the provision of Council Procedure Rule 35 (7).

**63 Minutes of Previous Meeting**

**RESOLVED –**

That the Minutes of the meeting held on 28<sup>th</sup> November 2025 be approved as a correct record subject to an amendment to Minute 52 as follows:

(3) That the proposed implementation of the Local Government Ombudsman Complaints Code by Kirklees as in Appendix3 of the report be noted.

**64 Declaration of Interests**

No interests were declared.

**65 Admission of the Public**

All agenda items were considered in public session.

**66 Deputations/Petitions**

No deputations or petitions were received.

**67 Public Question Time**

No public questions were asked.

**68 Auditor's Annual Report 2024-25**

The Committee received the Auditor's Annual Report 2024-25.

The report highlighted the work the external auditors had undertaken with Kirklees Council during 2024-25, including commentary on the Value for Money (VFM) arrangements, the responsibilities of the Council (as set out in Appendix A) and the VFM auditor's responsibilities (as set out in Appendix B).

With regards to the VFM assessment, the three key recommendations had been retained from the previous year, acknowledging, however, that progress had been made/was continuing to be made by the Council. There had been positive improvements in the Council's overall financial position.

There was recognition that the report provided a retrospective view, as at 31 March 2025, and the management actions in the report did not impact on the assessment; there had been ongoing and robust engagement between Council officers and the External Auditor. It was anticipated that the positive changes would be reflected in the 2025/26 report.

The progress in respect of recommendations 1 and 3 was acknowledged and it was noted, in respect of the second key recommendation, concerning the DSG deficit, action was being taken by the Council but this was an issue that needed to be addressed at a national level.

The action in relation to Improvement Recommendation 2 (IR2) relating to the oversight of major capital projects was queried in respect of the long timeline for reviewing arrangements. The Committee was assured that significant oversight already existed through Cabinet and Scrutiny processes but there may be a need for better alignment between decisions and updates and perhaps there was a need for more visibility of this for the Auditors.

**RESOLVED –**

That the Auditor's Annual Report 2024-25 be noted.

**69 Audit Findings (ISA260) 2024-25 Report**

The Committee received the Audit Findings (ISA260) 2024-25 report, submitted by Grant Thornton, which highlighted that the External Auditors were on track to issue a full, unqualified, 'clean' audit opinion in February 2026 which was positive outcome for the Council.

It was explained that there were no audit adjustments impacting usable reserves, and although some technical adjustments and recommendations were included within the report, including one linked to IFRS 16 lease accounting, there was no impact on useable reserves.

The Committee sought assurance on the resources/capacity for the 2025-26 audit cycle to help achieve earlier deadlines . It was noted that the Council had an experienced finance team and a consistent experienced team on the audit side who would work closely together to achieve the November 2026 completion date. A post-audit review meeting would take place to evaluate the processes and streamline future audits.

During discussions, the Committee asked for an explanation of the level of assurance in respect of IT and cyber security arrangements and were advised that the arrangements were robust and adequately resourced. In respect of the progress in implementing recommendations from previous audits, the auditors advised that although these were not material issues in terms of the opinion, monitoring/oversight of this would be helpful and full implementation would support a smoother and more efficient process for 2025-26.

**RESOLVED –**

That the Audit Findings (ISA260) 2024-25 Report be noted.

**70 Annual Governance Statement**

The Committee received the Annual Governance Statement 2024-25, which all local authorities must produce to demonstrate how the Council ensures effective, efficient, and compliant service delivery. This Statement outlined the Council's responsibilities, the governance framework, key components, a review of effectiveness for 2024-25, criteria for identifying significant governance issues, and an assessment of progress on previously identified issues, as well as any new concerns arising during the year.

## **Corporate Governance and Audit Committee - 30 January 2026**

One new governance issue had been identified in relation to improvements in contract and project management and six previous issues had been carried forward, three of which had been completed. The other three related to housing, addressing SEND financial challenges and data management, which were still rated amber.

### **RESOLVED –**

That the Annual Governance Statement 2024/25 be approved.

## **71 Approval of the Councils final accounts for 2024-25**

The Committee received a report which set out the final accounts and audit processes for 2024-25. The report requested that Members approve the Council's Statement of Accounts for 2024-25 including the final version of the Annual Governance Statement.

The preparation of the Statement of Accounts is a statutory requirement, and Local Authorities were required to have them signed by the Section 151 Officer by 30 June. Despite significant challenges to the Council's finance team, dealing with competing demands, the draft accounts had been completed and signed on 27<sup>th</sup> June 2025. A six-week public inspection period ran from 27<sup>th</sup> June 2025 to 8<sup>th</sup> August 2025 and no queries or objections were raised.

The Chair would be advised of any changes prior to signing the final version.

In response to a question, the position in respect of the surplus and actuarial valuation of the pension scheme was explained noting that position was highly volatile. The fund had been in surplus for several years but had been in deficit prior to that.

### **RESOLVED –**

1. That the Statement of Accounts 2024-25, including the Annual Governance Statement be approved and that the Chair of the Committee certify the Statement of Responsibilities on Page 21 upon completion of the audit.
2. That the draft Letter of Representation (Appendix C to the report) be approved and that the Chair of the Committee sign the final version, on behalf of the Committee, upon completion of the audit.

## **72 Treasury Management Strategy and Investment Strategy 2026-27**

The Committee received the Treasury Management Strategy and Investment Strategy 2026-27, in accordance with the framework of the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management in the Public Services: Code of Practice 2021 Edition, which the Council was required to approve prior to the start of each financial year.

The report provided information regarding:

- (i) the outlook for interest rates and a recommended investment strategy,
- (ii) the current and estimated future levels of Council borrowing and a recommended borrowing strategy,

(iii) methodologies adopted for providing for the repayment of debt and a recommended policy for calculating the Minimum Revenue Provision (MRP),  
(iv) other treasury management matters including the policy on the use of financial derivatives, prudential indicators, the use of consultants, and the policy on charging interest to the Housing Revenue Account,  
(v) a recommended annual Investment Strategy (Non-Treasury Investments) for the Council in 2026/27.

During discussion, the Committee was advised that the Council's investment strategy, was governed by the regulations and the CIPFA Prudential Code, which required decisions to be based on security, liquidity and yield, in that order.

**RESOLVED –**

That it be recommended that the Treasury Management Strategy 2026/27 incorporating:

- The borrowing strategy outlined in paragraphs 2.15 to 2.27 of the report.
- The investment strategy (treasury management investments) outlined in paragraphs 2.28 to 2.36 of the report and Appendices A and B.
- The policy for provision of repayment of debt (Minimum Revenue Provision) outlined in paragraphs 2.37 to 2.38 of the report and at Appendix C.
- The treasury management prudential indicators set out in Appendix D, and
- The investment strategy (non-treasury investments) set out at Appendix F.

be submitted for consideration by Cabinet and for approval by Council.

**73 Dates of Council Meetings 2026-2027 (Reference to Council)**

The Committee received a report which set out a schedule of Council meeting dates for the 2026-27 municipal year. The dates included two types of ordinary meetings of the Council: 'Holding the Executive to Account' and 'Key Discussions', as required by Council Procedure Rule 5 (1).

**RESOLVED –**

That the schedule of Council meetings for the 2026-27 municipal year be approved.

**74 Kirklees Community Governance Review - Stage 1 consultation summary and stage 2 recommendations**

The Committee received the Community Governance Review Report which provided a summary and analysis of the responses received in the first stage of public consultation and set out the proposals that would form the basis for stage 2.

The report detailed that the Community Governance Review (CGR) was a process that allowed upper-tier councils to review and make changes to the governance arrangements of parishes within their area to ensure they continued to reflect the identity and interests of local communities and remained effective and convenient.

## **Corporate Governance and Audit Committee - 30 January 2026**

On 16<sup>th</sup> July 2025, Council had agreed to the undertaking of a CGR in accordance with the relevant legal framework and Government guidance, and delegated authority to the Corporate Governance and Audit Committee to agree the Terms of Reference and oversee the delivery.

On 26<sup>th</sup> September 2025, the Committee had resolved to undertake a review of the areas of Kirklees which were currently parished and relevant adjoining land, to enable the Council to consider if any changes were required to existing parish arrangements. The Terms of Reference for this review had been published on 1<sup>st</sup> October 2025, and the first stage of the public consultation took place between 1<sup>st</sup> October and 12<sup>th</sup> December 2025.

The Committee highlighted the low level of public engagement and suggested that additional methods of communication and wider publicity should be used to encourage more engagement in stage two, noting the responsibility of ward councillors to raise awareness and encourage engagement. The Committee also queried the potential cost implications with regards to creating or altering Parish Councils and were advised that costs to the Council were expected to be minimal; more detail would be provided later in the review process. In respect of numbers of councillors; Stage 2 of the consultation would seek views on this.

### **RESOLVED –**

1. That the draft proposals arising from stage one of the consultation on the Community Governance Review be approved.
2. That the arrangements for the second stage of consultation, scheduled to commence on 9<sup>th</sup> February 2026 be noted.

**75**

### **Agenda Plan**

**RESOLVED-** That the Agenda Plan for 2025/26 be noted.

<b>KIRKLEES COUNCIL</b>				
<b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b>				
<b>DECLARATION OF INTERESTS</b>				
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.



**Report title: Proposed Revisions to Financial Procedure Rules**

<b>Meeting</b>	<b>Corporate Governance &amp; Audit Committee</b>
<b>Date</b>	<b>20<sup>th</sup> February 2026</b>
<b>Cabinet Member</b> (if applicable)	
<b>Key Decision Eligible for Call In</b>	<b>No No – If no give reason</b>
<b>Purpose of Report</b> To provide information on proposed changes to Financial Procedure Rules for the municipal year 2026/27	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>Approve the changes as detailed in this report, and recommend these changes to Council</li> </ul>	
<b>Reasons for Recommendation</b> <ul style="list-style-type: none"> <li>To clarify arrangements to ensure sound governance and control of financial matters</li> </ul>	
<b>Resource Implication:</b> There are no direct resource implications.	
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	Not applicable
<b>Is it also signed off by the Service Director for Finance?</b>	Kevin Mulvaney: Service Director- Finance (09/2/2026)
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	Samantha Lawton; Service Director - Legal Governance and Commissioning (09/2/2026)

**Electoral wards affected:** all

**Ward councillors consulted:** not applicable

**Public or private:** public

**Has GDPR been considered?**

yes

## 1. Executive Summary

- 1.1 This report sets out information on proposed changes to Financial Procedure Rules for the year 2026/27.
- 1.2 The changes this year are set out in the track changed version attached, and in the table below. Resources have not been available to undertake the envisaged re-write of parts of this control document that was suggested last year. It is intended that this will take place during 2026.

## 2. Information required to take a decision

- 2.1 The following changes are proposed.

Section	Change	Reason
Glossary, and various entries sect 2	Retitle Medium Term Financial Plan (MTFP) to Medium Term Financial Strategy (MTFS)	Reflects strategic nature of this longer-term planning document
Glossary & various entries section 3	Insert new term Major Projects (previously referred to as specified projects, or just projects)	This reflects projects that Council has seen fit to include the Capital Plan
Glossary	Changed definitions for Programmes, and projects	To link to amended text and new term major project
1.1	Minor changes to wording	
1.8	Additional text about the responsibilities of the CFO if the council faces severe financial difficulties	Recognises the potential involvement of MHCLG
2	September to October	Change reflects actual practice
2	MTFS amended to Budget	Current wording does not reflect practice
2.1-2.19	Minor wording changes	
2.37	Remove this paragraph that relates to a right to recharge the costs of errors to service budgets	Unnecessarily punitive; resource allocations to be recommended by CFO.
2.38	Link by reference to 1.8	These actions are potentially related
3.5, 3.6	Add major projects and programmes	Wording adjusted to clarify processes to be followed for programmes, and those for separate projects.
3.7	Additional words related to revenue impacts of capital plan	Ensures that cost impacts from investments are clearly articulated
3.9	Requires Chief Executive or Executive Directors to designate responsibility for capital plan activity to service Directors and removes ability for officers to transfer resources between years	Provides greater clarity of responsibilities; removes an ability that in practice is not required.
3.11	Deletion of reference to ability to use revenue budget to supplement Capital plan expenditure	The "tight" revenue budget position means that this is no longer feasible: Any proposals to meet capital spend from current year

		budgets would require specific approval.
11.1	Income “and -where full cost recovery is a requirement, or objective-evidenced operating costs,”	Adds an additional circumstance where amendments to charges made to customers are allowed
22.12	Additional words to make clear that Cabinet can authorise grants of any value	To clarify the position
23.	A new section that clarifies payments of compensation to those where an ombudsman has recommended, or could recommend such a compensation, or other similar circumstances.	This partially replaces some text previously in the Constitution

2.2 Most of these changes are incremental, with a slightly more significant change in how projects and programmes are included in the capital plan. In future Council will determine major projects and programme areas. Cabinet will have discretion to allocate project to programme areas. There is a requirement for Cabinet to approve business cases for each type of project (or generically for similar projects within a programme).

2.3 It is intended that over the next year officers from Finance and Risk will draw up proposed (more significantly) revised Financial Procedure Rules.

### 3. **Implications for the Council**

Improving governance, through clearer financial procedure rules, should lead to more effective service delivery.

#### 3.1 **Working with People**

Not directly applicable.

#### 3.2 **Working with Partners**

Not directly applicable.

#### 3.3 **Place Based Working**

Not directly applicable.

#### 3.4 **Climate Change and Air Quality**

Not directly applicable.

#### 3.5 **Improving outcomes for children**

Not directly applicable.

#### 3.6 **Financial Implications**

Effective and clear financial procedure rules assist with strong governance and open decision making, and should improve financial control

#### 3.7 **Legal Implications**

Effective and clear financial procedure rules assist with compliance, governance and open decision making

#### 3.8 **Other (e.g. Risk, Integrated Impact Assessment or Human Resources)**

Implementation of should improve overall control arrangements and promote good governance.

### 4 **Consultation**

These changes have been prepared by officers of Finance and Legal Governance & Commissioning (Risk) service based on issue of control that have arisen during the last year. The proposed changes have been discussed with the councils senior management.

## **5 Engagement**

None beyond consultation as noted above.

## **6 Options**

### **6.1 Options Considered**

The proposals are minor redrafting to clarify the position

Alternatives would be

- To make no change whatsoever.
- To fundamentally redraft the control arrangements- this is proposed for next year.
- 

### **6.2 Reasons for recommended Option**

There are no urgent reasons to fundamentally rewrite financial procedure rules (FPRs), which are based around a governance process that allocates responsibilities to Council, Cabinet and officers. In practice the bulk of FPRs are officer processes.

However, over the next year, officers from Finance and Risk will look to assess if further, more significant changes to the FPRs are worth considering reflecting the fundamental financial processes now being controlled through electronic information systems rather than by paper records, and ensuring that overall financial governance properly reflect council structures, and member and officer responsibilities and accountabilities

## **7 Next steps and timelines**

- Requires formal approval of Annual Council

## **8 Contact officer**

Kevin Mulvaney Service Director Finance ([kevin.mulvaney@kirklees.gov](mailto:kevin.mulvaney@kirklees.gov))

Martin Dearnley Head of Risk ([martin.dearnley@kirklees.gov](mailto:martin.dearnley@kirklees.gov))

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

Existing Financial Procedure Rules

## **10 Appendices**

Not applicable

## **11 Service Director responsible**

Kevin Mulvaney- Service Director Finance

Sam Lawton- Service Director Legal, Governance & Commissioning

# **KIRKLEES COUNCIL**

## **FINANCIAL PROCEDURE RULES**

**June 2026**

## **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 CFO or their staff if assistance or clarification is needed.

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## Financial Procedure Rules Definitions

<b>Word</b>	<b>Definition</b>
<b>Activity</b>	A standard sub-division of an Executive Director's budget. normally equivalent to the service portfolio operationally managed at Service Director level;
<b>Asset</b>	An item belonging to the Council that has a value. It can include buildings, equipment, vehicles, stocks, stores, money, debtors, and items of intellectual value
<b>Associated Organisation</b>	An organisation in which the Council has a majority or substantial shareholding or exercises substantial influence through its funding of the organisation.
<b>Business Case</b>	A written document, setting out the reasons for a project, including analysis of options, risks and resources needed.
<b>Cabinet Member</b>	A single member of the Cabinet.
<b>Central Budget</b>	A budget which is held centrally and for which statutory. CFO is accountable (in accordance with any rules established in these procedures, or by Council, or Cabinet)
<b>Chief Executive</b>	The person designated as the councils most senior manager.
<b>Chief Financial Officer (or "CFO")</b>	The person so designated as the section 151 of the Local Government Act 1972 from time to time by the Chief Executive.
<b>Controllable Budget</b>	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 CFO, or by Council, or Cabinet
<b>Council Plan</b>	The strategic plan of the council's activity approved by the Council
<b>Council Provisions</b>	Sums of money set aside to pay for uncertain events

<b>Word</b>	<b>Definition</b>
<b>Earmarked Reserves</b>	As council provisions, but with a more clearly stated purpose
<b>Executive Director</b>	The person responsible for the commissioning of activity at an Executive Directorate level,
<b>Executive Directorate</b>	The consolidated group of activity budgets that fall within the responsibility of any one Executive Director,
<b>Executive Team</b>	The Council's most senior officer leadership team.
<b>Executive Member (Portfolio Holder)</b>	The Councillor responsible at Cabinet and to Council for a range of service areas.
<b>Fixed Asset</b>	Any physical item having a long-term value –such as a vehicle, or property.
<b>General Fund</b>	The expenditure and income that relates to the general operations of the Council (but not the HRA)
<b>Housing Revenue Account (“HRA”)</b>	The expenditure and income that relates to the management of the council housing function
<b>Head of Audit &amp; Risk</b>	The officer currently holding the role of Head of Internal Audit, as required by Public Sector Internal Audit Standards.
<b>His or her Nominees</b>	Refers to the ‘Head of Service level’ to which Service Directors, including the CFO can. nominate on their behalf, to enact Service Director delegated authorities as set out in these FPR's.
<b>Internal Audit Strategy &amp; Charter</b>	Arrangements agreed by the Corporate Governance & Audit Committee on how the internal audit function will operate in line with Public Sector Internal Audit Standards.
<b>Irregularity</b>	An unexpected or inappropriate event or behaviour.

<b>Word</b>	<b>Definition</b>
<b>Land Asset</b>	Includes any interest in land and buildings and any easement or right in or over land.
<b>Medium Term Financial Strategy (MTFS)</b>	Revenue Budget Plan, normally between 2 and 5 years, and Capital Plan, up to 10 years normally up to 5 years.
<b>Monitoring Officer</b>	The person appointed under section 5 of the Local Government & Housing Act 1989, currently the Service Director, Legal, Governance & Commissioning.
<b>Major Project</b>	A project (forming part of a Capital Programme) identified by Council for inclusion in the Capital Plan.
<b>Officer</b>	An employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules apply.
<b>Partnership</b>	Any organisation with which the Council has a formal or informal agreement to act together.
<b>Programme Area</b>	A group of projects having a similar purpose in the Capital Plan,
<b>Project</b>	A single scheme included separately in the Capital Plan, as a major project, or as a part of a programme area.
<b>Public Sector Internal Audit Standards</b>	Rules based on the Institute of Internal Auditors Global Audit Standards, as amended by UK government and cipfa (re local authorities) intended to promote improvement in the professionalism, quality, consistency and effectiveness of internal audit across the public sector.
<b>Rollover</b>	A mechanism for transferring budgets between financial years.
<b>Service Director</b>	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive.

<b>Word</b>	<b>Definition</b>
<b>Specified Project</b>	A project specified by Council for inclusion in the Capital Plan.
<b>Virement</b>	The transfer of resources from one budget to another.

## **1. Financial Governance**

- 1.1 The Council has a statutory duty to ensure the proper administration of its financial affairs and to secure that one of its officers has responsibility for the administration of those affairs. The Council has resolved that the Director of Finance, the statutory Chief Financial Officer (CFO) 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 CFO 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 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 CFO must report to the Council if:

- a) A decision has been made, or is about to be made, which involves the incurring of expenditure which is unlawful; or

There has been, or is about to be, an unlawful action resulting in a financial loss to the Council.

- 1.8 In circumstances where in the opinion of the CFO there are serious financial concerns, the CFO is statutorily bound to follow a set process which involves early conversations with Ministry of Housing, Communities & Local Government (MHCLG), informing Cabinet and the External Auditor.
- 1.9 The CFO 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.
- 1.10 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.
- 1.11 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.
- 1.12 Executive Directors must ensure that any report to Cabinet contains the financial implications of any proposals. These financial implications must be agreed with the CFO.
- 1.13 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 an Executive 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.

- 1.14 Schools with delegated budgets are subject to, and must comply with, the 'Kirklees Scheme for Financing Schools', which has tailored these Financial Procedure Rules for use in those Schools.
- 1.15 A reference in the Financial Procedure Rules:
- a) To the Cabinet includes Cabinet Committees
  - b) To a Service Director includes his or her nominees (except where otherwise specifically forbidden)
  - c) To the CFO includes his or her nominees; and
  - d) To an officer means any employee of the Council, or other persons contracted to carry out functions where these Financial Procedure Rules apply.

## **2. Revenue Budget Preparation and Management Revenue Budget Responsibilities**

The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Executive Directorate outcomes to provides the overarching framework for the determination of the Council's Medium Term Financial Strategy (MTFS) within available resources.

An annual refresh of the MTFS will be undertaken and presented to Cabinet no later than October of each year. This will provide the framework for the following years budget.

The Council's Budget includes the following:

- a) A balanced revenue budget position for the following financial year; both for the general fund and the ring-fenced Housing Revenue Account (HRA), including the Capital Plan, and making provision for the revenue consequences from the Capital Plan as appropriate.
  - b) The level of Council Tax for the following financial year.
  - c) General fund and HRA revenue spend and funding forecasts, including a draft Capital Plan, beyond the next financial year; for a period of up to 5 years; including the revenue consequences from the multi-year Capital Plan over the same period; and
  - d) An overall longer term balanced budget forecast for the HRA MTFS in the context of the ring-fenced 30-year HRA business plan
- 2.1 The Cabinet is responsible for recommending a the following years Budget (as set out above) to Budget Council, to enable the Council to set a balanced

budget for both the general fund and HRA for the forthcoming financial year. The 1992 Local Government Finance Act, Section 30 (6) states that the billing Authority must set an amount of Council Tax before 11th March in the financial year preceding that for which it is set. To comply with this legal requirement, this effectively means that the annual date of Budget Council should be no later than 10th March each year.

- 2.2 The Cabinet is responsible for implementing the Budget that Council approved for the forthcoming financial year. Specific decisions may be made under the approved scheme of delegation.
- 2.3 On the advice of the CFO, Cabinet can recommend amendments to the MTFS or variations within the agreed Budget to any meeting of Council, and any related changes to the Council Plan, strategic objectives or actions.
- 2.4 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 which is governed by the statutory ringfence that the HRA operates within,

#### **Budget Preparation**

- 2.5 The Cabinet will submit no later than the October meeting of the Council each year a provisional budget strategy, (the MTFS) 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 savings required over the new MTFS period.
- 2.6 The CFO is responsible for establishing budget procedures, including determination of the following:
  - I. Budget pressures and target savings for the Council budget over the MTFS, and their allocation to Executive 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.
- 2.7 The provisional budget strategy will include arrangements for wider public and key stakeholder engagement on budget options being considered.
- 2.8 Executive Directors will produce draft budget proposals to address the pressures and savings targets for Council budgets over the MTFS, in accordance with budget procedures and the annual budget timetable as set out by the CFO. 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.

- 2.9 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, the Cabinet will make its recommendations to the Council with regards to the Annual Revenue Budget, the Capital Plan, and the consequent rates for Council Tax, and the updated MTFS. There are additional rules and arrangements that may apply set out in the Constitution- Budget and Policy Framework document.
- 2.10 The CFO 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**

- 2.11 The Cabinet is responsible for implementing the Council Plan within the resources allocated in the Revenue Budget, and MTFS. The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.
- 2.12 The CFO will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year. This will also include information about the Housing Revenue Account, Treasury Management and Capital Plan (3.14). At least a summary of this information will be published on the council website.
- 2.13 The CFO will determine which budgets are "controllable" by Executive Directors and will allocate the specific budgets that each Executive Director has responsibility to manage.
- 2.14 These budgets will normally align with the Executive Directorate structure of the Council but may also reflect the cross council (transformational) structure of the Council. The CFO will determine which budgets may be considered together for the purposes of delegated virement authority (per FPR 2.24 to 2.28 below).
- 2.15 Service Directors are responsible for managing controllable budgets within their delegated authority and should exercise proper budgetary control in order to achieve Council Plan and service objectives.
- 2.16 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.
- 2.17 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Executive Director and the CFO. These reports must be in a format and to a

timetable prescribed by the CFO.

- 2.18 An Executive Director (in consultation with the relevant Portfolio Holder) is authorised to make such changes to service provision as are necessary; providing the proposed change is consistent with the approved Council Plan, service objectives and Council policy, to achieve spending within the approved annual budget or MTFS (as adjusted by any agreed virements).
- 2.19 Where a Service Director is reporting a projected overspend on an activity that cannot be addressed either through budget virement or other in-year changes to service provision, this will be highlighted in a manner prescribed by the CFO as part of the report to the Cabinet on the overall management of the Revenue Budget on at least a quarterly basis through the year. The reasons for the overspending and potential management options for eliminating or reducing the overspending will be included in this report. The Cabinet is responsible for determining such further steps as are necessary to align activity consistent with the resources allocated by the approved annual budget and MTFS.
- 2.20 The CFO is accountable for all central budgets, which will be managed in the same way as activity budgets.
- 2.21 The CFO 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 Executive Director, ensuring that the proposed drawdowns are appropriate for the stated purpose of the earmarked reserve or where Earmarked Reserves are no longer necessary the CFO can reallocate these to General Reserves. Earmarked Reserves drawdowns in-year will also form part of the overall report to Cabinet on a quarterly basis as set out at FPR 2.12. The CFO will also report any new Reserves or Provisions requirements to Cabinet for approval.
- 2.22 Service Directors should delegate authority to commit budgets to the appropriate level of management, set out clearly the extent of authority and review the performance of managers in managing these budgets.

### **Virements**

- 2.23 Service Directors are authorised to transfer resources within an activity budget without limit providing the corporate objectives for the activity is not changed in a material way.
- 2.24 Virement which results in a change in the level of service must be addressed as per FPR 2.18
- 2.25 Virement is not permitted between HRA funded and General Fund funding streams.
- 2.26 Executive Directors, in consultation with the appropriate Portfolio Holder (s), are authorised to transfer resources between controllable activity budgets within the Executive Directorate budget up to £1,000,000, cumulatively in any one year.

The CFO is permitted to vire budgets to service budgets where such budgets are initially held centrally, (for example, pay award budget).

- 2.27 The Cabinet is authorised to transfer resources (undertake a Virement) without limit for the purposes of achieving budget targets and obligations.
- 2.28 Revenue contributions towards capital investment are not normally allowed , and require approval by the CFO, and insertion in the Capital Plan in accordance with FPR3.
- 2.29 Virement is specifically not allowed where the transfer of resources is from budgets for capital charges, or statutory taxes and levies.
- 2.30 All Virements will be recorded in a way prescribed by the CFO who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet.

### **Rollover**

- 2.31 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.
- 2.32 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.
- 2.33 The Cabinet is responsible for recommending changes to the Revenue Budget arising from the rollover process.
- 2.34 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.
- 2.35 Subject to the parameters set out in FPR 2.34 above, rollover proposals will be considered at Executive Team in the first instance.

### **Other**

- 2.36 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).
- 2.37 .

- 2.37 Whenever the Cabinet becomes aware, following a report from the CFO that a reduction in resources or overspends that cannot be fully addressed during the current or future years which may impact on the Council's financial position, it may take such steps as it considers necessary to reduce activity, review fees and charges, implement tighter spending controls immediately or at a stage prior to the next budget Council to address this. (see also 1.8)
- 2.38 After the end of each financial year, the CFO 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 2.33 above.
- 2.39 The CFO 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 Plan Preparation and Management**

#### **General**

- 3.1 For the purposes of Capital 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 CFO. (The usual de minimis level is £10,000, however the definition of Capital expenditure will take precedence over value)
- 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 CFO will advise the Cabinet and the Council on the overall Capital Investment Plan and levels of funding available. The CFO 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.
- 3.4 The Cabinet is responsible for recommending to the Council at the same time as the proposed Revenue Budget, a multi-year Capital Plan (for both the General Fund and HRA) and the prudential indicators and limits that support the recommended capital investment.
- 3.5 The Council will approve a Capital Plan and determine allocations of

capital resources to specific major projects, and to programme areas,. (and the prudential indicators and limits that support the recommended capital investment)

- 3.6 The Cabinet is responsible for implementing the Capital Plan approved by Council, in line with any stated Council policies, or strategies, and will determine the allocation of resources from the programme area to named projects. A major project or programme (or projects not covered by a programme business case) may only be progressed once the Cabinet has approved the business case for the programme or project.
- 3.7 Service Directors are responsible for managing programmes and projects and must make appropriate arrangements to control projects and avoid overspending. Service Directors are responsible for ensuring that revenue impacts of capital plans are included in the relevant capital report and that these are included in the refresh of the MTFS.

### **Plan Management**

- 3.8 The Cabinet is authorised to transfer resources without restrictions. including between any year, within the approved Capital Plan, subject to compliance with 3.11 and 3.13.
- 3.9 The Chief Executive and Executive Directors will designate which Service Director is responsible for each programme area and major projects within the Capital Plan.

The Service Directors are authorised, within capital budgets for which they are designated as responsible, to:

1. Transfer resources within a programme area without restrictions.
  2. Transfer resources between any project or programme area within their designated projects and programmes up to a maximum of £2,000,000 in any financial year.
- 3.10 Transfers under 3.8 and 3.9 require the approval of the CFO who must be satisfied that there is no impact on capital funding stream because of the changes.
- 3.11 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.
- 3.12 Any decision on resource allocation by Cabinet and Service Directors must recognise any policy decisions of Council. Any decision on resource allocation by Service Directors must recognise any policy decisions of Cabinet.
- 3.13 The CFO will report to the Cabinet on the overall management of the Capital

Plan on a quarterly basis through the year (including the reporting of movements 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. This will include any additional capital grant funding received during the year.

### **Initiating and Progressing Investment Decisions**

- 3.14 The Chief Executive will establish arrangements, in conjunction with the CFO, 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 Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purposes the Service Director and CFO may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source. This can include payment to a contractor for initial project scoping and design, provided that such costs are covered by an identified funding source.
- 3.15 Before progressing any Capital Plan project to full contractual stage, the Service Director will seek approval from the CFO who will grant approval to each specific project when satisfied that:
- a) The project appears on a schedule of named projects (approved by 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 Plan.

OR

Where the total costs of a project exceed the amount approved in the Capital Plan the appropriate additional resources have been approved; (3.8 to 3.12).

- c) Any necessary external approval has been obtained.
- d) The project will not lead to any unexpected or unplanned capital or revenue costs, not envisaged by the business case or option appraisal.

The CFO may issue a partial approval (for example to cover a design stage) provided that there are sufficient resources to cover that stage. The Solicitor to the Council may only issue a contract that aligns with this authorisation.

- 3.16 Service Directors have authority to progress projects once the approvals at 3.16 have been given. They must ensure compliance also with

## Contract Procedure Rules.

- 3.17 Service 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.
- 3.18 The CFO 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**

- 3.19 Any capital project which involves partnership arrangements, or investment in limited companies or other separate entities must be approved by Cabinet.
- 3.20 The reporting of the capital position in such cases must follow a similar arrangement to any direct asset investment.

### **Leased Assets**

- 3.21 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 arrangements need to follow the same procedures, and have the same authority and approval, as for other items of capital expenditure.
- 3.22 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 CFO 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 CFO.
- 4.2 Any exceptions to financial procedures to meet the specific needs of a Service must be agreed between the Service Director and the CFO.
- 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 CFO.
- 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 CFO 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 CFO are being reviewed. (Other than routine reporting of work carried out)
- 5.3 The Head of Audit and 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,
  - II. and, or
  - III. any employee attends a meeting at any location (within the Kirklees area,) chosen by the Head of Audit & Risk
  - IV. and or
  - V. 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

  - VI. to be accountable to the Corporate Governance & Audit Committee should they fail to act.

The CFO 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 and Reporting**

- 5.4 The Head of Audit & Risk must plan and report (in accordance with the approved Audit Charter and Strategy, obligations in the IIA Global Internal Audit Standards, 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 Service 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 Fraud Prevention Anti-Bribery and Anti-Corruption Policy
  - b) Aware of the Whistleblowing Policy 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 Council's Fraud Prevention Anti-Bribery and Anti-Corruption Policy, the Whistleblowing Policy, and all associated documentation, 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.

## **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 CFO 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 CFO.
- 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 CFO 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 CFO 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 lesser value which are portable and attractive; and
  - d) 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 Director 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 CFO, and the Head of Internal Audit & Risk of any discrepancies revealed by these checks.

### **Fixed Assets Register**

- 7.13 The CFO must ensure that a Register of Fixed Assets is maintained.

Each Service Director must notify the CFO 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 CFO.

## **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 CFO 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.
- 8.3 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.

### **Security of Information**

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

- 8.5 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.
- 8.6 The Council is responsible for taking reasonable care of all items of property found by staff or members of the public on Council premises until the items

are reclaimed or disposed of. Each Service Director must nominate officers who are responsible for the custody of lost property and keep a register of such property received, detailing the item, date, time, name and address of finder and how and to whom the property is returned or disposed of.

- 8.7 Service Directors may seek approval from the appropriate Executive Director and Executive Member, on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months the Service Director will then determine if the item is of value for use by the Council and arrange for its use for this purpose. All other items are to be disposed of in accordance with Contract Procedure Rules and the proceeds allocated to an appropriate council income code.

## **9. Treasury Management**

### **Policies and Strategies**

- 9.1 The Council will adopt both the Code of Practice for Treasury Management in the Public Services, published by the Chartered Institute of Public Finance and Accountancy, and any associated statutory Government guidance, as issued from time to time.
- 9.2 The Council is responsible for adopting a treasury management policy statement, setting out the policies and objectives of its treasury management activities, and treasury management practices, setting out how those policies and objectives will be achieved and how treasury management will be managed and controlled.
- 9.3 The Cabinet is responsible for the implementation and monitoring of the treasury management policies, practices and performance. The Corporate Governance & Audit Committee has responsibility for scrutinizing treasury management policies and practices.
- 9.4 The CFO is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices.
- 9.5 The CFO 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 CFO.
- 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 CFO 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 CFO will arrange all loans and (financial instrument) 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.

## **10. Banking Arrangements, Electronic Payments, Cheques and imprest accounts**

### **Banking Arrangements**

- 10.1 All of the Council's banking arrangements are to be approved by the CFO, 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 CFO. 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'.

## **Electronic Payments & Cheques**

- 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 Banking arrangements made for authorisation of payments to be made or received under electronic transfer are to be in a form approved by the CFO. Checks will be carried out as determined by the CFO to verify the validity of counterparty bank accounts prior to the release of any payments.
- 10.5 All cheques are to be ordered only in accordance with arrangements approved by the CFO, who is to ensure their safe custody. Cheques drawn on the Council's main bank accounts must either bear the facsimile signature of the CFO or be signed in manuscript by him/her or other authorised officers. All alterations and amendments are to be signed in manuscript by the CFO, or other authorised officers.
- 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 CFO and keep adequate records in a form approved by the CFO 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 CFO.
- 10.10 Where deemed appropriate by an imprest account holder a sub- imprest may be provided to another officer for which the main imprest account holder must obtain and retain an acknowledgement. In all cases where this occurs the main imprest holder must notify the Service Director.

## **11. Income**

- 11.1 The Council will determine annual arrangements for amending fees and charges. Service Directors have authority to implement new charges and amend existing fees and charges to achieve budget targets (either in year or future years), to account for changes in legislation and market conditions, or - where full cost recovery is a requirement, or objective- evidenced operating costs, in consultation with the appropriate Executive Director, relevant Portfolio Holder and CFO, and subject also to the decision making threshold processes. (e.g. key decision)

- 11.2 The methods of collecting, recording and banking of all income due to the Council are to be approved by the CFO.
- 11.3 The CFO 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.
- 11.7 In compliance with the Anti-Money Laundering Procedures, Service Directors must not normally accept any cash payment in excess of 10,000 euros (£8,300) in respect of one single transaction on one occasion. The Director of Legal Governance & Commissioning may agree specific circumstances where money in excess of this sum may be collected as cash. 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.
- 11.8 All money received by an officer on behalf of the Council must either be paid to the CFO or to the Council's bank account as the CFO 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 CFO. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system.
- 11.9 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.
- 11.10 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**

- 11.11 Each Director must maintain a detailed record of all cash surpluses and deficiencies in a manner approved by the CFO.
- 11.12 The Service Director must investigate any apparent patterns of discrepancies. 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 CFO immediately a debt falls due. Each Service Director, in conjunction with the CFO, must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.
- 11.14 The CFO must be satisfied that Service Directors are taking appropriate measures to recover credit income due in a timely and efficient manner. The CFO 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 CFO. 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 CFO 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 CFO.
- 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 overriding reasons for alternative means of payment. Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

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

### **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 CFO 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 CFO.

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 CFO may withhold payment of any invoice where there is evidence to suggest that it is not in order. The CFO 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-form 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 CFO 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 CFO 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 CFO. (As set out in the Purchasing Card Procedure Manual)
- 13.2 Service Directors in conjunction with the CFO 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 CFO, 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 CFO 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 CFO 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 CFO of any employee benefit in kind to enable reporting for taxation purposes.
- 14.4 Officers -when instructed- must complete a contemporaneous time record of actual times of attendance at work, electronically or by paper records. Paper records should be signed by the officer as a correct statement. Every manager should check time records of officers for which they have responsibility.
- 14.5 Time records and other pay documents must be maintained in a manner approved by the CFO 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 CFO.

#### **Overpayments**

- 14.6 The Service Director, in consultation with the Head of Peoples Services, 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 CFO.
- 15.3 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be made electronically, or where authorised, on a paper form approved by CFO. The form must provide for certification in manuscript by the Service Director or other officer authorised by the Director.
- 15.4 The Service Director must maintain a list of officers who are permitted to authorise expenses claims electronically and by paper (and their specimen signatures) and these authorisations must be reviewed at least annually by the Service Director. Details of officers authorised to sign such expense claims must be supplied to the CFO on request.
- 15.5 The certification (or electronic approval) of a claim by or on behalf of a Service Director is taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

## **16. Taxation**

- 16.1 The CFO 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 CFO in the event of any uncertainty as to any taxation treatment.
- 16.3 The CFO will lead and co-ordinate discussion or negotiations with HM Revenue and Customs about any taxation matter.
- 16.4 The CFO 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 CFO 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 CFO 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 CFO 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 CFO 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 CFO 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 CFO 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 CFO 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 CFO. 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 CFO 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 CFO, 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 CFO 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 CFO.
- 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 CFO 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 Service 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, CFO 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 Executive Director and Cabinet Members may apply for grants from any funding body, providing the proposed activity is consistent with the approved 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 CFO, 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

The Service Director must agree any material grant conditions 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 CFO. 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.

Executive 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 CFO, in consultation with the Service Director Legal Governance & Commissioning, and the appropriate Executive 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 CFO 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.

Where a grant has a capital element, or revenue grant with discretion on usage, the funding must be identified into the relevant budgets and follow the normal process for approval and control of that funding (for example for capital, a business case as FPR 3.6).

Where a grant offer includes onerous or unusual conditions, including the risk of having to undertake expenditure in a shortened timescale which may leave the Council exposed to the loss of grant when a scheme has commenced, the Service Director, CFO and Director of Legal, Governance & Commissioning must consider if these requirements represent a significant risk to the Council. If they believe that they do so, they must inform and seek authority for acceptance from the Cabinet.

- 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 CFO, 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 that requires a council contribution (capital or revenue) must have an appropriate business case and Cabinet approval as per Section 3 FPR requirement, prior to any grant acceptance. Where a scheme is 100% grant funded with specific conditions that do not allow for discretion, with no financial commitment for the Council, then the Service Director in conjunction with the CFO and Service Director of Legal, Governance and Commissioning may progress the scheme. This will be included in the quarterly report to Cabinet as set out in CPR 3.14.

- 22.8 Grant claims, financial returns and submissions must be completed by the relevant Service Director and the CFO for submission to the relevant government department, agency or organisation. The Service Director must provide such additional information as may be required by the CFO 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 CFO 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 The Cabinet can approve a grant of any value, subject to not contravening any statutory obligation or other council policy.

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) 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.

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 CFO.
- b) A full financial appraisal of the organisation to which the grant or loan is to be granted, by the CFO.
- 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 CFO 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. The Service Director Legal Governance & Commissioning in consultation with the Service Director Finance has the authority to vary terms of the loan, e.g. term or interest rate, subject to consultation with the Executive Director and Executive Member

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 CFO 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 Financial Procedure Rule 22. A scheme that is only partially funded also requires compliance with the 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 or Subsidy Control Act 2022 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. Details of any subsidy under State aid rules or the Subsidy Control Act

2022 must be published as required by law.

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.

### **23 Compensation Payments**

- 23.1 The Service Director – Legal, Governance and Commissioning, may make compensation payments
- (a) On the basis of an award recommended or required by any Ombudsman
  - (b) On the basis of a derived equivalent compensation, determined by the Corporate Customer Standards Officer, subject to maximum of £500.
- 23.2 The Service Director – Homes & Neighbourhoods, may make compensation payments
- (a) On the basis of an award recommended or required by the Housing Ombudsman
  - (b) On the basis of a derived equivalent compensation, subject to maximum of £500.
- 23.3 The Cabinet or the Cabinet Portfolio Holder for Corporate (and for Housing only; the Cabinet Portfolio Holder for Housing) can authorise compensation payments based on a case specific or general basis without limit to value, subject to identification of the necessary resources.
- 23.4 The Corporate Customer Standards Officer, and Director of Homes and Neighborhoods must maintain a record of all compensation payment made.



**REPORT TITLE:** Proposed Revisions to Contract Procedure Rules March 2026

<b>Meeting:</b>	Corporate Governance and Audit Committee
<b>Date:</b>	20 February 2026
<b>Cabinet Member</b> (if applicable)	Not applicable
<b>Key Decision Eligible for Call In</b>	No No
<b>Purpose of Report</b>	
To provide information for discussion on proposed changes to Contract Procedure Rules for the municipal year 2026/27.	
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>• Members are asked to consider the proposed amendments to Contract Procedure Rules (CPRs) and recommendation for approval by Council on 11 March 2026.</li> <li>• Members are also asked to note the information provided on the example illustrating the life cycle of a contract.</li> </ul>	
<b>Reasons for Recommendations</b>	
<ul style="list-style-type: none"> <li>• The Contract Procedure Rules ensure that the Council is acting in line with current legislation and other development in public law when conducting procurement processes</li> <li>• Details of the contract lifecycle are provided at Appendix C to demonstrate oversight and assurance throughout each stage of the procurement process.</li> </ul>	
<b>Resource Implications:</b>	
There are no immediate resource implications, as the processes outlined are already part of standard practice.	
<b>Date signed off by <u>Executive Director</u> &amp; name</b>	<b>Rachel Spencer-Henshall</b> – Deputy Chief Executive and Executive Director for Public Health and Corporate Resources (22/01/2026)
<b>Is it also signed off by the Service Director for Finance?</b>	<b>Kevin Mulvaney</b> – Service Director Finance (22/01/2026)
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning (Monitoring Officer)?</b>	<b>Samantha Lawton</b> – Service Director Legal & Commissioning (15/01/2026)

**Electoral wards affected:** All

**Ward councillors consulted:** Not applicable

**Public or private:** Public

**Has GDPR been considered?** Yes, not applicable

## **1. Executive Summary**

- 1.1 This report sets out information on proposed changes to Contract Procedure Rules from 1 April 2026.
- 1.2 Contract Procedure Rules ensure that the Council is acting in line with current legislation and other developments in public law when conducting procurements.
- 1.3 The proposed changes include minor updates to terminology to ensure consistency throughout the document, clarification of the process to be followed if a breach of the Contract Procedure Rules is identified, revisions to Data Sharing and Processing to align with current practice, inviting suppliers from within the Kirklees (and/or West Yorkshire) area to bid for lower-value contracts and updates to reinforce the requirement that all contracts are actively managed.
- 1.4 An illustrative example of the contract award lifecycle and associated processes is set out in Appendix C, providing evidence of the oversight and assurance applied at each stage of the procurement procedure.

## **2. Information required to take a decision**

- 2.1 The detail relating to all proposed changes is detailed in the table below;

<b>Section of the Contract Procedure Rules</b>	<b>Proposed changes</b>
RULE 1 – Conduct and Compliance and Waiver	1.3 Rule updated to include reference to exemptions in accordance with CPR 6 to confirm that failure to comply with rule 6 may result in disciplinary action against the officers concerned and may in some cases constitute a criminal offence.
	1.8.1 Rule updated to ensure that all procurements are commenced and awarded in compliance with the Procurement Regulations as well as the CPRs and Financial Procedure Rules (FPRs).
	1.13.1 (Conflicts of Interest and Integrity) New rule added to confirm that a Conflicts Assessment must be completed throughout the procurement lifecycle for all above threshold procurements that are procured under the Procurement Act 2023 (PA23).
	1.17 – 1.23 (Breaches) New rules added to set out the process to be followed should a potential breach of CPRs be identified.
RULE 2 – Preparation and Process	2.3.5 Rule updated to refer to the new requirements for contract management at Rule 11.
	2.3.6 a) (Compliance) Rule amended to refer to an officer with the appropriate seniority and relevant authority, rather than specifically to a

	<p>Senior Manager as this definition is not reference elsewhere in the document.</p> <p>2.3.6 c) (Compliance) The rule has been revised to require that all procurements align to the Ethical Procurement Policy as well as the Councils Procurement Strategy.</p> <p>2.3.8 f) (Estimated Value) The rule has been amended to require consideration of the estimated contract value both inclusive and exclusive of VAT when carrying out procurement under PA23.</p> <p>2.11 – 2.12.8 (Data Sharing and Processing) Rules have been updated and broadened to align with current practices in data sharing and processing, ensuring that data is managed effectively throughout every stage of the contract.</p>
<p>RULE 3 – Procurement Process</p>	<p>Table has been updated as follows:</p> <ul style="list-style-type: none"> <li>• Confirmation that the contract value reflects the full term of the contract</li> <li>• All below-threshold procurement processes have been updated to promote engagement with suppliers based in Kirklees and/or the wider West Yorkshire region, including Small and Medium Sized Enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSEs). Local authorities in England will now have the discretion to reserve below-threshold contracts specifically for local suppliers, SMEs, and VCSEs. This forthcoming legislative change, effective from 2026, aims to boost local economies and widen opportunities for smaller organisations.</li> <li>• The procedure for awarding contracts up to £24,999.99 has been revised to clarify that procurement may be conducted outside the eProcurement portal (via telephone, email, or online).</li> <li>• The process for awarding contracts up to the Supplies and Services threshold has been clarified, confirming that such contracts may be executed by the service responsible under the relevant Scheme of Delegation. It has also been confirmed that where risks are identified, corporate enablers must be consulted.</li> <li>• Approximate threshold values in monetary terms have been added to the table to help officers identify the correct procurement process based on the contract value.</li> <li>• More detailed information on the procurement process required for any service that falls under the Health Care Services (Provider Selection Regime) Regulations 2023.</li> </ul>
<p>RULE 4 – Tender Receipt and Evaluation</p>	<p>4.11 Rule updated to confirm that the Head of Risk must be satisfied regarding the financial standing of a proposed Supplier for any type of contract exceeding the UK supplies and services Threshold.</p>

RULE 5 – Standing Lists, Dynamic Purchasing Systems, Dynamic Markets and Frameworks	5.3 Rule updated to include Dynamic Markets.
	5.10.1 (Council Frameworks, Dynamic Purchasing Systems and Dynamic Markets) New rule added to clarify the process for non-competitive call-offs under Frameworks that have been established by the Council.
	5.16.5 (Use of Third Party Procurement Facilities) A new rule has been introduced to clarify the process for calling off an approved third-party framework on a non-competitive basis. Previously, this was treated as an exemption from competition at 6.1.8, but as all frameworks are competitively established at the outset, it is not correct to classify it as such. Approval from the Head of Procurement is still required when using an external framework in this way through submitting a robust business case which demonstrates that the award will deliver value for money without reopening competition based on Council specific requirements.
RULE 6 – Exemptions from Competition	6.1.8 The rule has been broadened to incorporate the provision on trial purchases that was previously set out at rule 6.3.
	6.1.10 New rule to allow for exemptions for any other permitted reason by the Procurement Rules e.g. user choice contracts and advantageous terms on insolvency, which are recognised as valid Direct Award Justifications in Schedule 5 of PA23.
	The footnote has been updated to remove the reference to the Provider Selection Regime, as this is now addressed in the new rule at section 6.12.
	6.7 The rule has been amended to state that any negotiations concerning land must follow the procedure outlined in Rule 9.
	6.12 (Provider Selection Regime) A new rule has been added to clarify that the Provider Selection Regime permits direct awards in certain circumstances.
RULE 8 – Income Contracts and Concessions	8.6 (The sale of a right to exploit a business opportunity) The example has been deleted due to lack of relevance, and references have been revised to subsidy controls, which have replaced state aid.
RULE 9 - Land	9.1 Rule updated to refer to Land transactions and to confirm that the Executive Director of Place can authorise other nominated officers in respect of Right to Buy transactions or the granting of a tenancy under the Housing Act 1985.
	9.2 The rule has been updated to clarify that the Head of Corporate Landlord is responsible for arranging the acquisition or disposal of land, in line with the constitution or authority delegated by an authorised decision maker. The rule has also been updated to make specific reference to the Executive Director of Place as no other directors have this authority nor would they have the skills/knowledge to arrange a land transaction independently of Estates.

	9.4 The rule has been refined to reflect current practice around the bidding process for land sold at public auction.																										
RULE 10 – Executing Contracts	<p>10.11 (Land) Rule previously included at 10.10 moved and updated to confirm that the Service Director Legal and Commissioning may authorise an external property auctioneer to sign as agent for the Council, a memorandum of sale to record the property price and terms of conditions of sale.</p> <p>10.12 (General) Rule updated to confirm that the Service Director Legal and Commissioning is entitled to sign any agreement.</p>																										
RULE 11 – Contract Management	11.1 and 11.2 New Rules added to confirm that all contracts entered will have a Contract Manager who is responsible for managing the contract throughout its lifecycle.																										
RULE 12 – Modification and Termination of Contracts and Release of Bonds	<p>12.2 Rule updated to confirm that contracts may be terminated by mutual agreement with the supplier.</p> <p>12.6 Rule updated to confirm that the Head of Procurement must be consulted when modifying contracts.</p> <p>12.7 Rule updated to include reference to the Provider Selection Regime.</p>																										
Terminology update	To ensure consistency, the term ‘Solicitor to the Council’ has been updated across the document to ‘Service Director Legal and Commissioning’.																										
DEFINITIONS	<p>The following updates have been made to the definitions:</p> <table border="1"> <thead> <tr> <th>Definition</th> <th>Reason for update</th> </tr> </thead> <tbody> <tr> <td>Breach</td> <td>New definition proposed</td> </tr> <tr> <td>Conflicts Assessment</td> <td>New definition proposed</td> </tr> <tr> <td>Contract Management Framework</td> <td>New definition proposed</td> </tr> <tr> <td>Contract Management Toolkit</td> <td>New definition proposed</td> </tr> <tr> <td>Contract Manager</td> <td>New definition proposed</td> </tr> <tr> <td>Covered Procurement</td> <td>New definition proposed</td> </tr> <tr> <td>Head of Corporate Landlord</td> <td>Definition updated to include reference to the officers to whom they delegate.</td> </tr> <tr> <td>Land</td> <td>Definition updated to include any estate including any easement over land</td> </tr> <tr> <td>Legal Officer</td> <td>New definition proposed</td> </tr> <tr> <td>Light Touch Threshold</td> <td>New definition proposed</td> </tr> <tr> <td>Procurement Rules</td> <td>Definition updated to include the National Procurement Policy Statement</td> </tr> <tr> <td>Senior Manager</td> <td>Definition removed as no longer included in the document</td> </tr> </tbody> </table>	Definition	Reason for update	Breach	New definition proposed	Conflicts Assessment	New definition proposed	Contract Management Framework	New definition proposed	Contract Management Toolkit	New definition proposed	Contract Manager	New definition proposed	Covered Procurement	New definition proposed	Head of Corporate Landlord	Definition updated to include reference to the officers to whom they delegate.	Land	Definition updated to include any estate including any easement over land	Legal Officer	New definition proposed	Light Touch Threshold	New definition proposed	Procurement Rules	Definition updated to include the National Procurement Policy Statement	Senior Manager	Definition removed as no longer included in the document
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	SME	New definition proposed
	VCSE	New definition proposed

**3. Implications for the Council**

**3.1 Council Plan**

The updated CPRs reflect good governance and procurement practice which in turn supports the Council Plan by using procurement activity to help achieve the Council’s wider objectives and outcomes.

**3.2 Financial Implications**

None directly

**3.3 Legal Implications**

The legal obligation to have CPR’s is to comply with Section 135 Local Government Act 1972. The Public Contracts Regulations 2015, the Healthcare Services (Provider Section Regime) Regulations 2023 and the Procurement Act 2023 provide the legal framework for procuring goods, works and services which the council must comply with.

**3.4 Climate Change and Air Quality**

None directly

**3.5 Risk, Integrated Impact Assessment (IIA) or Human Resources**

None directly

**4. Consultation**

Consultation has been carried out with the Head of Risk, the Head of Corporate-Legal, the Head of Technology, the Information Governance Manager and Data Protection Officer and officers in the Procurement Team, Legal Services, IT and the Information Governance Team. The Portfolio Holder has been briefed and consulted on the proposals.

**5. Engagement**

Changes will be communicated to stakeholders via the intranet with appropriate training and guidance offered by the Procurement Team.

**6. Options**

**6.1 Options considered**

No other options - the council is required to comply with the legislation accordingly. The document is compliant with all UK Procurement legislation and the proposal represent minor updates.

**6.2 Reasons for recommended option**

The Council is required to comply with all UK Procurement legislation.

**7. Next steps and timelines**

Following consideration by this committee the report will proceed to Council for consideration on 11 March 2026.

**8. Contact officer**

Ruth Calladine, Head of Procurement (01484 221000, email – [ruth.calladine@kirklees.gov.uk](mailto:ruth.calladine@kirklees.gov.uk))

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

[Contract Procedure Rules 2025](#)

[CPR Proposed Changes to CPRs 2025 - Corporate Gov and Audit v2.pdf](#)

[Contract Procedure Rules 2025 - Full Council v2.pdf](#)

**10. Appendices**

Appendix A – Draft – all changes are marked by track changes

Appendix B – Clean copy of the revised contract procedure rules

Appendix C – Procurement Process Outline

**11. Service Director responsible**

Samantha Lawton, Service Director Legal & Commissioning

Kevin Mulvaney, Service Director Finance

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**KIRKLEES COUNCIL  
CONTRACT PROCEDURE RULES**

**MARCH 2026**

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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 and are made in accordance with section 135 of the Local Government Act 1972.

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 Objectives:**

The objective of every procurement exercise should be to deliver value for money. In pursuit of that objective, procurers shall endeavour to treat suppliers the same, unless a difference between the suppliers justifies different treatment. They must take all reasonable steps to ensure no supplier is given an unfair advantage or disadvantage. Procurers will act, and be seen to act, with integrity at all times.

Procurers should take every opportunity to maximise public benefit by considering how improvements to the economic, social and environmental wellbeing of the district (social value) can be generated and enhanced in contracts and procurement processes. This includes encouraging the participation of local businesses, small and medium-sized enterprises (SMEs) and social enterprises 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 exemption (see CPR 6) 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.
- 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 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, Service Director Legal and Commissioning, Service Director Finance and Head of Risk.
- 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 Service Director Legal and Commissioning and the Head of Risk.
- 1.8 A Service Director has authority to commence and award any Procurement subject to:
- 1.8.1 compliance with these CPRs, FPRs and the Procurement Rules; and
  - 1.8.2 having appropriate delegated authority; and
  - 1.8.3 compliance with management processes designed to ensure that proposed projects
  - 1.8.4 meet the Council's business needs; and
  - 1.8.5 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 Service Director Legal and Commissioning and the Head of Risk 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 Service Director Legal and Commissioning – Procurement Rules and other laws and Corporate Governance;
  - 1.10.3 Head of Risk – 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 Risk who, in consultation with the Service Director Legal and Commissioning, 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 Service Director Finance, the Chief Executive may reassign specific duties delegated in these CPRs to the Head of Procurement, the Head of Risk, and the Service Director Legal and Commissioning 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 Risk.
- Law and Court procedure in respect of duties reassigned from Service Director Legal and Commissioning.
- the same degree of separation of officer responsibility for the duties is maintained.

## **Conflicts of Interest and Integrity<sup>1</sup>**

- 1.13 Service Directors shall take appropriate measures to effectively prevent, identify and remedy Conflicts of Interest or potential Conflicts of Interest arising at all stages of the procurement process to avoid any distortion of competition and to ensure equal treatment of all economic operators.
- 1.13.1 A Conflicts Assessment must be completed at the outset of all Covered Procurements and revisited throughout the contract lifecycle to record and manage emerging conflicts.
- 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 Risk and Service Director Legal and Commissioning (or any other persons undertaking their responsibilities by application of CPR 1.12 or CPR 1.6) must reach their decisions independently.

## **Breaches**

- 1.17 Breaches of the Contract Procedure Rules are taken extremely seriously. Any failure to comply with the Contract Procedure Rules will be treated as a breach.
- 1.18 All Officers have a duty to report any breaches of the Contract Procedure Rules to the Head of Procurement upon becoming aware of them. Failure to report breaches may result in disciplinary action.
- 1.19 Upon notification of a suspected breach, the Head of Procurement will commence a formal preliminary investigation into the matter. The investigation will thoroughly assess the intent, specific circumstances and impact of the alleged breach, ensuring it is proportionate to its nature. The investigation findings will determine whether a breach has occurred.
- 1.20 The Head of Risk should be informed about all breaches and may take any actions considered appropriate under powers contained in Financial Procedure Rule 5.

<sup>1</sup> 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. Members should also refer to Part 5.1 of the Constitution.

- 1.21 Confirmed breaches will be recorded centrally and presented to the Contract Assurance and Oversight Board for review. The Board will identify areas requiring corrective action and ensure tailored training is provided to address gaps in compliance.
- 1.22 Service Directors and Heads of Service alongside officers with specific contract management responsibilities are accountable for breaches occurring within their areas of responsibility.

## **RULE 2 – PREPARATION AND PROCESS**

- 2.1 Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000 (excluding VAT), 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 Service Director Legal and Commissioning and/or the Head of Risk 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 the Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service either via the Central Digital Platform, Find A Tender Service (FTS) or Contract Finder as appropriate. 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 Procurement Rules, unless justified by objective reasons or permitted by the Procurement Rules.
  - 2.3.2 Where the cost of the Supply is below the UK Threshold and an approved Framework 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 Procurement Rules.
  - 2.3.3 That they have regard to the fact that SMEs may face particular barriers in competing for a contract and consider whether such barriers can be removed or reduced.
  - 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 and Rule 11 of these CPRs.

### **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 an officer with appropriate seniority and relevant authority to purchase; and
  - b) a Whole Life Costing Approach underpins the specification of the Supply; and

- c) it aligns with the Council's Procurement Strategy and the Ethical Procurement Policy; and
- d) it complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 6.13), consortia and other suppliers (Service Directors should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.11 & 6.12).

## 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 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 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, however the VAT inclusive value is also required for the purpose of publishing notices required under the Procurement Rules and to assess the value against the UK Thresholds.
- 2.3.9 The Supply will be within budgetary provision (see CPR 10.1).

## Bonds and Guarantees

- 2.3.10. The Council will seek a parent company guarantee whenever practical unless the Head of Risk is satisfied that a parent company guarantee is not required.
- 2.3.11. Bonds; All supply contracts relating to;
- a) capital construction works in excess of £500,000
  - b) any IT contracts that involve pre operational payments in excess of £500,000
  - c) any contracts with a total consideration in excess of £5m will be bonded in the sum of 10% of the Tender value, except where the Service Director Legal and Commissioning and Head of Risk agree either:
    - i. No bond is necessary; or
    - ii. A different value (or percentage) is appropriate; and or
    - iii. A cash bond; and or

- iv. 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 Council's wider policy and strategy but subject always to ensuring full compliance with the Procurement Rules. 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.
  - 2.5.1 Where the estimated value of any contract may exceed the relevant UK Threshold, guidance must be sought from the Head of Procurement prior to undertaking any market engagement activities.
- 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, transparent, unambiguous and clearly set out Award Criteria, which are objectively verifiable and non-discriminatory and are appropriately prioritised, must be prepared and published with the procurement documents. These criteria must be linked to the subject matter of the contract, be sufficiently clear, measurable and specific, must not include unlawful non-commercial considerations or Conditions of Participation (which should be identified separately and must follow CPR 3.5–3.9) and must be proportional to the contract's main objectives, complexity and cost.
- 2.8 The Head of Procurement must be 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 Service Director Legal and Commissioning considers to be necessary (the Service Director Legal and Commissioning 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 Service Director Legal and Commissioning who will prepare contract documentation appropriate for the contract.

### **Data Sharing and Processing**

2.11 The Head of Procurement will maintain a list of all contracts that involve the processing or sharing of personal data.

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 and all linked policies, 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 a Data Protection Impact Assessment screening exercise should be carried out, and the appropriate document completed, with advice and guidance sought from the Information Governance Team.

2.12.2 the Supplier including any applicable sub-contractors, sub processors or third parties with access to council data are verified as suitable to be trusted with the personal data before allowing access to the data. This may include assessment of cyber security controls, certifications and incident response capabilities.

2.12.3 role-based access controls for sensitive data are implemented and regularly reviewed.

2.12.4 all reasonable steps are taken to ensure that any person accessing Council data receives appropriate data protection and information security training, with periodic refreshers.

2.12.5 written contracts include appropriate guarantees for personal data security and require suppliers to notify the Council of any critical vulnerabilities in systems handling Council data, with a timely remediation process in place.

2.12.6 the performance of the contract is appropriately monitored, with enforcement actions taken when information security guarantees are not being met.

2.12.7 appropriate steps are taken to minimise as far as possible the impact of a breach of data security which should include the requirement for suppliers to maintain and regularly test business continuity and disaster recovery plans that address cyber incidents.

2.12.8 there are arrangements in place for secure transfer, return, or certified destruction of information at the end of the contract, including all backups and sub-processor data.

## **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 (whole contract period value (excl. VAT))	Requirement		
	Procurement Process	Advertising	Min no of Suppliers
<b>£0 - £24,999.99</b>	<p>Any Reasonable Means to select are permitted. Reasons to justify the decision taken must be recorded.</p> <p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit simple quotations</p> <p>Officers must ensure that purchases achieve best value for the Council and an audit trail is maintained to demonstrate this.</p> <p>The procurement process can be undertaken outside of the eProcurement Portal i.e. via telephone, email, online.</p> <p>Contracts can be executed by the service under the applicable Scheme of Delegation.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted</p>	<p>1. Any reasonable means</p> <p>2. A Contract Award notification form must be completed for contract awarded in excess of £5,000 and up to £24,999. This must be reported to Corporate Procurement</p>	3

<p><b>£25,000 – Supplies &amp; Services Threshold</b> (approx. £173K)</p> <p><b>ALL REQUIREMENTS (including Works)</b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Quotations (CPRs 3-4)</li> <li>• Framework Suppliers, (CPR 5)</li> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul> <p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit quotations where appropriate.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted</p> <p>Contracts can be executed by the service under the applicable Scheme of Delegation.</p>	<p><b>As the Head of Procurement determines</b></p> <ol style="list-style-type: none"> <li>1. An approved Framework</li> <li>2. An approved Dynamic Purchasing System</li> <li>3. Any other permitted compliant purchasing mechanism</li> <li>4. Advertise on eProcurement Portal, Central Digital Platform</li> </ol>	<p>Below £100,000 – 3</p> <p>Above £100,000 – 4</p>
<p><b><u>ANY VALUE Services Covered by the Provider Selection Regime</u></b></p>	<p>Certain health services are subject always to the Health Care Services (Provider Selection Regime) Regulations 2023 (The PSR). <u>For these services there is no minimum threshold for application of this regime, meaning the prescribed process must be followed for every contract awarded under the PSR.</u></p> <p>The procurement undertaken must comply with defined processes in each case to evidence decision-making, including record keeping and the publication of transparency notices.</p>	<p>The Head of Procurement must be consulted in all cases</p>	
<p><b><u>Light Touch Services Only Supplies and Services Threshold – Light Touch</u></b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Quotations (CPRs 3-4)</li> <li>• Framework Suppliers, Dynamic Marketplace, Dynamic Markets (CPR 5)</li> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul>	<p><b>As the Head of Procurement determines</b></p> <ol style="list-style-type: none"> <li>1. An approved Framework</li> <li>2. An approved Dynamic Purchasing System</li> </ol>	<p>4</p>

<p><b>Regime Threshold<sup>2</sup></b> (approx. £552K)</p>	<p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit quotations where appropriate.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted.</p> <p>The Legal Service will perform the execution of any contract(s) (see also Rule 10).</p>	<p>3. An approved Pseudo Dynamic Purchasing System 4. Any other permitted compliant purchasing mechanism 5. Advertise on eProcurement Portal, Central Digital Platform</p>	
<p><b>Works Only<sup>3</sup> Supplies and Services Threshold – Works Threshold</b> (approx. £4.3M)</p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Quotations (CPRs 3-4)</li> <li>• Tenders (CPR 3-4)</li> <li>• Framework Suppliers, Dynamic Marketplace, Dynamic Markets, Standing Lists, etc. (CPR 5)</li> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul> <p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit quotations where appropriate.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted.</p> <p>The Legal Service will perform the execution of any contract(s) (see also Rule 10).</p>	<p><b>As the Head of Procurement determines</b></p> <p>1. From a standing list 2. An approved Framework 3. An approved Dynamic Purchasing System or Dynamic Market 4. Any other permitted compliant purchasing mechanism 5. Advertise on eProcurement Portal, Central Digital Platform</p>	4
<p><b>Above Threshold</b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Tenders (CPRs 3-4)</li> <li>• Framework Suppliers etc. (CPR 5)</li> </ul>	<p>Advertise on eProcurement Portal, Central Digital Platform; or</p>	5

<sup>2</sup> Light touch threshold applies to contracts for certain social, health, education and other public services.

<sup>3</sup> A separate suitability stage may be included if required in relation to a below threshold Works contract that is valued at over the supplies & services threshold

<p>(see Appendix 1 for threshold values)</p>	<ul style="list-style-type: none"> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted.</p> <p>The Legal Service will perform the execution of any contract(s) (see also Rule 10).</p>	<p>Use approved Framework; or</p> <p>Use approved Dynamic Purchasing System or Dynamic Market</p>	
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A Service Director must invite at least the number of suppliers stated in the table above to submit a written Tender / Quotation, unless: -

- 3.1.1 an **approved** Framework, Dynamic Market or Dynamic Purchasing System is being used (and in which case the rules of the Framework, Dynamic Market or the Dynamic Purchasing System must be followed); or
  - 3.1.2 it is otherwise agreed with the Head of Risk in consultation with the Service Director Legal and Commissioning.
- 3.2 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.

### **Conditions of Participation**

- 3.3 Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of suitability.
- 3.4 Where the procurement process has an overall value of less than the supplies and services UK Threshold, a qualification stage must not be used (except in the case of Works contracts valued at above the supplies and services UK Threshold but below the works UK Threshold), 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.
- 3.5 When operating a procurement process with a value above the UK Threshold, the Service Director must use the Council's standard procurement documentation to assess the Conditions of Participation and/or to establish a shortlist where permitted. Any variations to this must be agreed with the Head of Procurement who will notify relevant authorities as necessary.
- 3.6 The Conditions of Participation assessment 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. Conditions of Participation must be a transparent and proportionate means of ensuring legal and financial capacity and technical ability to perform the contract. When conducting a procurement process which is subject to the Procurement Rules, minimum standard and/or pass marks must be published in the relevant notice or invitation to confirm interest.
- 3.7 The Conditions of Participation also apply to the selection of any associated supplier in accordance with the Procurement Rules
- 3.8 Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the HMRC Employment Status Indicator (ESI) Tool. The results of this should be reported to the Head of Procurement. The Service Director and the Head of Procurement must agree on the approach to procurement if the assessment suggests that the Council faces any risk. Any proposal to engage a self-employed person must be agreed with the Head of Procurement.

## **RULE 4 –TENDER RECEIPT AND 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 In the case of Tenders not received through the eProcurement Portal, 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 Risk. 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 Risk.

- 4.9 Where appropriate, the Head of Procurement will check the debarment list in connection with a procurement process to determine the excluded or excludable status of those parties involved.
- 4.10 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.
- 4.11 The Head of Risk must be satisfied regarding the financial standing of a proposed Supplier for any type of contract exceeding the UK supplies and services Threshold.
- 4.12 The use of or participation in e-auctions to set prices is permitted where:
  - 4.12.1 bids can be ranked automatically; and
  - 4.12.2 the mathematical formula to determine the rankings of the bids (or each variant where variants are permitted) is disclosed; and
  - 4.12.3 the written agreement of the Head of Risk has been given; and
  - 4.12.4 the process is subject to supervision by the Head of Procurement.
- 4.13 The Service Director will require tenderers to demonstrate that it will be able to perform the contract for the price offered where tenders appear to be abnormally low.
- 4.14 The Service Director must ensure that, where required by 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 Service Director Legal and Commissioning that the debrief process has completed satisfactorily prior to formal acceptance of any Tender.
- 4.15 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 4.14) take action as necessary, taking guidance from the Service Director Legal and Commissioning and the Head of Risk.
- 4.16 If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the Service Director Legal and Commissioning 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 Service Director Legal and Commissioning advises about confidentiality and Legal Privilege.

#### **Clarifications, Presentations and Interviews**

- 4.17 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:
  - 4.17.1 set an appropriate time limit for a reply; and

4.17.2 do not request changes or otherwise seek to influence the bidder; and

4.17.3 deal with all of the matters in the Tender which are incomplete or erroneous or unclear; and

4.17.4 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 or compliance check;
- 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.

4.18 Interviews and/or presentations which form part of the procurement process must be authorised by the Head of Procurement in writing. They must also be:

4.18.1 Comprehensively recorded; and

4.18.2 Assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and

4.18.3 Supervised by the Head of Procurement.

4.19 Where provided for in the procurement process, clarity may also be facilitated through planned presentations, meetings or demonstrations designed to assist in verifying submitted bids as part of the due diligence process to ensure compliance with procurement documentation.

## **RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS, DYNAMIC MARKETS AND FRAMEWORKS: 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 Subject to the Procurement Rules, the Head of Procurement will determine for which types of Supply Council-wide Standing Lists may be kept (see CPR 6.11). 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 Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework or a Dynamic Purchasing System or Dynamic Market 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 Service Director Legal and Commissioning) 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 Frameworks, Dynamic Purchasing Systems and Dynamic Markets**

- 5.9 Frameworks, Dynamic Purchasing Systems and Dynamic Markets may be used to source contracts for appropriate types of Supplies (subject to compliance with the 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 Procurement Rules.
  - 5.10.1 Frameworks established by the Council that allow for non-competitive call-offs may be used for direct awards, provided such awards are permitted under the terms of the Framework Agreement.
- 5.11 All Frameworks 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 and stating that there will be no obligation to order any Supplies of any type from a Framework Supplier.
- 5.12 Unless the Framework has been established as an Open Framework, Frameworks 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.
  - 5.12.1 Open Frameworks above the UK Threshold must be reopened in accordance with the Procurement Rules.
- 5.13 Dynamic Purchasing Systems and Dynamic Markets must:
  - 5.13.1 be set up by an advertised competitive process which is approved by the Head of Procurement; and
  - 5.13.2 remain advertised; and
  - 5.13.3 not limit the number of suppliers admitted to the system or market (but the system or market may be split into categories or parts (as applicable)); and
  - 5.13.4 be set up with clear operative rules which involve obtaining Tenders from all suppliers on the system or market, or on the relevant category or part on the system or market,

as appropriate; and

5.13.5 be operated wholly electronically; and

5.13.6 be open to new entrants; and

5.13.7 be subject to consistent due diligence assessments of participants

5.14 When using Frameworks, Dynamic Purchasing Systems or Dynamic Markets, the Council must follow the procurement rules set out in the Framework, Dynamic Purchasing System or Dynamic Market.

5.15 The Head of Procurement will ensure that the use of Framework Suppliers, Dynamic Purchasing Systems and Dynamic Markets provide value for money, considering all procurement costs and alternative approaches.

### **Use of Third Party Procurement Facilities**

5.16 Supplies may be obtained through third party Frameworks (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:

5.16.1 are created in accordance with the Procurement Rules and which is approved by the Head of Procurement (see also CPR 5.1);

5.16.2 have valid mechanisms that exist to enable the Council to use the Framework (including appropriate transparent referencing in the procurement documents and inclusion in the framework call off conditions);

5.16.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Risk, rules which are broadly comparable;

5.16.4 where the Procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

5.16.5 where a direct award is proposed from an approved third party Framework, 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 Procurement Rules. Approval must be obtained from the Head of Procurement through completion of a direct award business case which demonstrates how value for money will be achieved without exposing to competition, before the contract is awarded.

## **RULE 6 – EXEMPTIONS FROM COMPETITION**

- 6.1 Subject to compliance with the Procurement Rules the following are exempted from the competitive requirements of these CPRs<sup>4</sup>:
- 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 Risk);
  - 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 6.10 applies;
  - 6.1.6 counsel or other external legal advice, provided that the Service Director Legal and Commissioning takes steps to ensure that value for money is being obtained;
  - 6.1.7 a Supply that is strictly necessary for reasons of extreme and unavoidable urgency, not due to any action or inaction of the Council, with the prior agreement of the Head of Risk;
  - 6.1.8 in respect of the production of a prototype, or supply of other novel goods or services, at the request of the Council (e.g. trial purchase), for the purpose of testing suitability of the goods or services, researching the viability of producing or supplying the goods or services at scale and developing them for that purpose, or other research, study or development;
    - 6.1.8.1 Following any such trial, 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 as far as practicable
  - 6.1.9 for the supply of goods, services or works by the existing Supplier which are intended as an extension to, or partial replacement of, existing goods, services or works in circumstances where a change in Supplier would result in disproportionate technical difficulties in operation or maintenance or additional cost to the Council; or
  - 6.1.10 any other reason permitted by the Procurement Rules e.g. user choice contracts and advantageous terms on insolvency.
- 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 exemption in respect of a supply valued in excess of

<sup>4</sup> When the Procurement Rules apply, these exemptions may not be permitted (Directors must check this).

£100,000. Value for money must be evidenced and recorded.

- 6.3 The procuring Service Director and the Head of Procurement may decide that;
- 6.3.1 An alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Risk.
  - 6.3.2 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.
  - 6.3.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
  - 6.3.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the Council without competition is appropriate (although subject to the 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 Risk.

### **Negotiated Contracts**

- 6.4 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by (or included on a list of negotiators kept by) the Head of Procurement.
- 6.5 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 6.6 For any contract valued at above £100,000 the Service Director must obtain the approval of the Head of Risk of the proposed terms of the negotiated Supply including its cost and the reason for choice before the contract is entered into.

### **Legal Issues**

- 6.7 The Service Director Legal and Commissioning 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 procedure set out in CPR 9 must be followed).
- 6.8 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 Service Director Legal and Commissioning about the possibility of subsidy control before approving the exemption from competition.

## **Mandatory Suppliers, Frameworks, Dynamic Purchasing Systems or Dynamic Markets**

- 6.9 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 Procurement Rules and the possibility of subsidy control) that the use of one (or more) Suppliers is compulsory.
- 6.10 The Head of Procurement may also determine that Supplies of a particular type are to be obtained from Suppliers via a Framework, Dynamic Purchasing System, Dynamic Market or Standing List, and set standards to be established in those arrangements.
- 6.11 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:
- 6.11.1 where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
  - 6.11.2 in respect of the outsourcing of an activity having a value below £100,000;
  - 6.11.3 in respect of services provided within schools;
  - 6.11.4 in respect of ad hoc services for the design and construction of buildings or parts of buildings.

## **Provider Selection Regime**

- 6.12 Certain healthcare services, by reference to their CPV codes, must be procured in accordance with the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR). The PSR permits the award of contracts in some circumstances without following a competitive process. Where this is the case, such an award will not be considered as an exemption under these CPR 6.1.

## **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 Risk.
- 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 Each Service Director must promptly provide to the Head of Procurement the information specified in Appendix 2.
- 7.5 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).
- 7.6 The Service Director must keep a written record of the reasons for using a negotiated procedure under Rules 6.5 - 6.7.

## **RULE 8 - INCOME CONTRACTS AND 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 Risk must be consulted, and they will decide whether this amounts to a Grant (and so FPR 22 applies instead of CPR 8).

### **The disposal of an asset (other than Land)**

- 8.4 The procedure for the disposal of assets e.g. surplus plant, vehicles, furniture, equipment and stock items (owned by the Council and not leased) 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, unless the interests of the Council would be better served by disposal in some other way;

8.4.3 Authority for alternative disposal methods must be granted by the Head of Procurement in consultation with the Head of Risk.

8.4.4 All IT equipment should be disposed of in accordance with the contract arrangements put in place by IT services to ensure equipment is securely and safely dealt with in line with requirements.

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 (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process as set out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as subsidy control.

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 Service Director Legal and Commissioning.

8.8 If an Income Contract has any potential to distort the relevant market advice must be obtained from the Service Director Legal and Commissioning.

### **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 are subject to the Procurement Rules and will be subject to such additional procurement process requirement(s) as the Head of Procurement feels are necessary to comply with the Procurement Rules and these CPRs.

### **Valuation**

8.11 The value of a Concession contract shall be estimated in accordance with the Procurement Rules.

8.12 The value of an Income Contract 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 an 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 Land transactions will be by the means described in this CPR 9. The Head of Corporate Landlord and Capital must be consulted in respect of all Land transactions of any value except where:
- i the Service Director Legal and Commissioning authorises other nominated officers to deal with tenancies or licences for specific purposes (as per CPR 10.9); or
  - ii the Executive [Director of Place authorises other nominated officers in respect of Right to Buy transactions or the granting of a tenancy under the Housing Act 1985.](#)
- 9.2 The Head of Corporate Landlord and Capital (and any other authorised Director) will arrange the acquisition or disposal of Land either pursuant to the general authority delegated to them by the Executive Director of Place in accordance with Part 3.7 (Section F) of the Constitution or, in accordance with a specific authority delegated by an authorised decision maker.
- 9.3 Where any proposed Land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between Corporate Landlord and Capital and the Service Director Legal and Commissioning, 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 an in person public auction, the Head of Corporate Landlord and Capital must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) prior to the auction commencing. If a bid is less than the reserve price, then the Head of Corporate Landlord and Capital may accept a lower bid provided that it is within 10% of that 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 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 Frameworks and Dynamic Purchasing Systems), Concessions, Income Contracts and Frameworks 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 Service Director Legal and Commissioning 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 Service Director Legal and Commissioning.
- 10.4 The Head of Procurement must ensure that the Council's electronic procurement systems are set up so that the most appropriate Official Council Order is available to be attached to the supply being purchased.
- 10.5 Contracts for all Supplies (which includes call-offs from Frameworks, Dynamic Purchasing Systems and Dynamic Markets), Concessions, Income Contracts and every Framework 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;
  - a document shall be properly signed where it is physically signed in hardcopy format, or it is electronically signed in an electronic format approved by the Service Director Legal and Commissioning;
- who have been nominated as Contract signatories by the Service Director Legal and Commissioning under their Scheme of Officer Delegations. The Service Director Legal and Commissioning may authorise an external firm of lawyers to sign documents (and or initial and make amendments to documents) as agent on behalf of the Council.
- 10.6 Notwithstanding CPR 10.5, the Service Director Legal and Commissioning 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 Service Director Legal and Commissioning 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 UK Threshold for supplies and services.

## **Land**

- 10.8 The Service Director Legal and Commissioning 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 Service Director Legal and Commissioning may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Service Director Legal and Commissioning.
- 10.9 Any Contract for the sale or acquisition of, or any other deed or document relating to, Land must either be signed (under hand where executed in hardcopy format or electronically where executed in electronic format) by, or have the corporate common seal affixed in the presence of, the Service Director Legal and Commissioning (or by a Legal Officer nominated by them), and where the corporate common seal is affixed it is permissible to do so electronically (where the law permits in accordance with the Electronic Communications Act 2000). Additionally, the Service Director Legal and Commissioning may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.
- 10.10 Where the Council has listed Land for sale at public auction and a sale is agreed post-auction through the auctioneer under RICS common auction conditions (or such other conditions as appropriate), the Service Director Legal and Commissioning may authorise the external property auctioneer to sign the contract for the sale of the Land (on the same basis as outlined above in this CPR 10.9) as agent for the Council and to deal with exchange of contracts between the Council and the buyer.
- 10.11 In relation to Land that the Council has sold at auction, the Service Director Legal and Commissioning may authorise an external property auctioneer to sign as agent for the Council, a memorandum of sale to record the property price and terms of conditions of sale.

## **General**

- 10.12 The Service Director Legal and Commissioning is entitled to sign any agreement (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 – CONTRACT MANAGEMENT**

- 11.1 Every contract entered by the council will have a Contract Manager appointed by the Service Director to manage the Contract.
- 11.2 The Contract Manager is responsible for overseeing the Contract throughout its lifecycle, in line with the Council's Contract Management Framework, ensuring performance meets the specification, service levels, and contract terms. Contract management should reflect the council's Contract Management Toolkit and adhere to recognised good practice.

## **RULE 12 – MODIFICATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS**

- 12.1 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 Procurement Rules 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 the Service Director Legal and Commissioning.
- 12.2 A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, or by mutual agreement with the Supplier, but with prior consultation with the Head of Procurement if alternative Supplies would be required.
- 12.3 A Service Director, in consultation with the Service Director Legal and Commissioning, 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.
- 12.4 The Service Director Legal and Commissioning may release any bond held by the Council, on request from the Head of Procurement.
- 12.5 The Head of Risk is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Service Director Legal and Commissioning accept such proposed sums.
- 12.6 Service Directors, in consultation with the Head of Procurement, may modify contracts:
- 12.6.1 awarded under the Public Contracts Regulations 2015 by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract; or
  - 12.6.2 awarded under the Procurement Act 2023 if 'the possibility of the modification is unambiguously provided for in the contract awarded and the tender or transparency notice for the award of contract and the modification would not change the overall nature of the contract'; or
- 12.7 Any modification, whether above or below the relevant UK Threshold including contracts procured under the Provider Selection Regime, to a contract which cannot be fulfilled by following CPR 12.6 must be subject to the approval of the Head of Procurement.
- 12.8 Any modification to a contract which cannot be fulfilled by following CPR 12.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.
- 12.9 Subject to approval of the Service Director Legal and Commissioning and the Head of Procurement, and the Procurement Rules as applicable, contracts may be novated or reassigned to a Supplier who is not an excluded supplier only where this is needed following

a corporate restructuring or similar circumstances, such as a takeover, merger, acquisition or insolvency.

### **RULE 13 – MISCELLANEOUS**

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

## DEFINITIONS

DEFINITION	DESCRIPTION
<b>Award Criteria</b>	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.
<b>Breach</b>	<p>A Breach is defined as a failure to comply with these Rules, either wholly or partially, this could include (but not limited to):</p> <ul style="list-style-type: none"> <li>i Awarding a contract or making a purchase outside of the prescribed process.</li> <li>ii Failing to obtain necessary governance approvals and authorisations.</li> <li>iii Failing to disclose a conflict of interest.</li> <li>iv Informing bidders of the procurement outcome before the decision has been formally approved.</li> <li>v Agreeing significant contract modifications outside of the required process.</li> </ul>
<b>Central Digital Platform</b>	Means the "online system" established and operated for the publication of notices, procurement documents and other information relating to public contracts
<b>Chief Executive</b>	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.
<b>Commissioning</b>	The relationship between commissioning and procurement is described in the diagram in Appendix 3.
<b>Concession</b>	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.
<b>Conditions of Participation</b>	is a condition that a supplier must demonstrate they are capable of satisfying in order to be awarded a contract.
<b>Conflicts Assessment</b>	Under the Procurement Act 2023, a conflicts assessment is a structured process designed to identify, manage and document any actual or perceived conflicts of interest that may occur throughout the procurement and contract lifecycle. This assessment should be reviewed periodically to ensure any emerging conflicts are appropriately recorded and addressed.

<b>Conflict of Interest</b>	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.
<b>Contract</b>	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).
<b>Contract Management Framework</b>	Means the tiered framework introduced to bring consistency to contract management across the Council. It sets out best practice standards that all contract managers are expected to apply to the contracts that they are responsible for.
<b>Contract Management Toolkit</b>	Means the contract management tools and templates published on the council intranet to be accessed by contract managers to support effective contract management.
<b>Contract Manager</b>	Officer appointed as responsible for the day to day management of the Contract.
<b>Contract Procedure Rules (CPRs)</b>	Means these Contract Procedure Rules.
<b>Council</b>	Means the Council of the Borough of Kirklees, which is also known by its abbreviated name of Kirklees Council.
<b>Covered Procurement</b>	Covered procurement under the Procurement Act 2023 (PA23) refers to the award, entry into, and management of a public contract that is above the relevant value threshold and not exempted by Schedule 2 of the Act.
<b>Data Protection Legislation</b>	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.

<b>Dynamic Market</b>	Is a procurement tool established in accordance with sections 34 to 40 of the Procurement Act 2023 and is available for the procurement of above UK Threshold contracts. It is a list of qualified suppliers (i.e. suppliers who have met the 'conditions for membership' of the dynamic market who are eligible to participate in future procurements. A dynamic market may be split into parts, with suppliers only eligible to participate in the parts for which they have qualified. New suppliers can be added through the lifetime of the dynamic market and there is no maximum term or minimum or maximum number of suppliers.
<b>Dynamic Purchasing System (DPS)</b>	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.
<b>eProcurement Portal (YORtender)</b>	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 <a href="https://yortender.eu-supply.com">https://yortender.eu-supply.com</a>
<b>Financial Ratio</b>	Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.
<b>Find A Tender Service (FTS)</b>	"Find a Tender" means the UK e-notification service where notices for new procurements and contracts awarded under the Public Contracts Regulations 2015 are required to be published;
<b>Financial Procedure Rules (FPRs)</b>	The Financial Procedure Rules.

<b>Frameworks</b>	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. Frameworks which deal with Supplies that are above, or aggregate above, the UK Threshold are subject to the Procurement Rules. They set out the terms for the Supply (often including the price) and the method for calling off orders. 'Framework Agreement' and 'Framework Suppliers' shall be construed accordingly. References to Frameworks includes Framework Agreements established under the Public Contracts Regulations 2015 and Open Frameworks as defined in the Procurement Act 2023.
<b>Head of Corporate Landlord and Capital</b>	Means the officer appointed by the Service Director who is responsible for corporate property management functions and the officers to whom they delegate.
<b>Head of Risk</b>	Means the officer appointed by the Chief Executive who is responsible for Internal audit.
<b>Head of Procurement</b>	Means the Head of Procurement and Commissioning or such other officer appointed by the Service Director – Legal, Governance & Commissioning who is responsible for Corporate Procurement.
<b>Income Contract<sup>5</sup></b>	An Income Contract is one where the main object of the contract is that the Council does something in relation to a Council asset and includes <sup>6</sup> situations where the Council does so at nil value (subject to this not being a Grant – see Appendix 4).
<b>Land</b>	"Land" includes any estate or interest in land (including buildings) including any easement or right in or over land
<b>Legal Officer</b>	Officers who are authorised signatories for the Council under the scheme of delegation.
<b>Light Touch Threshold</b>	Light touch threshold applies to contracts for certain social, health, education and other public services

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

<sup>6</sup> The words "including", "include", "for example", "e.g.", and "such as" in these CPRs indicate examples and are not intended to be limiting

<b>Local Government Transparency Requirements</b>	Means the statutory codes and legislation requiring the Council to publish information, such as <sup>5</sup> the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.
<b>Official Council Order</b>	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Service Director Legal and Commissioning whether attached electronically or by paper to an order for Supplies.
<b>Personal Data</b>	Means data which relate to a living individual who can be identified— <ul style="list-style-type: none"> <li>(a) from those data, or</li> <li>(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,</li> </ul> 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.
<b>Procurement</b>	The purchase, contract hire, lease, rental <sup>7</sup> 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, Frameworks, Dynamic Purchasing Systems and Dynamic Markets. 'Procurement' and 'Procured' shall be construed accordingly.
<b>Procurement Rules</b>	The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Procurement Act 2023 (including the National Procurement Policy Statement), the Health Care Services (Provider Selection Regime) Regulations 2023, Public Concessions Regulations 2016 and Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations) as may be applicable in relation to the Procurement or Contract.
<b>Reasonable Means</b>	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.

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

<b>Service</b>	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.
<b>Service Director</b>	Means the most senior officer responsible for the day to day functions of each Service.
<b>Service Director Finance</b>	Means the Service Director responsible for finance, also being the s151 Officer
<b>Service Director Legal and Commissioning</b>	Means the Service Director responsible as legal adviser to the Council, also being the Monitoring Officer
<b>SME</b>	Small or Medium-sized Enterprise, with less than 250 employees
<b>Social Value</b>	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
<b>Special Purpose Vehicle</b>	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with others to provide specific Supplies to the Council.
<b>Specification</b>	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.
<b>Standing List</b>	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
<b>Suitability</b>	Means a supplier's general capability, fidelity, skill, competence, etc. to carry out the contract, including, where relevant, whether a Supplier is an excluded or excludable supplier under the Procurement Act 2023.
<b>Supplier</b>	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.
<b>Supply / Supplies</b>	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).

<b>Tender</b>	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
<b>UK Threshold</b>	The financial threshold from time to time at which the Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1.
<b>Value for Money</b>	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.
<b>VCSE</b>	Voluntary, Community or Social Enterprise organisation that operate on a not-for-profit basis, including charities, community groups, voluntary organisations and social enterprises. The term 'VCSE' is often used interchangeably with the terms 'third sector' or 'civil society' organisations.
<b>Whole Life Costing Approach</b>	<p>Is an approach which addresses all the elements of a Supply over its life cycle such as:</p> <ul style="list-style-type: none"> <li>• costs relating to acquisition,</li> <li>• costs of use, such as consumption of energy and other resources,</li> <li>• maintenance costs,</li> <li>• end of life costs, such as collection and recycling costs which can be used to produce a spend profile over its anticipated lifespan.</li> </ul>

## Appendix 1

<b>Relevant Thresholds under the Procurement Act 2023 inclusive of VAT*</b>	
Supplies and services contracts	£207,720 (£173,100 excl. VAT)
Light Touch Regime Contracts (Annex XIV)	£663,540 (£552,950 excl. VAT)
Works contracts	£5,193,000 (£4,327,500 excl. VAT)
Concession contracts	£5,193,000 (£4,327,500 excl. VAT)

\* 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 2028

## Appendix 2

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

	Information	When
<b>A.</b>	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.	<b>When requested</b>
<b>B.</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.	<b>When requested</b>
<b>C.</b>	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 of Rule 6, including the reason for the exemption.	<b>When requested</b>
<b>D.</b>	Contracts with a value of £5,000 or more (see Rule 3), with the following information: <ol style="list-style-type: none"> <li>1. reference number</li> <li>2. title of agreement</li> <li>3. Contract Manager; name of person responsible for managing the contract</li> <li>4. description of the goods and/or services being provided</li> <li>5. Supplier name and details</li> <li>6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract)</li> <li>7. start, end and review dates, including permitted extensions</li> <li>8. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and</li> <li>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</li> <li>10. whether or not the contract involves processing personal data</li> </ol>	<b>In All Cases on Contract Award</b>
<b>E.</b>	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.	<b>In All Cases on Request</b>

## 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 information 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**
  - 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**
  - 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**

**MARCH 2026**

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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 and are made in accordance with section 135 of the Local Government Act 1972.

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 Objectives:**

The objective of every procurement exercise should be to deliver value for money. In pursuit of that objective, procurers shall endeavour to treat suppliers the same, unless a difference between the suppliers justifies different treatment. They must take all reasonable steps to ensure no supplier is given an unfair advantage or disadvantage. Procurers will act, and be seen to act, with integrity at all times.

Procurers should take every opportunity to maximise public benefit by considering how improvements to the economic, social and environmental wellbeing of the district (social value) can be generated and enhanced in contracts and procurement processes. This includes encouraging the participation of local businesses, small and medium-sized enterprises (SMEs) and social enterprises 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 exemption (see CPR 6) 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.
- 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 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, Service Director Legal and Commissioning, Service Director Finance and Head of Risk.
- 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 Service Director Legal and Commissioning and the Head of Risk.
- 1.8 A Service Director has authority to commence and award any Procurement subject to:
  - 1.8.1 compliance with these CPRs, FPRs and the Procurement Rules; and
  - 1.8.2 having appropriate delegated authority; and
  - 1.8.3 compliance with management processes designed to ensure that proposed projects
  - 1.8.4 meet the Council's business needs; and
  - 1.8.5 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 Service Director Legal and Commissioning and the Head of Risk 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 Service Director Legal and Commissioning – Procurement Rules and other laws and Corporate Governance;
  - 1.10.3 Head of Risk – 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 Risk who, in consultation with the Service Director Legal and Commissioning, 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 Service Director Finance, the Chief Executive may reassign specific duties delegated in these CPRs to the Head of Procurement, the Head of Risk, and the Service Director Legal and Commissioning 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 Risk.
- Law and Court procedure in respect of duties reassigned from Service Director Legal and Commissioning.
- the same degree of separation of officer responsibility for the duties is maintained.

## **Conflicts of Interest and Integrity<sup>1</sup>**

- 1.13 Service Directors shall take appropriate measures to effectively prevent, identify and remedy Conflicts of Interest or potential Conflicts of Interest arising at all stages of the procurement process to avoid any distortion of competition and to ensure equal treatment of all economic operators.
- 1.13.1 A Conflicts Assessment must be completed at the outset of all Covered Procurements and revisited throughout the contract lifecycle to record and manage emerging conflicts.
- 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 Risk and Service Director Legal and Commissioning (or any other persons undertaking their responsibilities by application of CPR 1.12 or CPR 1.6) must reach their decisions independently.

## **Breaches**

- 1.17 Breaches of the Contract Procedure Rules are taken extremely seriously. Any failure to comply with the Contract Procedure Rules will be treated as a breach.
- 1.18 All Officers have a duty to report any breaches of the Contract Procedure Rules to the Head of Procurement upon becoming aware of them. Failure to report breaches may result in disciplinary action.
- 1.19 Upon notification of a suspected breach, the Head of Procurement will commence a formal preliminary investigation into the matter. The investigation will thoroughly assess the intent, specific circumstances and impact of the alleged breach, ensuring it is proportionate to its nature. The investigation findings will determine whether a breach has occurred.

<sup>1</sup> 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. Members should also refer to Part 5.1 of the Constitution.

- 1.20 The Head of Risk should be informed about all breaches and may take any actions considered appropriate under powers contained in Financial Procedure Rule 5.
- 1.21 Confirmed breaches will be recorded centrally and presented to the Contract Assurance and Oversight Board for review. The Board will identify areas requiring corrective action and ensure tailored training is provided to address gaps in compliance.
- 1.22 Service Directors and Heads of Service alongside officers with specific contract management responsibilities are accountable for breaches occurring within their areas of responsibility.

## **RULE 2 – PREPARATION AND PROCESS**

- 2.1 Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000 (excluding VAT), 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 Service Director Legal and Commissioning and/or the Head of Risk 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 the Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service either via the Central Digital Platform, Find A Tender Service (FTS) or Contract Finder as appropriate. 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 Procurement Rules, unless justified by objective reasons or permitted by the Procurement Rules.
  - 2.3.2 Where the cost of the Supply is below the UK Threshold and an approved Framework 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 Procurement Rules.
  - 2.3.3 That they have regard to the fact that SMEs may face particular barriers in competing for a contract and consider whether such barriers can be removed or reduced.
  - 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 and Rule 11 of these CPRs.

### **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 an officer with appropriate seniority and relevant authority to purchase; and

- b) a Whole Life Costing Approach underpins the specification of the Supply; and
- c) it aligns with the Council's Procurement Strategy and the Ethical Procurement Policy; and
- d) it complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 6.13), consortia and other suppliers (Service Directors should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.11 & 6.12).

## 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 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 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, however the VAT inclusive value is also required for the purpose of publishing notices required under the Procurement Rules and to assess the value against the UK Thresholds.
- 2.3.9 The Supply will be within budgetary provision (see CPR 10.1).

## Bonds and Guarantees

- 2.3.10. The Council will seek a parent company guarantee whenever practical unless the Head of Risk is satisfied that a parent company guarantee is not required.
- 2.3.11. Bonds; All supply contracts relating to;
- a) capital construction works in excess of £500,000
  - b) any IT contracts that involve pre operational payments in excess of £500,000
  - c) any contracts with a total consideration in excess of £5m will be bonded in the sum of 10% of the Tender value, except where the Service Director Legal and Commissioning and Head of Risk agree either:
    - i. No bond is necessary; or
    - ii. A different value (or percentage) is appropriate; and or

- iii. A cash bond; and or
- iv. 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 Council's wider policy and strategy but subject always to ensuring full compliance with the Procurement Rules. 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.
- 2.5.1 Where the estimated value of any contract may exceed the relevant UK Threshold, guidance must be sought from the Head of Procurement prior to undertaking any market engagement activities.
- 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, transparent, unambiguous and clearly set out Award Criteria, which are objectively verifiable and non-discriminatory and are appropriately prioritised, must be prepared and published with the procurement documents. These criteria must be linked to the subject matter of the contract, be sufficiently clear, measurable and specific, must not include unlawful non-commercial considerations or Conditions of Participation (which should be identified separately and must follow CPR 3.5–3.9) and must be proportional to the contract's main objectives, complexity and cost.
- 2.8 The Head of Procurement must be 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 Service Director Legal and Commissioning considers to be necessary (the Service Director Legal and Commissioning 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 Service Director Legal and Commissioning who will prepare contract documentation appropriate for the contract.

### **Data Sharing and Processing**

2.11 The Head of Procurement will maintain a list of all contracts that involve the processing or sharing of personal data.

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 and all linked policies, 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 a Data Protection Impact Assessment screening exercise should be carried out, and the appropriate document completed, with advice and guidance sought from the Information Governance Team.

2.12.2 the Supplier including any applicable sub-contractors, sub processors or third parties with access to council data are verified as suitable to be trusted with the personal data before allowing access to the data. This may include assessment of cyber security controls, certifications and incident response capabilities.

2.12.3 role-based access controls for sensitive data are implemented and regularly reviewed.

2.12.4 all reasonable steps are taken to ensure that any person accessing Council data receives appropriate data protection and information security training, with periodic refreshers.

2.12.5 written contracts include appropriate guarantees for personal data security and require suppliers to notify the Council of any critical vulnerabilities in systems handling Council data, with a timely remediation process in place.

2.12.6 the performance of the contract is appropriately monitored, with enforcement actions taken when information security guarantees are not being met.

2.12.7 appropriate steps are taken to minimise as far as possible the impact of a breach of data security which should include the requirement for suppliers to maintain and regularly test business continuity and disaster recovery plans that address cyber incidents.

2.12.8 there are arrangements in place for secure transfer, return, or certified destruction of information at the end of the contract, including all backups and sub-processor data.

## **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 (whole contract period value (excl. VAT))	Requirement		
	Procurement Process	Advertising	Min no of Suppliers
<b>£0 - £24,999.99</b>	<p>Any Reasonable Means to select are permitted. Reasons to justify the decision taken must be recorded.</p> <p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit simple quotations</p> <p>Officers must ensure that purchases achieve best value for the Council and an audit trail is maintained to demonstrate this.</p> <p>The procurement process can be undertaken outside of the eProcurement Portal i.e. via telephone, email, online.</p> <p>Contracts can be executed by the service under the applicable Scheme of Delegation.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted</p>	<p>1. Any reasonable means</p> <p>2. A Contract Award notification form must be completed for contract awarded in excess of £5,000 and up to £24,999. This must be reported to Corporate Procurement</p>	3

<p><b>£25,000 – Supplies &amp; Services Threshold</b> (approx. £173K)</p> <p><b>ALL REQUIREMENTS (including Works)</b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Quotations (CPRs 3-4)</li> <li>• Framework Suppliers, (CPR 5)</li> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul> <p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit quotations where appropriate.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted</p> <p>Contracts can be executed by the service under the applicable Scheme of Delegation.</p>	<p><b>As the Head of Procurement determines</b></p> <ol style="list-style-type: none"> <li>1. An approved Framework</li> <li>2. An approved Dynamic Purchasing System</li> <li>3. Any other permitted compliant purchasing mechanism</li> <li>4. Advertise on eProcurement Portal, Central Digital Platform</li> </ol>	<p>Below £100,000 – 3</p> <p>Above £100,000 – 4</p>
<p><b><u>ANY VALUE Services Covered by the Provider Selection Regime</u></b></p>	<p>Certain health services are subject always to the Health Care Services (Provider Selection Regime) Regulations 2023 (The PSR). <u>For these services there is no minimum threshold for application of this regime, meaning the prescribed process must be followed for every contract awarded under the PSR.</u></p> <p>The procurement undertaken must comply with defined processes in each case to evidence decision-making, including record keeping and the publication of transparency notices.</p>	<p>The Head of Procurement must be consulted in all cases</p>	
<p><b><u>Light Touch Services Only Supplies and Services Threshold – Light Touch</u></b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Quotations (CPRs 3-4)</li> <li>• Framework Suppliers, Dynamic Marketplace, Dynamic Markets (CPR 5)</li> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul>	<p><b>As the Head of Procurement determines</b></p> <ol style="list-style-type: none"> <li>1. An approved Framework</li> <li>2. An approved Dynamic Purchasing System</li> </ol>	<p>4</p>

<p><b>Regime Threshold<sup>2</sup></b> (approx. £552K)</p>	<p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit quotations where appropriate.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted.</p> <p>The Legal Service will perform the execution of any contract(s) (see also Rule 10).</p>	<p>3. An approved Pseudo Dynamic Purchasing System 4. Any other permitted compliant purchasing mechanism 5. Advertise on eProcurement Portal, Central Digital Platform</p>	
<p><b>Works Only<sup>3</sup> Supplies and Services Threshold – Works Threshold</b> (approx. £4.3M)</p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Quotations (CPRs 3-4)</li> <li>• Tenders (CPR 3-4)</li> <li>• Framework Suppliers, Dynamic Marketplace, Dynamic Markets, Standing Lists, etc. (CPR 5)</li> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul> <p>The use of suppliers from the Kirklees (and/or West Yorkshire) area (including SME's and/or VCSE's) is encouraged and they should be invited to submit quotations where appropriate.</p> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted.</p> <p>The Legal Service will perform the execution of any contract(s) (see also Rule 10).</p>	<p><b>As the Head of Procurement determines</b></p> <p>1. From a standing list 2. An approved Framework 3. An approved Dynamic Purchasing System or Dynamic Market 4. Any other permitted compliant purchasing mechanism 5. Advertise on eProcurement Portal, Central Digital Platform</p>	4
<p><b>Above Threshold</b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• Tenders (CPRs 3-4)</li> <li>• Framework Suppliers etc. (CPR 5)</li> </ul>	<p>Advertise on eProcurement Portal, Central Digital Platform; or</p>	5

<sup>2</sup> Light touch threshold applies to contracts for certain social, health, education and other public services.

<sup>3</sup> A separate suitability stage may be included if required in relation to a below threshold Works contract that is valued at over the supplies & services threshold

<p>(see Appendix 1 for threshold values)</p>	<ul style="list-style-type: none"> <li>• Exemptions (CPR 6)</li> <li>• Internal, Consortia &amp; Compulsory (CPR 6)</li> </ul> <p>In addition: Where risks are identified; Legal, Governance, Risk, Insurance, Information Governance and Health &amp; Safety teams must be consulted.</p> <p>The Legal Service will perform the execution of any contract(s) (see also Rule 10).</p>	<p>Use approved Framework; or</p> <p>Use approved Dynamic Purchasing System or Dynamic Market</p>	
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A Service Director must invite at least the number of suppliers stated in the table above to submit a written Tender / Quotation, unless: -

- 3.1.1 an **approved** Framework, Dynamic Market or Dynamic Purchasing System is being used (and in which case the rules of the Framework, Dynamic Market or the Dynamic Purchasing System must be followed); or
  - 3.1.2 it is otherwise agreed with the Head of Risk in consultation with the Service Director Legal and Commissioning.
- 3.2 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.

### **Conditions of Participation**

- 3.3 Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of suitability.
- 3.4 Where the procurement process has an overall value of less than the supplies and services UK Threshold, a qualification stage must not be used (except in the case of Works contracts valued at above the supplies and services UK Threshold but below the works UK Threshold), 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.
- 3.5 When operating a procurement process with a value above the UK Threshold, the Service Director must use the Council's standard procurement documentation to assess the Conditions of Participation and/or to establish a shortlist where permitted. Any variations to this must be agreed with the Head of Procurement who will notify relevant authorities as necessary.
- 3.6 The Conditions of Participation assessment 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. Conditions of Participation must be a transparent and proportionate means of ensuring legal and financial capacity and technical ability to perform the contract. When conducting a procurement process which is subject to the Procurement Rules, minimum standard and/or pass marks must be published in the relevant notice or invitation to confirm interest.
- 3.7 The Conditions of Participation also apply to the selection of any associated supplier in accordance with the Procurement Rules
- 3.8 Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the HMRC Employment Status Indicator (ESI) Tool. The results of this should be reported to the Head of Procurement. The Service Director and the Head of Procurement must agree on the approach to procurement if the assessment suggests that the Council faces any risk. Any proposal to engage a self-employed person must be agreed with the Head of Procurement.

## **RULE 4 –TENDER RECEIPT AND 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 In the case of Tenders not received through the eProcurement Portal, 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 Risk. 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 Risk.

- 4.9 Where appropriate, the Head of Procurement will check the debarment list in connection with a procurement process to determine the excluded or excludable status of those parties involved.
- 4.10 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.
- 4.11 The Head of Risk must be satisfied regarding the financial standing of a proposed Supplier for any type of contract exceeding the UK supplies and services Threshold.
- 4.12 The use of or participation in e-auctions to set prices is permitted where:
  - 4.12.1 bids can be ranked automatically; and
  - 4.12.2 the mathematical formula to determine the rankings of the bids (or each variant where variants are permitted) is disclosed; and
  - 4.12.3 the written agreement of the Head of Risk has been given; and
  - 4.12.4 the process is subject to supervision by the Head of Procurement.
- 4.13 The Service Director will require tenderers to demonstrate that it will be able to perform the contract for the price offered where tenders appear to be abnormally low.
- 4.14 The Service Director must ensure that, where required by 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 Service Director Legal and Commissioning that the debrief process has completed satisfactorily prior to formal acceptance of any Tender.
- 4.15 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 4.14) take action as necessary, taking guidance from the Service Director Legal and Commissioning and the Head of Risk.
- 4.16 If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the Service Director Legal and Commissioning 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 Service Director Legal and Commissioning advises about confidentiality and Legal Privilege.

#### **Clarifications, Presentations and Interviews**

- 4.17 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:
  - 4.17.1 set an appropriate time limit for a reply; and

4.17.2 do not request changes or otherwise seek to influence the bidder; and

4.17.3 deal with all of the matters in the Tender which are incomplete or erroneous or unclear; and

4.17.4 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 or compliance check;
- 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.

4.18 Interviews and/or presentations which form part of the procurement process must be authorised by the Head of Procurement in writing. They must also be:

4.18.1 Comprehensively recorded; and

4.18.2 Assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and

4.18.3 Supervised by the Head of Procurement.

4.19 Where provided for in the procurement process, clarity may also be facilitated through planned presentations, meetings or demonstrations designed to assist in verifying submitted bids as part of the due diligence process to ensure compliance with procurement documentation.

## **RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS, DYNAMIC MARKETS AND FRAMEWORKS: 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 Subject to the Procurement Rules, the Head of Procurement will determine for which types of Supply Council-wide Standing Lists may be kept (see CPR 6.11). 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 Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework or a Dynamic Purchasing System or Dynamic Market 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 Service Director Legal and Commissioning) 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 Frameworks, Dynamic Purchasing Systems and Dynamic Markets**

- 5.9 Frameworks, Dynamic Purchasing Systems and Dynamic Markets may be used to source contracts for appropriate types of Supplies (subject to compliance with the 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 Procurement Rules.
  - 5.10.1 Frameworks established by the Council that allow for non-competitive call-offs may be used for direct awards, provided such awards are permitted under the terms of the Framework Agreement.
- 5.11 All Frameworks 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 and stating that there will be no obligation to order any Supplies of any type from a Framework Supplier.
- 5.12 Unless the Framework has been established as an Open Framework, Frameworks 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.
  - 5.12.1 Open Frameworks above the UK Threshold must be reopened in accordance with the Procurement Rules.
- 5.13 Dynamic Purchasing Systems and Dynamic Markets must:
  - 5.13.1 be set up by an advertised competitive process which is approved by the Head of Procurement; and
  - 5.13.2 remain advertised; and
  - 5.13.3 not limit the number of suppliers admitted to the system or market (but the system or market may be split into categories or parts (as applicable)); and
  - 5.13.4 be set up with clear operative rules which involve obtaining Tenders from all suppliers on the system or market, or on the relevant category or part on the system or market,

as appropriate; and

5.13.5 be operated wholly electronically; and

5.13.6 be open to new entrants; and

5.13.7 be subject to consistent due diligence assessments of participants

5.14 When using Frameworks, Dynamic Purchasing Systems or Dynamic Markets, the Council must follow the procurement rules set out in the Framework, Dynamic Purchasing System or Dynamic Market.

5.15 The Head of Procurement will ensure that the use of Framework Suppliers, Dynamic Purchasing Systems and Dynamic Markets provide value for money, considering all procurement costs and alternative approaches.

### **Use of Third Party Procurement Facilities**

5.16 Supplies may be obtained through third party Frameworks (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:

5.16.1 are created in accordance with the Procurement Rules and which is approved by the Head of Procurement (see also CPR 5.1);

5.16.2 have valid mechanisms that exist to enable the Council to use the Framework (including appropriate transparent referencing in the procurement documents and inclusion in the framework call off conditions);

5.16.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Risk, rules which are broadly comparable;

5.16.4 where the Procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

5.16.5 where a direct award is proposed from an approved third party Framework, 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 Procurement Rules. Approval must be obtained from the Head of Procurement through completion of a direct award business case which demonstrates how value for money will be achieved without exposing to competition, before the contract is awarded.

## **RULE 6 – EXEMPTIONS FROM COMPETITION**

- 6.1 Subject to compliance with the Procurement Rules the following are exempted from the competitive requirements of these CPRs<sup>4</sup>:
- 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 Risk);
  - 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 6.10 applies;
  - 6.1.6 counsel or other external legal advice, provided that the Service Director Legal and Commissioning takes steps to ensure that value for money is being obtained;
  - 6.1.7 a Supply that is strictly necessary for reasons of extreme and unavoidable urgency, not due to any action or inaction of the Council, with the prior agreement of the Head of Risk;
  - 6.1.8 in respect of the production of a prototype, or supply of other novel goods or services, at the request of the Council (e.g. trial purchase), for the purpose of testing suitability of the goods or services, researching the viability of producing or supplying the goods or services at scale and developing them for that purpose, or other research, study or development;
    - 6.1.8.1 Following any such trial, 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 as far as practicable
  - 6.1.9 for the supply of goods, services or works by the existing Supplier which are intended as an extension to, or partial replacement of, existing goods, services or works in circumstances where a change in Supplier would result in disproportionate technical difficulties in operation or maintenance or additional cost to the Council; or
  - 6.1.10 any other reason permitted by the Procurement Rules e.g. user choice contracts and advantageous terms on insolvency.
- 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 exemption in respect of a supply valued in excess of £100,000. Value for money must be evidenced and recorded.

<sup>4</sup> When the Procurement Rules apply, these exemptions may not be permitted (Directors must check this).

- 6.3 The procuring Service Director and the Head of Procurement may decide that;
- 6.3.1 An alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Risk.
  - 6.3.2 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.
  - 6.3.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
  - 6.3.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the Council without competition is appropriate (although subject to the 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 Risk.

### **Negotiated Contracts**

- 6.4 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by (or included on a list of negotiators kept by) the Head of Procurement.
- 6.5 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 6.6 For any contract valued at above £100,000 the Service Director must obtain the approval of the Head of Risk of the proposed terms of the negotiated Supply including its cost and the reason for choice before the contract is entered into.

### **Legal Issues**

- 6.7 The Service Director Legal and Commissioning 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 procedure set out in CPR 9 must be followed).
- 6.8 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 Service Director Legal and Commissioning about the possibility of subsidy control before approving the exemption from competition.

### **Mandatory Suppliers, Frameworks, Dynamic Purchasing Systems or Dynamic Markets**

- 6.9 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 Procurement Rules and the possibility of subsidy control) that the use of one (or more) Suppliers is compulsory.
- 6.10 The Head of Procurement may also determine that Supplies of a particular type are to be obtained from Suppliers via a Framework, Dynamic Purchasing System, Dynamic Market or Standing List, and set standards to be established in those arrangements.
- 6.11 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:
- 6.11.1 where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
- 6.11.2 in respect of the outsourcing of an activity having a value below £100,000;
- 6.11.3 in respect of services provided within schools;
- 6.11.4 in respect of ad hoc services for the design and construction of buildings or parts of buildings.

### **Provider Selection Regime**

- 6.12 Certain healthcare services, by reference to their CPV codes, must be procured in accordance with the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR). The PSR permits the award of contracts in some circumstances without following a competitive process. Where this is the case, such an award will not be considered as an exemption under these CPR 6.1.

### **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 Risk.
- 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 Each Service Director must promptly provide to the Head of Procurement the information specified in Appendix 2.
- 7.5 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).
- 7.6 The Service Director must keep a written record of the reasons for using a negotiated procedure under Rules 6.5 - 6.7.

## **RULE 8 - INCOME CONTRACTS AND 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 Risk must be consulted, and they will decide whether this amounts to a Grant (and so FPR 22 applies instead of CPR 8).

### **The disposal of an asset (other than Land)**

- 8.4 The procedure for the disposal of assets e.g. surplus plant, vehicles, furniture, equipment and stock items (owned by the Council and not leased) 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, unless the interests of the Council would be better served by disposal in some other way;
  - 8.4.3 Authority for alternative disposal methods must be granted by the Head of Procurement in consultation with the Head of Risk.

8.4.4 All IT equipment should be disposed of in accordance with the contract arrangements put in place by IT services to ensure equipment is securely and safely dealt with in line with requirements.

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 (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process as set out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as subsidy control.

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 Service Director Legal and Commissioning.

8.8 If an Income Contract has any potential to distort the relevant market advice must be obtained from the Service Director Legal and Commissioning.

### **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 are subject to the Procurement Rules and will be subject to such additional procurement process requirement(s) as the Head of Procurement feels are necessary to comply with the Procurement Rules and these CPRs.

### **Valuation**

8.11 The value of a Concession contract shall be estimated in accordance with the Procurement Rules.

8.12 The value of an Income Contract 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 an 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 Land transactions will be by the means described in this CPR 9. The Head of Corporate Landlord and Capital must be consulted in respect of all Land transactions of any value except where:
- i the Service Director Legal and Commissioning authorises other nominated officers to deal with tenancies or licences for specific purposes (as per CPR 10.9); or
  - ii the Executive Director of Place authorises other nominated officers in respect of Right to Buy transactions or the granting of a tenancy under the Housing Act 1985.
- 9.2 The Head of Corporate Landlord and Capital (and any other authorised Director) will arrange the acquisition or disposal of Land either pursuant to the general authority delegated to them by the Executive Director of Place in accordance with Part 3.7 (Section F) of the Constitution or, in accordance with a specific authority delegated by an authorised decision maker.
- 9.3 Where any proposed Land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between Corporate Landlord and Capital and the Service Director Legal and Commissioning, 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 an in person public auction, the Head of Corporate Landlord and Capital must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) prior to the auction commencing. If a bid is less than the reserve price, then the Head of Corporate Landlord and Capital may accept a lower bid provided that it is within 10% of that 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 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 Frameworks and Dynamic Purchasing Systems), Concessions, Income Contracts and Frameworks 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 Service Director Legal and Commissioning 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 Service Director Legal and Commissioning.
- 10.4 The Head of Procurement must ensure that the Council's electronic procurement systems are set up so that the most appropriate Official Council Order is available to be attached to the supply being purchased.
- 10.5 Contracts for all Supplies (which includes call-offs from Frameworks, Dynamic Purchasing Systems and Dynamic Markets), Concessions, Income Contracts and every Framework 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;
  - a document shall be properly signed where it is physically signed in hardcopy format, or it is electronically signed in an electronic format approved by the Service Director Legal and Commissioning;
- who have been nominated as Contract signatories by the Service Director Legal and Commissioning under their Scheme of Officer Delegations. The Service Director Legal and Commissioning may authorise an external firm of lawyers to sign documents (and or initial and make amendments to documents) as agent on behalf of the Council.
- 10.6 Notwithstanding CPR 10.5, the Service Director Legal and Commissioning 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 Service Director Legal and Commissioning 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 UK Threshold for supplies and services.

## **Land**

- 10.8 The Service Director Legal and Commissioning 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 Service Director Legal and Commissioning may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Service Director Legal and Commissioning.
- 10.9 Any Contract for the sale or acquisition of, or any other deed or document relating to, Land must either be signed (under hand where executed in hardcopy format or electronically where executed in electronic format) by, or have the corporate common seal affixed in the presence of, the Service Director Legal and Commissioning (or by a Legal Officer nominated by them), and where the corporate common seal is affixed it is permissible to do so electronically (where the law permits in accordance with the Electronic Communications Act 2000). Additionally, the Service Director Legal and Commissioning may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.
- 10.10 Where the Council has listed Land for sale at public auction and a sale is agreed post-auction through the auctioneer under RICS common auction conditions (or such other conditions as appropriate), the Service Director Legal and Commissioning may authorise the external property auctioneer to sign the contract for the sale of the Land (on the same basis as outlined above in this CPR 10.9) as agent for the Council and to deal with exchange of contracts between the Council and the buyer.
- 10.11 In relation to Land that the Council has sold at auction, the Service Director Legal and Commissioning may authorise an external property auctioneer to sign as agent for the Council, a memorandum of sale to record the property price and terms of conditions of sale.

## **General**

- 10.12 The Service Director Legal and Commissioning is entitled to sign any agreement (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 – CONTRACT MANAGEMENT**

- 11.1 Every contract entered by the council will have a Contract Manager appointed by the Service Director to manage the Contract.
- 11.2 The Contract Manager is responsible for overseeing the Contract throughout its lifecycle, in line with the Council's Contract Management Framework, ensuring performance meets the specification, service levels, and contract terms. Contract management should reflect the council's Contract Management Toolkit and adhere to recognised good practice.

## **RULE 12 – MODIFICATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS**

- 12.1 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 Procurement Rules 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 the Service Director Legal and Commissioning.
- 12.2 A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, or by mutual agreement with the Supplier, but with prior consultation with the Head of Procurement if alternative Supplies would be required.
- 12.3 A Service Director, in consultation with the Service Director Legal and Commissioning, 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.
- 12.4 The Service Director Legal and Commissioning may release any bond held by the Council, on request from the Head of Procurement.
- 12.5 The Head of Risk is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Service Director Legal and Commissioning accept such proposed sums.
- 12.6 Service Directors, in consultation with the Head of Procurement, may modify contracts:
- 12.6.1 awarded under the Public Contracts Regulations 2015 by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract; or
- 12.6.2 awarded under the Procurement Act 2023 if 'the possibility of the modification is unambiguously provided for in the contract awarded and the tender or transparency notice for the award of contract and the modification would not change the overall nature of the contract'; or
- 12.7 Any modification, whether above or below the relevant UK Threshold including contracts procured under the Provider Selection Regime, to a contract which cannot be fulfilled by following CPR 12.6 must be subject to the approval of the Head of Procurement.
- 12.8 Any modification to a contract which cannot be fulfilled by following CPR 12.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.
- 12.9 Subject to approval of the Service Director Legal and Commissioning and the Head of Procurement, and the Procurement Rules as applicable, contracts may be novated or reassigned to a Supplier who is not an excluded supplier only where this is needed following

a corporate restructuring or similar circumstances, such as a takeover, merger, acquisition or insolvency.

### **RULE 13 – MISCELLANEOUS**

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

## DEFINITIONS

DEFINITION	DESCRIPTION
<b>Award Criteria</b>	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.
<b>Breach</b>	<p>A Breach is defined as a failure to comply with these Rules, either wholly or partially, this could include (but not limited to):</p> <ul style="list-style-type: none"> <li>i Awarding a contract or making a purchase outside of the prescribed process.</li> <li>ii Failing to obtain necessary governance approvals and authorisations.</li> <li>iii Failing to disclose a conflict of interest.</li> <li>iv Informing bidders of the procurement outcome before the decision has been formally approved.</li> <li>v Agreeing significant contract modifications outside of the required process.</li> </ul>
<b>Central Digital Platform</b>	Means the "online system" established and operated for the publication of notices, procurement documents and other information relating to public contracts
<b>Chief Executive</b>	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.
<b>Commissioning</b>	The relationship between commissioning and procurement is described in the diagram in Appendix 3.
<b>Concession</b>	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.
<b>Conditions of Participation</b>	is a condition that a supplier must demonstrate they are capable of satisfying in order to be awarded a contract.
<b>Conflicts Assessment</b>	Under the Procurement Act 2023, a conflicts assessment is a structured process designed to identify, manage and document any actual or perceived conflicts of interest that may occur throughout the procurement and contract lifecycle. This assessment should be reviewed periodically to ensure any emerging conflicts are appropriately recorded and addressed.

<b>Conflict of Interest</b>	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.
<b>Contract</b>	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).
<b>Contract Management Framework</b>	Means the tiered framework introduced to bring consistency to contract management across the Council. It sets out best practice standards that all contract managers are expected to apply to the contracts that they are responsible for.
<b>Contract Management Toolkit</b>	Means the contract management tools and templates published on the council intranet to be accessed by contract managers to support effective contract management.
<b>Contract Manager</b>	Officer appointed as responsible for the day to day management of the Contract.
<b>Contract Procedure Rules (CPRs)</b>	Means these Contract Procedure Rules.
<b>Council</b>	Means the Council of the Borough of Kirklees, which is also known by its abbreviated name of Kirklees Council.
<b>Covered Procurement</b>	Covered procurement under the Procurement Act 2023 (PA23) refers to the award, entry into, and management of a public contract that is above the relevant value threshold and not exempted by Schedule 2 of the Act.
<b>Data Protection Legislation</b>	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.

<p><b>Dynamic Market</b></p>	<p>Is a procurement tool established in accordance with sections 34 to 40 of the Procurement Act 2023 and is available for the procurement of above UK Threshold contracts. It is a list of qualified suppliers (i.e. suppliers who have met the 'conditions for membership' of the dynamic market who are eligible to participate in future procurements. A dynamic market may be split into parts, with suppliers only eligible to participate in the parts for which they have qualified. New suppliers can be added through the lifetime of the dynamic market and there is no maximum term or minimum or maximum number of suppliers.</p>
<p><b>Dynamic Purchasing System (DPS)</b></p>	<p>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.</p>
<p><b>eProcurement Portal (YORtender)</b></p>	<p>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 <a href="https://yortender.eu-supply.com">https://yortender.eu-supply.com</a></p>
<p><b>Financial Ratio</b></p>	<p>Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.</p>
<p><b>Find A Tender Service (FTS)</b></p>	<p>"Find a Tender" means the UK e-notification service where notices for new procurements and contracts awarded under the Public Contracts Regulations 2015 are required to be published</p>
<p><b>Financial Procedure Rules (FPRs)</b></p>	<p>The Financial Procedure Rules.</p>
<p><b>Frameworks</b></p>	<p>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. Frameworks which deal with Supplies that are above, or aggregate above, the UK Threshold are subject to the Procurement Rules. They set out the terms for the Supply (often including the price) and the method for calling off orders. 'Framework Agreement' and 'Framework Suppliers' shall be construed accordingly. References to Frameworks includes Framework Agreements established under the Public Contracts Regulations 2015 and Open Frameworks as defined in the Procurement Act 2023.</p>

<b>Head of Corporate Landlord and Capital</b>	Means the officer appointed by the Service Director who is responsible for corporate property management functions and the officers to whom they delegate.
<b>Head of Risk</b>	Means the officer appointed by the Chief Executive who is responsible for Internal audit.
<b>Head of Procurement</b>	Means the Head of Procurement and Commissioning or such other officer appointed by the Service Director – Legal, Governance & Commissioning who is responsible for Corporate Procurement.
<b>Income Contract<sup>5</sup></b>	An Income Contract is one where the main object of the contract is that the Council does something in relation to a Council asset and includes <sup>6</sup> situations where the Council does so at nil value (subject to this not being a Grant – see Appendix 4).
<b>Land</b>	“Land” includes any estate or interest in land (including buildings) including any easement or right in or over land
<b>Legal Officer</b>	Officers who are authorised signatories for the Council under the scheme of delegation.
<b>Light Touch Threshold</b>	Light touch threshold applies to contracts for certain social, health, education and other public services
<b>Local Government Transparency Requirements</b>	Means the statutory codes and legislation requiring the Council to publish information, such as <sup>5</sup> the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.
<b>Official Council Order</b>	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Service Director Legal and Commissioning whether attached electronically or by paper to an order for Supplies.

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

<sup>6</sup> The words “including”, “include”, “for example”, “e.g.”, and “such as” in these CPRs indicate examples and are not intended to be limiting

<b>Personal Data</b>	<p>Means data which relate to a living individual who can be identified—</p> <p>(a) from those data, or</p> <p>(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,</p> <p>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.</p>
<b>Procurement</b>	<p>The purchase, contract hire, lease, rental<sup>7</sup> 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, Frameworks, Dynamic Purchasing Systems and Dynamic Markets. 'Procurement' and 'Procured' shall be construed accordingly.</p>
<b>Procurement Rules</b>	<p>The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Procurement Act 2023 (including the National Procurement Policy Statement), the Health Care Services (Provider Selection Regime) Regulations 2023, Public Concessions Regulations 2016 and Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations) as may be applicable in relation to the Procurement or Contract.</p>
<b>Reasonable Means</b>	<p>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.</p>
<b>Service</b>	<p>A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.</p>
<b>Service Director</b>	<p>Means the most senior officer responsible for the day to day functions of each Service.</p>
<b>Service Director Finance</b>	<p>Means the Service Director responsible for finance, also being the s151 Officer</p>
<b>Service Director Legal and Commissioning</b>	<p>Means the Service Director responsible as legal adviser to the Council, also being the Monitoring Officer</p>

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

<b>SME</b>	Small or Medium-sized Enterprise, with less than 250 employees
<b>Social Value</b>	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
<b>Special Purpose Vehicle</b>	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with others to provide specific Supplies to the Council.
<b>Specification</b>	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.
<b>Standing List</b>	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
<b>Suitability</b>	Means a supplier's general capability, fidelity, skill, competence, etc. to carry out the contract, including, where relevant, whether a Supplier is an excluded or excludable supplier under the Procurement Act 2023.
<b>Supplier</b>	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.
<b>Supply / Supplies</b>	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).
<b>Tender</b>	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
<b>UK Threshold</b>	The financial threshold from time to time at which the Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1.
<b>Value for Money</b>	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.

<p><b>VCSE</b></p>	<p>Voluntary, Community or Social Enterprise organisation that operate on a not-for-profit basis, including charities, community groups, voluntary organisations and social enterprises. The term 'VCSE' is often used interchangeably with the terms 'third sector' or 'civil society' organisations.</p>
<p><b>Whole Life Costing Approach</b></p>	<p>Is an approach which addresses all the elements of a Supply over its life cycle such as:</p> <ul style="list-style-type: none"> <li>• costs relating to acquisition,</li> <li>• costs of use, such as consumption of energy and other resources,</li> <li>• maintenance costs,</li> <li>• end of life costs, such as collection and recycling costs which can be used to produce a spend profile over its anticipated lifespan.</li> </ul>

## Appendix 1

<b>Relevant Thresholds under the Procurement Act 2023 inclusive of VAT*</b>	
Supplies and services contracts	£207,720 (£173,100 excl. VAT)
Light Touch Regime Contracts (Annex XIV)	£663,540 (£552,950 excl. VAT)
Works contracts	£5,193,000 (£4,327,500 excl. VAT)
Concession contracts	£5,193,000 (£4,327,500 excl. VAT)

\* 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 2028

## Appendix 2

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

	Information	When
<b>A.</b>	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.	<b>When requested</b>
<b>B.</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.	<b>When requested</b>
<b>C.</b>	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 of Rule 6, including the reason for the exemption.	<b>When requested</b>
<b>D.</b>	Contracts with a value of £5,000 or more (see Rule 3), with the following information: <ol style="list-style-type: none"> <li>1. reference number</li> <li>2. title of agreement</li> <li>3. Contract Manager; name of person responsible for managing the contract</li> <li>4. description of the goods and/or services being provided</li> <li>5. Supplier name and details</li> <li>6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract)</li> <li>7. start, end and review dates, including permitted extensions</li> <li>8. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and</li> <li>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</li> <li>10. whether or not the contract involves processing personal data</li> </ol>	<b>In All Cases on Contract Award</b>
<b>E.</b>	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.	<b>In All Cases on Request</b>

## 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 information 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**
    - 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**
    - 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)

## **Appendix C – An Example of an Outline of Procurement Process for an IT system valued at £300,000 over 5 years (above the UK Threshold)**

### **1. Need identified by service area**

The service area first identifies the need for a new IT system and confirms that the requirement aligns with internal governance processes, including approval from the technology board and confirmation of available budget. Because the procurement exceeds the relevant threshold under the Procurement Act 2023, the conflict-of-interest procedure is triggered at this point. This requires all project team members to formally declare any actual, potential or perceived conflicts. No conflicts are identified

### **2. Conduct Engagement**

Market engagement takes place through a supplier engagement session, which is used to understand market capability and refine the requirement. To make sure all potential suppliers are aware of the market engagement opportunity, a Preliminary Market Engagement notice is published via the Find a Tender Service, the online platform used for publishing transparency notices related to procurement activity.

### **3. Define Requirements**

The service area defines the requirements for the IT system by drafting a specification, working closely with corporate enablers including Procurement, IT, Information Governance, Data and Insight and Legal. This ensures that technical requirements, data protection and contractual considerations are fully addressed.

### **4. Procurement Strategy**

The Procurement Strategy is drafted in consultation with the service area. This document outlines that the chosen procurement route, the evaluation methodology, risk assessment (including contract tiering and modern slavery considerations) and the proposed contract management approach.

### **5. Issue Tender**

The procurement is issued via the e-procurement portal and a Tender Notice is published to alert the market to the opportunity. Clarifications from suppliers are managed during the clarification window. Members of the evaluation panel receive training from the Procurement Team on how to undertake the evaluation process.

### **6. Supplier Response**

Suppliers submit their tenders through the e-procurement portal before the deadline

### **7. Evaluation**

The Procurement Team reviews each submission against the conditions of participation, which consider an organisation's track record and ability to deliver. The Evaluation Panel then scores the award criteria independently, usually Quality, Price and Social Value, before attending a consensus meeting, chaired

by the Procurement Team, to agree the final scores. The conflict of interest check is repeated at this stage, and no conflicts are identified.

#### **8. Due Diligence**

Following the evaluation, due diligence is undertaken with the highest-scoring tenderer. This includes financial checks to ensure adequate financial stability, verification of insurance levels, cybersecurity assurances and a system demonstration which confirms that the proposed solution meets the specification.

#### **9. Tender Evaluation Report**

This report summarises the procurement process that has been undertaken and the evaluation outcome.

#### **10. Decision Notification**

Decision letters are issued to all tenderers along with an assessment summary explaining why a supplier's tender was successful or unsuccessful. A Contract Award Notice is published via Find a Tender to commence the standstill period.

#### **11. Contract Award**

Once standstill has concluded, internal governance processes are completed by the service area. The contract is then awarded to the selected supplier by the Legal Team. A Contract Details Notice is published via Find a Tender once the contract is signed to complete the procurement process.

#### **12. Implementation**

Implementation begins with supplier mobilisation, including kick-off meetings, transition planning and data migration activity.

#### **13. Contract Management**

Contract management continues throughout the life of the contract, ensuring that performance, service levels and risks are all monitored and managed effectively. Exit planning is undertaken in advance of contract expiry to support renewal or re-procurement.

**REPORT TITLE: Constitution updates**

<b>Meeting:</b>	<b>Corporate Governance and Audit Committee</b>
<b>Date:</b>	<b>20<sup>th</sup> February 2026</b>
<b>Cabinet Member (if applicable)</b>	<b>Cllr Nosheen Dad</b>
<b>Key Decision Eligible for Call In</b>	<b>No No</b>
<b>Purpose of Report</b>  To seek approval for a number of amendments to the Constitution to be recommended to Council.	
<b>Recommendations</b>  That the Monitoring Officer delegations in Appendix A be noted.  That the suggested amendments to the following areas set out at paragraph 2 be recommended to Council:- <ul style="list-style-type: none"> <li>• Councillor Safeguarding protocol</li> <li>• Council procedure rules</li> <li>• Protocol for Public Speaking at Planning Committee</li> <li>• Responsibility for Non- Executive functions - CGA – Terms of Reference</li> <li>• Responsibility for Non-Executive functions - Appeals Panel – Terms of Reference</li> <li>• That the work of the cross-party Constitution Working Group be noted</li> <li>• That it be noted that the Constitution has been subject to a review and no amendments other than those set out below are required at this time.</li> </ul>	
<b>Reasons for Recommendations</b> <ul style="list-style-type: none"> <li>• The suggested amendments are intended to update and modernise the Constitution</li> </ul>	
<b>Resource Implications:</b>  None	
<b>Date signed off by Executive Director &amp; name</b>	<b>Rachel Spencer-Henshall</b>

<p><b>Is it also signed off by the Service Director for Finance?</b></p>	<p><b>Kevin Mulvaney</b></p>
<p><b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b></p>	<p><b>Samantha Lawton</b></p>

**Electoral wards affected: All**

**Ward councillors consulted: Members of the Monitoring Officer’s Constitution working group**

**Public or private: Public**

**Has GDPR been considered? Yes**

**1. Executive Summary**

- 1.1 It is essential that the Constitution is subject to regular review and, where necessary, is amended to ensure that it both follows any legal requirements placed on the Council and is fit for purpose.
- 1.2 Whilst certain changes to the Constitution can be made by the Monitoring Officer using delegated powers, most changes need to be made by Council, on the recommendation of this Committee. Appendix A contains a list of all amendments made by the Monitoring Officer using delegated powers since Annual Council in 2025.
- 1.3 The Monitoring Officer set up a cross party Constitution working group in 2024, comprised of officers and members, to review the Constitution and to consider proposed amendments. The group requested to focus only on the Council Procedure Rules and has been meeting again in this municipal year and the proposed changes set out below follow from the discussions by the group.
- 1.4 Not all parts of the Constitution are in need of amendments, but all have been reviewed during the current municipal year. Amendments are requested to the following areas:-

**2. Information required to take a decision**

**2.1 Safeguarding Protocol – Part 5.10**

2.1.1 The Safeguarding Protocol has been rewritten and updated. The proposed version adds more information for Members and explains the safeguarding landscape as well as clear explanations regarding relevant officer roles.

2.1.2 The purpose of the rewrite was to modernise and update the Protocol and to make it easier to read and understand.

2.1.3 A copy of the proposed amended Protocol is attached at Appendix B.

## 2.2 Council Procedure Rules (CPRs) – Part 4.1

2.2.1 A number of changes have been proposed to the CPRs. The wording in black is the current wording within the rules and the wording in red is the proposed new wording

Details of these are in table form in Appendix C, which also provides details of the reasons for the proposed changes.

## 2.3 Protocol for Public Speaking at Planning Committee – Part 5.7

2.3.1 There are minor amendments to the protocol, visible on the ‘track change’ version at Appendix D.

## 2.4 Responsibility for Council (Non-Executive) Functions Part 3.3 Corporate Governance and Audit Committee – Terms of Reference

There are minor amendments to the Terms of Reference, visible on the ‘track change’ version at Appendix E.

<b>Section of the Council (Non-Executive) Functions</b>	<b>Proposed changes</b>
TBC	Add a requirement to for the mandatory training and refresher training for all Members sitting on the Corporate Governance and Audit committee, as per Planning and Licensing requirements
7.3	Remove the following from the Terms of Reference for Corporate, Governance and Audit Committee – 7.3 Oversight of the complaints process and the role of the Local Government Ombudsman. This is to meet the new and updated Local Government Ombudsman Guidance which recommends reporting to Cabinet where there is a Cabinet and Leader model form of Governance.
9	Amend the Terms of Reference paragraph 9 to read – Make recommendations arising from any review of a report of the Local Government and Social Care Ombudsman as required following any Cabinet referral  ( Remove – Approving payments or providing other benefits in cases of maladministration as required)

## 2.5 Responsibility for Council (Non-Executive) Functions Part XXX Appeals Panel – Terms of Reference

2.5.1 Add a requirement to the Non Executive functions for the mandatory training and refresher training for all Members sitting on the Appeals panel as per Planning and Licensing requirements.

## 3. Implications for the Council

### 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 **Financial Implications for the People Living or Working in Kirklees**

N/A

3.7 **Other (eg Legal/Financial or Human Resources)**

Regular review of the Constitution will ensure that Kirklees Council is operating lawfully and will also aim to identify any areas where there may be ambiguity with a view to providing clarity.

**4. Consultees and their opinions**

- 4.1 The Constitution Working Group has considered the proposed amendments to the Council Procedure Rules and provided feedback which has informed a number of the changes.

**5. Next steps and timelines**

- 5.1 Any amendments recommended by this Committee will need to be considered by Council and a report to Council will be prepared.
- 5.2 Any changes to the Constitution agreed by Council will then be put into place.

**6. Officer recommendations and reasons**

- 6.1 That members approve the proposed amendments to the Constitution.
- 6.2 That members note the work of the cross-party Constitution Working Group

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

N/A

**8. Contact officers**

David Stickley  
Principal Lawyer  
[david.stickley@kirklees.gov.uk](mailto:david.stickley@kirklees.gov.uk)  
01484 221000

Samantha Lawton  
Service Director – Legal, Governance and Commissioning  
01484 221000

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

N/A

10. **APPENDICES**

Appendix A – Monitoring Officer amendments under delegations

Appendix B – Councillor Safeguarding Protocol

Appendix C – Council Procedure Rules

Appendix D – Protocol for speaking at Planning Committee

Appendix E – Corporate Governance and Audit Committee – Terms of Reference

11. **Service Director responsible**

Samantha Lawton

Service Director – Legal, Governance and Commissioning

01484 221000

[Samantha.lawton@kirklees.gov.uk](mailto:Samantha.lawton@kirklees.gov.uk)

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## Appendix – A

### Monitoring Officer Amendments using delegations

Date	Constitution Section	Amendment
13 October 2025	Part 5.9 Councillors and Officers in Kirklees - A Protocol for Working Effectively	2.2 Both Officers and Councillors ... “Act as a <del>Ambassador</del> <b>Representative</b> for the Council
25 November 2025	Part 4.1 Council Procedure Rules	Correct numbering out of sync – changed from <b>18.4 to 18.19</b>
17 December 2025	Part 3.4 Section C	Portfolio Holders updated and signed by Cllr Pattison - Notice under Article 7 of Kirklees Council Constitution – signed 10 December 2025
17 December 2025	Part 4.7 Contract Procedure Rules	Updated the new figures for 2026 Thresholds Appendix 1
28 January 2026	Article 4 – Policy Framework	Update legislation and remove requirement for Council adoption – Legislation now requires WYCA to adopt Local Transport Plan not the local authority.

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## **Kirklees Council - Councillor Safeguarding Protocol**

The Council has a Corporate Safeguarding Protocol that sets out the framework for every service and employee in the council in carrying out the statutory safeguarding duties towards children, young people and adults.

This policy also defines the roles and responsibilities for all employees, managers, Councillors and volunteers, and provides support in their responsibility to promote safeguarding of children and adults throughout their work and to ensure that there is a high level of visibility and commitment across the borough and in all services to ensure the best possible service to vulnerable children, young people and adults.

### **Children and Young People**

The Children Act 2004 places a statutory obligation on borough and district councils to ensure they have in place suitable arrangements to safeguard and promote the welfare of children (either directly or via their families who may access or use Council Services).

The definition of abuse and neglect in relation to children is set out in the Children Act, 1989 and also enshrined and discussed in Working Together to Safeguard Children (2023). These are not exhaustive lists, but an illustrative guide to the types of behaviour or issues that could give rise to safeguarding concerns. In relation to children. The four categories of abuse are:

**1 - Emotional** - the persistent emotional maltreatment of a child, such as to cause severe and persistent effects on the child's emotional development.

**2 - Sexual** forcing or enticing the child or young person to take part in sexual activities, whether the child is aware of what is happening or not.

**3 - Neglect** - the persistent failure to meet a child's basic physical and or psychological needs, likely to result in the serious impairment of the child's health or development.

**4 - Physical** - may involve hitting, shaking, throwing, poisoning, burning, or scalding, drowning, suffocating or otherwise causing physical harm to a child.

In March 2016 the Government accepted the recommendations of the Wood Report 2015 which summarised the findings of a national review of Local Safeguarding Children Boards (LSCBs). The recommendations in the report led to a change in legislation to the Children and Social Work Act 2017 and Working Together to Safeguard Children, removing the statutory requirement of local authorities to have a Local Safeguarding Children Board.

As a result, three key agencies now collectively hold new statutory responsibilities for safeguarding; namely the Local Authority, Health and the Police.

Working Together to Safeguard Children 2023 placed a duty on the three agencies to work together and define the local Multi-Agency Safeguarding Arrangements. It also placed a duty on other agencies to co-operate with the new arrangements.

The Kirklees Safeguarding Children Partnership (KSCP) is the body that replaces the Kirklees Safeguarding Children Board and works with all agencies to safeguard and promote the welfare of children and young people in Kirklees. The statutory safeguarding partners are Kirklees Metropolitan Council, West Yorkshire police and the NHS West Yorkshire Integrated Care Board.

The Lead Safeguarding Partner (LSP) for the three Statutory partners are the Chief Executive of Kirklees Council, the Chief Constable of West Yorkshire Police and the Chief Executive of the NHS West Yorkshire Integrated Care Board.

Each statutory partner has a Designated Safeguarding Partner (DSP) and those roles are set out in the arrangements linked below.

Link to multi agency safeguarding arrangements

<https://www.kirkleessafeguardingchildren.co.uk/wp-content/uploads/2025/12/MASA-2025-26-Final.pdf>

The partnership is an independent intermediary body and will meet at least four times a year and has a strategic focus leading subgroups who will be expected to report on a workplan for the year. **It has a helpful website here:** [www.kirkleessafeguardingchildren.co.uk](http://www.kirkleessafeguardingchildren.co.uk)

**How to report Concerns about a child – Worried about a child? - KSCP**

Vulnerable Adults

### **What is adult safeguarding?**

Adult safeguarding is a multi-agency procedure for protecting adults, aged 18 years or over, at risk from abuse or neglect, and in need of community care services due to:

- Mental health, disability, age, or illness,
- And being unable to take care of or protect themselves against harm or exploitation.

### **The Care Act 2014**

The Care Act 2014 categorises the types of abuse relating to adults as follows:

1- Discriminatory when values, beliefs or Culture result in a misuse of power that denies mainstream opportunities to some groups or individuals.

2- Domestic abuse incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality. Domestic abuse is not just about partners, but all family relationships.

3- Emotional/Psychological acts or behaviour which impinges on the emotional health of, or which causes distress or anguish to, individuals.

4 - Financial, unauthorised, fraudulent obtaining and improper Use of funds, property or any resources of an adult at risk.

5 - Modern slavery encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.

6 - Neglect, ignoring or withholding physical or medical care needs which result in a situation or environment detrimental to individual(s).

7 - Organisational, where the culture of the organisation places the emphasis on the running of the establishment of the needs and care of the person.

8 - Physical, the non-accidental use of physical force that resolves (or could result) in bodily injury, pain or impairment, including assault, hitting, slapping, pushing, misuse of medication and restraint.

9 - Self neglect. This covers a wide range of behaviour, neglecting to care for one's personal hygiene, health or surroundings, and includes behaviour such as hoarding.

10 - Sexual direct or indirect involvement in sexual activity without consent.

### **How to report abuse or neglect**

If you are a professional and are aware of abuse or neglect you can report a safeguarding concern online. Before you do this, you must:

- In an emergency, don't wait - call 999
- Ensure the immediate safety and welfare of the adult at risk and any other person at risk,
- If a crime has been committed, ensure the concern has been reported to the police on 101,
- Preserve any evidence,
- Gather an accurate record and details of the incident, and any actions or decisions that have been made or planned

### **Kirklees Safeguarding Adults Board (KSAB)**

Kirklees Safeguarding Adults Board (KSAB) is an independent statutory partnership in its own right set up under the Care Act 2014 and is not a public authority.

The Board is hosted by Kirklees Council and is a multi-agency partnership. The KSAB works within the framework of the law and statutory guidance to strategically assure itself that local safeguarding arrangements and partners act to help and protect adults at risk in Kirklees in line with the criteria set out in section 42.1 of the Care Act 2014, that is:

- has needs for care and support (whether or not the authority is meeting any of those needs);
- is experiencing, or is at risk of, abuse or neglect, and;
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it

The Safeguarding Adults Board is chaired by an Independent Chair and membership to the Board includes representation from the following agencies:

- Kirklees Council
- West Yorkshire Police
- West Yorkshire NHS Integrated Care Board: Working in partnership
- Locala Community Partnerships CIC
- South West Yorkshire Partnership Foundation Trust
- Calderdale and Huddersfield NHS Foundation Trust
- Mid Yorkshire Teaching NHS Trust
- NHS England
- Kirklees Council Housing & Homelessness
- West Yorkshire Fire & Rescue Service
- Healthwatch Kirklees

**Kirklees Safeguarding Adults Board** has three core duties, namely:

1 – To develop and publish a strategic plan setting out how they will meet their objectives and how their Councillor and partner agencies will contribute.

2 – To publish an annual report detailing how effective their work has been.

3 – To commission Safeguarding Adult Reviews (SARs) for any cases which meet the criteria for these. The Safeguarding Adults Board have their own website and a **helpful link can be found here** <https://www.kirklees.gov.uk/beta/adult-social-care-providers/kirklees-safeguarding-adults-board.aspx>. Councillors can access this to read reports, information, local protocols and agreements that may be helpful. Councillors should know that they should not become individually involved or seek information about individual safeguarding cases, whether they be children or adult focused. The appropriate referrals should be made through the gateway referral points.

### **General Safeguarding Information**

The chief executive is responsible to ensure all Council staff are aware of their roles in safeguarding.

Through the two Statutory Officers, the Chief Executive ensures that effective safeguarding arrangements for children, young people and adults are in place, and the **director of Children's Services** is the key point of professional accountability with responsibility for the effective safeguarding of children and young people. **The Director of Adult Social Services** as Chief Officer and lead for Adult Safeguarding

has an important leadership and challenge role to play in Adult Safeguarding. They are responsible for promoting prevention, early intervention and partnership working, which is critical in the development of effective safeguarding.

Councillors have an important part to play to ensure that the council is discharging its statutory responsibilities and its services to safeguard vulnerable children, young people and adults.

All Councillors receive training which includes how to identify and report safeguarding concerns within the appropriate levels of confidentiality.

On occasion Councillors may be approached by constituents seeking assistance in statutory safeguarding procedures relating to members of their families. It is not appropriate for Councillors to attend meetings between constituents and social workers or approach social workers about individual safeguarding matters. If a case relating to a child has progressed to statutory processes, there is a structured scheme for advice and support available to a family. This also applies in cases relating to vulnerable adults. It is inappropriate to attend at any court hearing relating to the Local Authority's safeguarding responsibilities, unless you are specifically asked to by the Court (ie as a witness). If you are asked to assist a constituent in this way, seek advice from the Monitoring Officer and in their absence the Deputy Monitoring Officer.

Councillors are reminded of the "Councillors and Officers in Kirklees – A protocol for Working Effectively" section of the Constitution. This sets out the nature and complexity of the relationships between Councillors and Officers and reminds Councillors and officers that protocols cannot be exhaustive. If any councillor or officer is unclear about a particular aspect of a protocol, they should contact the monitoring officer. The protocol applies whenever councillors and officers are undertaking the council's business whether that be in communications or public/ private meetings.

All Councillors should remind themselves at all times of GDPR and information processing and security. The Our Learning Portal has mandatory training which must be completed by all members of staff.

The lead Councillor for Children's Services is the only role for Councillors defined in legislation and is responsible for taking a strategic view in setting priorities and budgets, supporting the Director of Children's Services and championing the voice of children and young people in decision making across all Council services and partnerships. They also attend the scrutiny panel.

The Cabinet member for Adult Social Care and Health also has a key role to play in overseeing safeguarding activity, retaining the oversight of all commissioning activities and provision of Adult Social Care, public health functions and the interface with the NHS.

The Council has a Corporate Safeguarding policy to underpin its stance that Safeguarding is everybody's responsibility.

[Kirklees Council: Cross Council Corporate Safeguarding Policy](#)

## **Whistle-Blowing and Serious Misconduct Policy**

The protocol will be reviewed in line with any changes in legislation, and the periodical reviews of safeguarding policy, protocols and guidance to ensure the Council meets requirements to Safeguard Children, Young People and Adults.

### The Prevent Duty

The Counter Terrorism and Security Act 2015 places a duty on the council to have due regard to the need to prevent people from being drawn into terrorism. This statutory duty is about safeguarding and supporting children, young people or adults who may be vulnerable to becoming involved in terrorism or supporting terrorism.

Kirklees Council have implemented the Prevent Strategy and a **helpful link to the leaflet can be found here** <https://www.kirklees.gov.uk/beta/community-safety-partners/pdf/kirklees-prevent-strategy.pdf>.

## APPENDIX C

### Council Procedure Rules

CPR	Suggested Amendments in red	Comments/Rationale
<p>2</p> <p>NEW</p>	<p><b>Business to be transacted at Extraordinary Meetings</b></p> <p>The only business that will be conducted at an Extraordinary Meeting are items for which the meeting has been specifically convened which is limited to urgent, unforeseen or emergency items which are within Council's powers that cannot wait until the next ordinary meeting.</p> <p>The Chief Executive in consultation with the Mayor will determine whether the matter is urgent, unforeseen or an emergency.</p>	<p>To clarify the purpose and scope of extraordinary meetings</p>
<p>14.1</p>	<p><b>Submission of Motions</b></p> <p>Each motion must be signed by not less than two Members of the Council. Motions (including re-submitted Motions pursuant to <del>CPR 16(5)</del>) will only be accepted for the next scheduled ordinary Council meeting from 10.00am onwards following the day of the previous <b>ordinary</b> Council meeting</p>	<p>Delete reference to an incorrect CPR rule</p> <p>Add in 'ordinary' to align with practice and ensure consistency</p>

14.7	<p><b>Motions Not Accepted</b></p> <p>A Motion on Notice may be rejected if in the opinion of the Chief Executive in consultation with the Mayor it:-</p> <ul style="list-style-type: none"> <li>• Is defamatory, vexatious, frivolous or offensive,</li> <li>• Instructs Officers to perform an unlawful action or take such action as would have unlawful consequences,</li> <li>• Requires the disclosure of Confidential or Exempt Information,</li> <li>• Has the effect of increasing the expenditure or reducing the revenue of the Council other than in compliance of requirements of CPR 14 (5) Rule relating to new or additional expenditure,</li> <li>• Is in some other respect considered to be out of order, unlawful, irregular, improper or incapable of having a practical effect</li> <li>• Seeks to circumvent a decision-making process under way, or</li> <li>• by reason of law or provision in these Rules, should not be considered at the Meeting for which it is given.</li> </ul> <p>If a motion is not deemed acceptable the Chief Executive shall inform the Members who gave notice of the Item.</p>	<p>To add the following new areas set out in red.</p> <p>The additional criteria provides further guidance to Members on what is a suitable motion. The current rules lack any provision and often mean officers have to return to Members for amendment without any specific reference within the rules to address areas highlighted.</p>
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14.8	<p><b>Withdrawal</b></p> <p>A Member who has given notice of motion may subsequently withdraw by writing to the Service Director - Legal, Governance and Commissioning <b>prior to 5.30pm on the day of the Council meeting.</b></p>	<p>To clarify the timescales for withdrawal of a motion by the Service Director – Legal, Governance and Commissioning. The CPR rules already address withdrawal once the meeting has begun at 14.14 below.</p>
14.10	<p><b>Moving of Motions</b></p> <p>If a motion set out in the summons is not <del>moved</del> <b>debated or voted upon</b> either by the Member who gave notice or by another Member on their behalf <b>either due to lack of time or absence</b>, 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.</p>	<p>Clarifies the reason if the motion is not concluded due either to lack of time at the meeting or through the absence of the relevant Members. This amendment along with 14.8 and 14.14 ensures that Motions that have been submitted on notice and published will be heard unless withdrawn in accordance with the procedure at 14.14.</p>
14.14	<p><b>Withdrawal of Motion/Amendment</b></p> <p>A motion or an amendment may be withdrawn <b>from the start of a Council meeting after 5.30pm</b> 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</p>	<p>This adds clarity to the timescales so it is clear this applies from the beginning of a council meeting.</p>

<b>NEW</b>	<p><b>Number of Motions</b></p> <p>Each political group, shall be entitled to submit a maximum of one motion to each ordinary meeting of the Council under this Rule. This will include a re-submitted motion.</p>	<p>This provides for a limit on motions.</p>
<b>5 (j)</b>	<p><del>j) To receive Minutes of meetings of the West Yorkshire Combined Authority.</del></p>	<p>Remove the publication of the WYCA minutes as these are already in the public domain and available on the WYCA website.</p> <p>This will be replaced on the Council agenda with a more up to date report business item relating to WYCA on at least 2 meetings per year by the Leader. This will provide a wider opportunity for Members to be updated on information relating to Kirklees and an ability to comment, question and debate the WYCA update without having to find a relevant minute upon which to ask a question.</p>

# **PROTOCOL FOR PUBLIC SPEAKING AT PLANNING COMMITTEES**

# Protocol For Public Speaking at Planning Committees

Kirklees Council has two Planning Committees, each meeting on a 6-weekly cycle; Both Committees meet in Huddersfield Town Hall.

The Strategic Planning Committee deals with major applications from across the district. The District Wide Planning Committee deals with applications for minor and other scale developments from across the district.

The meetings usually commence at 1.00pm.

The **meeting** venue has public seating areas, where members of the public are able to observe how the decisions on planning applications are made. All meetings are webcast live.

Fewer than 10% of all planning applications are decided at Planning Committee. Most are determined by officers within a delegation scheme as agreed by the Council. The applications that are decided by Councillors at Committee are usually the most contentious, often relating to large development sites, or proposals that have attracted a lot of public interest.

Members of the public ~~are able to address the Planning Committee to put their views on any~~ are **able to make a verbal representation on the applications which** have been submitted for consideration, subject to the provisions of this protocol. Applicants for planning permission and/or their representatives and Ward Councillors are also allowed to present their views.

~~Interested parties~~ **Any person who wishes** to speak at the meeting must register to do so no later than 5.00pm (for phone requests) or 11:59pm (for email requests) 3 days before the committee meeting.

Registered speakers are asked to aim to arrive by 12.45pm, in order to confirm their attendance before the meeting begins. The Town Hall Reception staff will direct attendees to where the meeting is being held.

The Governance Officer will confirm the names of speakers, the application on which they wish to speak and the capacity in which they will be speaking.

It is not permissible to circulate documents to the Committee on the day or to make powerpoint presentations at the meeting. If a speaker wishes to share such documents, to support their representation, then these must be sent to the planning case officer responsible for the relevant planning application at least 48 hours before the start of the Planning Committee (eg for meetings commencing at 1pm on Thursdays, the deadline for receipt of additional documents/information etc will be 1pm on the previous Tuesday). This is because all parties may not have time adequately to respond to and address the issues raised in those submissions. In particular, members of the committee are unlikely to be able to give proper consideration to the matters raised and officers are unlikely to be able to provide considered advice on any material considerations. The decision to permit in each case is at the discretion of the Chair.

## Procedure for the Meeting

- The Chair ~~meeting~~ will begin ~~the meeting~~ at 1.00pm. There will be a number of constitutional items on the agenda that will be dealt with first. The Planning Committee will then progress to consider the schedule of Planning Applications.
- At the beginning of each item the Chair will indicate which application is to be dealt with. The Planning Officer will give a presentation and propose their recommendation.
- The Chair will then invite members of the public who have registered to speak to address the Planning Committee. The Chair will have a list of speakers who have indicated that they want to comment on the application, and he/she will call their name at the appropriate time. Ward Councillors, local residents and objectors will usually be called to speak first, followed by any other interested parties, for example, applicants or their agents.
- The case should be concisely made, concentrating on **the 'planning'** issues that the Members of the Planning Committee can take into account. Planning issues include:
  - *The planning history of the site*
  - *The visual impact of the development*
  - *Effect on public amenity*
  - *Access, traffic and highway considerations*
  - *The impact on listed buildings, conservation areas, or protected trees.*
- Matters that cannot be taken into account include:
  - *Effect on property values*
  - *The character or identity of the applicant*
  - *Boundary or property disputes*
  - *How the application affects a view (as opposed to the wider effect on public amenity)*
  - *Issues of commercial competition*
- The presentation to the Planning Committee should reinforce and amplify the representations on the application that have already been made to the Council in writing.
- Once all representations have been made, the Planning Committee will consider the application.
- Officers may be asked for more information, or to respond to specific questions, but further comments from members of the public, applicants or agents will not normally be taken, unless the Chair invites further comment.
- Voting on an application will be by a show of hands or roll call and in each case is recorded.

## **Please note:**

- The meeting will be webcast live and by registering to speak consent to the live webcast will be deemed.
- The number of people who will be allowed to speak is at the Chair's discretion, and his/her decision is final. If there is a large number of attendees who wish to comment on the same application, the Chair may ask the group involved to organise a representative so that the case for/against may be put collectively. Speakers will be asked not to repeat points raised by previous speakers and the Chair may intervene if there is repetition and duplication in the representations.
- For pre-application or position statements, public speaking is not the usual practice and is at the absolute discretion of the Chair. The applicant may be in attendance to present the plans and answer any questions from members.
- Objectors, local residents, applicants or agents will have a maximum of three minutes to present their case to the Planning Committee. A visible timing system will be in operation to assist. The Chair may ask a speaker to conclude their presentation if the allotted time has been exceeded.
- Speakers will only be permitted to speak again in exceptional circumstances (as determined by the Chair) and only for the purposes of addressing wholly new issues that may have arisen during the debate or to correct information that is clearly incorrect.
- Councillors who attend committee as observer under Rule 36 of the Council Procedure Rules or members of the committee who choose to make representations as ward Councillor, rather than participate in the determination of an application, will be bound by the 5 minute time limit set out in CPR 36.
- Any representations should be directed to the Councillor who is 'chairing' the meeting. By convention, this person is addressed as 'Chair'. If you refer to a Member of the Council, then the correct way to do this is to refer to them as 'Councillor (surname)'. Dialogue between members of the public and Members of the Committee or Officers is not permitted once the meeting has started.
- Direct questioning of individual committee members or officers will not be permitted. Any comments must be made to the Chair of the Committee.
- Messages must not be passed to members of the Planning Committee before, during or after a presentation.

## **Agenda for the Meeting**

The agenda for the meeting is available one week in advance of the meeting and can be viewed on the Kirklees Website. If assistance in accessing the information, or a hard copy of a report is required, the Governance Officers whose details are provided below can be contacted to assist.

An update **report** is also usually published on the website the day before the meeting and circulated to **Committee Members**. ~~prior to the beginning of the meeting.~~ This provides details of any amendments made to the applications, further consultation responses and representations received since the formal agenda was published and may include legal advice from officers to Councillors on any issues that have been raised in those representations. However, the update should be brief and not raise wholly new issues.

## **Additional Information**

Decisions on planning applications can be challenged by the applicant making an appeal to the Secretary of State.

In the English planning system, third parties eg objectors to the application, have no rights of appeal against the decision but may, in appropriate circumstances, seek to have the decision judicially reviewed in the High Court.

However, the Local Government Ombudsman can investigate any claims that the Council did not follow its own procedures, or allegations of impropriety. Ask a Council Officer for more information if you are considering approaching the Ombudsman.

### **Contacts:**

#### **Governance Team:**

##### **District Wide Planning Committee –**

Andrea Woodside (ext 74993)

~~Sheila Dykes (ext 73896)~~

##### **Strategic Planning Committee –**

Sheila Dykes (ext 73896)

~~Andrea Woodside (ext 74993)~~

Automated switchboard:

01484 221000

and use the extension number or ask for the relevant officer by name

#### **Planning Services:**

##### **District Wide Planning Committee –**

~~Julia Steadman (ext 74220)~~

**Kirsty Nicholls (ext 72972)**

##### **Strategic Planning Committee**

~~– David Wordsworth (ext 79071)~~

**Julia Steadman (ext 74220)**

#### **Legal Services:**

##### **District Wide Planning Committee –**

Sandra Haigh (ext 77871)

Deborah Wilkes (ext 77875)

**Victoria Leam (ext 79396)**

##### **Strategic Planning Committee –**

Deborah Wilkes (ext 77875)

Sandra Haigh (ext 77871)

**Mike Kelly (ext 78804)**

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## APPENDIX E

### Corporate Governance and Audit Committee Terms of Reference

Delegated authority in respect of all powers and duties set out below and all other Council functions not required to be determined by the full Council and not delegated to any other committee:

1. To be responsible for:

1.1. Monitoring the operation of the Council's Constitution and keeping its terms under review, including all procedure rules.

1.2. Making recommendations to the Council for any change or additions to the procedure rules or Articles of the Constitution or executive arrangements.

2. Determining all matters relating to the adoption and operation of the Members' Allowances Scheme including recommendation to the Council of the adoption of or amendment to any such Scheme.

3. Keeping under review the terms of reference and delegations of Council functions to committees and formally appointed bodies and officers.

4. Consideration of the Council's arrangement relating to accounts including:

a) Consideration of any material changes to accounting policies;

b) Approval of the statement of accounts;

c) Approval of any material amendments to the accounts recommended by the auditors;

d) Keep the Council's financial and management accounts and financial information under review as it sees fit.

5. Consideration of the Council's arrangements relating to the external audit requirements including:

a) The selection and appointment of the external auditor;

b) The consideration of the external auditor's annual reports so as to gain the necessary assurance regarding accuracy, value for money and governance prior to the approval of the Council's accounts, and approval of any other reports;

c) Meeting with the external auditor from time to time and considering any matters that they wish to raise.

The committee shall be entitled to meet the external auditor without the presence of any Council officers (other than for the purposes of minuting the conversation).

6. Consideration of the Council's arrangements relating to internal audit requirements including:

a) Reviewing the nature and scope of internal audit activity;

b) Approval of the annual Audit Plan;

c) Monitoring the performance of internal audit, including compliance with regulatory internal audit standards;

d) Agreeing the adequacy of internal audit resourcing;

e) Considering the annual Internal Audit report, reviewing and making recommendations on issues contained therein;

f) Monitoring progress in implementation of internal audit recommendations;  
g) Seeking responses from officers or portfolio holders about matters identified by internal audit. The committee shall be entitled to meet the Head of Internal Audit without the presence of any Council officers (other than for the purposes of minuting the conversation).

7. Reviewing 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 Information Commissioners Office (ICO);

7.5. Reviewing and approving the annual statement of Corporate Governance.

8. Agreeing and regularly updating 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.

~~9. Approving payments or providing other benefits in cases of maladministration as required and make recommendations arising from any review of a report of the Local Government and Social Care Ombudsman.~~

10. Following a decision of Council to undertake a community governance review to agree the terms of reference for and conduct such a review, making recommendations to Council who will determine the outcome of such reviews.

11. Functions relating to Elections and Parishes set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (or any replacement or amendment of it).

12. Charities and charitable trusts (so far as not the responsibility of Cabinet).  
Revised June 2025

13. Responsibility and challenging all treasury management activities.

14. Noting the finalised list of appointments to outside bodies (except school governing bodies) and revocation of such appointments.

15. Determining nominations for charitable trustees in cases where there has been failure reach agreement. 16. Receiving updates and monitor compliance with the Council's Regulation of Investigatory Powers Act (RIPA) policy.



**REPORT TITLE: INTERNAL AUDIT QUARTERLY REPORT 3 2025/26  
OCTOBER 2025 TO DECEMBER 2025**

<b>Meeting:</b>	<b>Corporate Governance &amp; Audit Committee</b>
<b>Date:</b>	<b>20<sup>th</sup> February 2026</b>
<b>Cabinet Member</b> (if applicable)	
<b>Key Decision Eligible for Call In</b>	<b>No No – Information report</b>
<b>Purpose of Report</b> To provide a report of Internal Audit activity during the third quarter of 2025/26	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>• That the report be noted</li> <li>• The Committee determine if any action is required because of this report.</li> </ul> <b>Reasons for Recommendations</b> <ul style="list-style-type: none"> <li>• This provides information about activity of internal audit in this period, and the level assurance in the organisation. There may be issues identified which the Committee feels merits further work.</li> </ul>	
<b>Resource Implications:</b> <ul style="list-style-type: none"> <li>• None from this report, other than the potential costs or savings from implementing recommendations</li> </ul>	
<b>Date signed off by Executive Director &amp; name.</b>	Not applicable
<b>Is it also signed off by the Service Director for Finance?</b>	
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	

**Electoral wards affected:** all

**Ward councillors consulted:** none

**Public or private:** public with a private appendix

This appendix 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.

**Has GDPR been considered?** yes

## **1. Executive Summary**

The Council must have an Internal Audit function. Each quarter Internal Audit reports on its activity. The report also provides information about the Regulation of Investigatory Powers Act. There is an additional report on progress on the implementation of recommendations.

## **2. Information required to take a decision**

- 2.1 The information required about Internal Audit activity is included in the attached report. There is a further small amount of information contained in a private report.
- 2.2 The level of positive assurance cumulative to date this year is 77%, excluding schools which aligns broadly with previous years.
- 2.3 The report also provides information about use of Regulation of Investigatory Powers Act investigations. There were none this period, although some RIPA compliance training was carried out.

## **3. Implications for the Council**

Having an effective internal audit function, as a part of a strong assurance and governance framework is important for the Council. Implementing audit findings should help to improve internal control, assurance and or governance.

### **3.1 Working with People**

No directly applicable.

### **3.2 Working with Partners**

No directly applicable.

### **3.3 Place Based Working**

No directly applicable.

### **3.4 Climate Change and Air Quality**

No directly applicable.

### **3.5 Improving outcomes for children**

No directly applicable.

### **3.6 Financial Implications**

Refers in part to improving strategic and operational financial controls.

### **3.7 Legal Implications**

No directly applicable.

### **3.8 Other (e.g. Risk, Integrated Impact Assessment or Human Resources)**

Implementation of internal audit recommendations should improve overall control arrangements and promote good governance.

## **4. Consultation**

There have been discussions with Executive Leadership Team (ELT)

## **5. Engagement**

ELT have seen and are aware of the content of this report.

**6. Options**

Not applicable

**7. Next steps and timelines**

Contributes to the Annual Internal Audit report.

**8. Contact officer**

Martin Dearnley Head of Audit & Risk.

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

None.

**10. Appendices**

Quarter 3 report attached

Appendix a- private appendix

**11. Service Director responsible.**

The Head of Risk & Internal Audit holds responsibility for the planning, operation and reporting by Internal Audit.

The statutory officers with a responsibility for overseeing the internal audit function are.

Samantha Lawton Service Director for Legal Governances & Commissioning

Kevin Mulvaney Service Director for Finance

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# **Internal Audit & Counter Fraud Quarterly Report**

**Quarter 3 2025/26  
October to December 2025**

## 1 Introduction

This report sets out the work of Internal Audit completed in the period shown above. All work included has reached a final, except if shown otherwise, management have accepted the findings and agreed to implement the recommendations, or, in the case of employee investigations, any disciplinary action has been through the required stages and any appeal time.

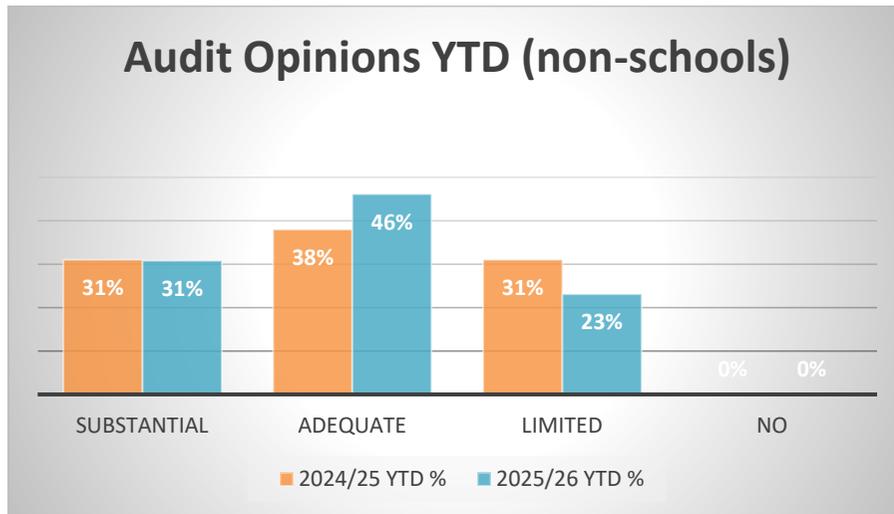
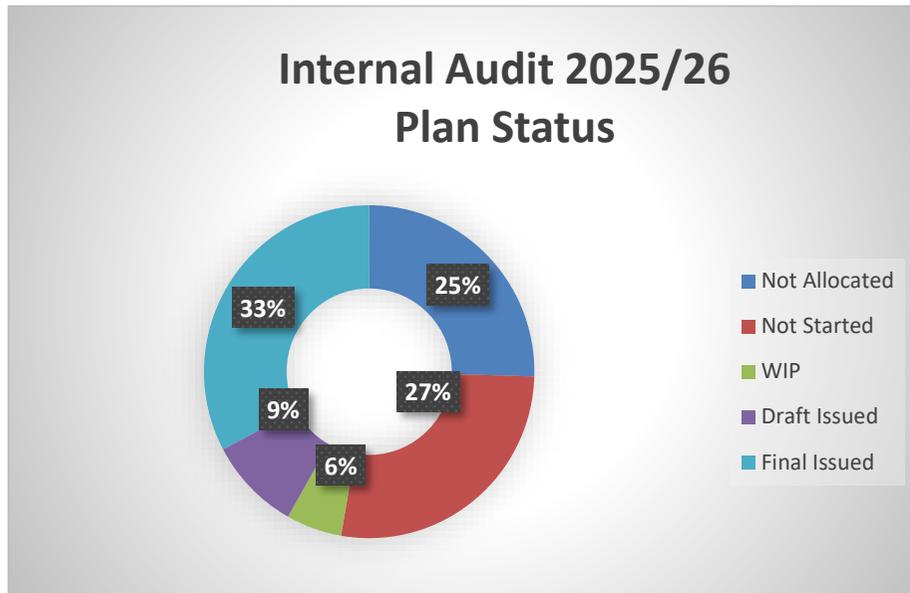
Where an assurance opinion was appropriate these reflected the standard framework below:

Opinion	Definition - Control Adequacy	Definition - Control Application
Substantial Assurance	A robust framework of all key controls exists that is likely to ensure that objectives will be achieved.	Controls are applied continuously or with only minor lapses.
Adequate Assurance	A sufficient framework of 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 a number of key controls in the system.	Significant breakdown in the application of a number of 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.

All audit work attracts recommendations intended to achieve at least an adequate level of control. All audits resulting in a negative - "limited assurance" or "no assurance" - opinion are followed up as a matter of course, whereas confirmation of progress in implementing agreed recommendations in other reports is sought once all the implementation dates have elapsed.

Note on Homes & Neighbourhoods audit – key audit work has been delayed due to management reporting issues and access to document images since the implementation of the new CX software application.

## 2 Internal Audit Dashboard



### **3 Planned Audit Work Completed in the Period**

#### **3.1 Financial System and Service Business Risk Audits**

<u>Reference</u>	<u>Audit / Objectives</u>	<u>Opinion</u>	<u>Recommendations</u>		
			Fndm'tl	Significant	Merits Attention
	<ul style="list-style-type: none"> <li>• <b><u>Key Financial Systems and Processes</u></b></li> </ul>	None during this period.			
	<ul style="list-style-type: none"> <li>• <b><u>Other Financial Systems and Processes</u></b></li> </ul>				
	<b><u>Culture &amp; Visitor Economy</u></b>				
018	Conservatory Café Greenhead Park	<p><b><u>Adequate Assurance:</u></b></p> <p>Service management requested an audit this year of the Café's income and expenditure. The Café provides meals and refreshments on a cashless basis. Turnover is approximately £350K.</p> <p>Controls for collecting all income due and ensuring accurate banking and recording of cash from the parking machine, are in place and operating effectively, with appropriate reconciliation of till receipts being completed.</p> <p>Since the Café transitioned to a cashless model at the start of the financial year, concerns have been raised about the need to turn away potential customers who are unable to pay by card.</p> <p>The removal of the petty cash float has created operational challenges. Only the Area Catering Manager has a</p>	0	1	3

		<p>purchase card, who works only part-time on weekdays. This limitation has resulted in difficulties procuring essential items during weekends.</p> <p>A historical issue was identified regarding VAT accounting. While the Café correctly recorded VAT in its' trading account, the corresponding VAT journals were not posted by Finance due to a miscommunication. This resulted in a corrective VAT charge of c.£165k in FY 2025/26. A monthly VAT posting process has now been implemented to prevent recurrence. While this adjustment impacted the overall budget and financial position reported in SAP, the Café has continued to use its' trading accounts to monitor monthly performance and determine its' operating position.</p> <p>Due to system limitations, implementing a comprehensive stock management process has not been feasible, as manual input and price amendments are highly time-consuming and administratively intensive. Duty Managers perform monthly stock counts, which are used to calculate the total cost of inventory used during the period. The audit could not fully verify the accuracy of control, but no adverse patterns were noted during testing.</p>			
	<b><u>Child Protection &amp; Family Support</u></b>				
019	Special Guardianship Orders (SGO)	<p><b><u>Adequate Assurance:</u></b></p> <p>A SGO is a legal order appointing a person or persons to be a child's special guardian when the child cannot live with their birth parents and adoption is not right for them. The guardian is responsible for looking after the child until the reach the age of 18 (unless otherwise decided by the court). The Order is designed for children who need a stable and secure home but do not wish sever all ties with their birth family, as is the case with adoption.</p>	0	4	8

		<p>The Council's current SGO Policy was implemented with effect from April 2025 and means-testing no longer applies to the financial support provided to 512 of the 537 carers, as part of an annual review.</p> <p>Management explained that long term sickness absence challenges have been impacting delivering the SGO functions. Nevertheless, systems and processes for financial support appear to be functioning satisfactorily. There were no notable financial irregularities identified from the sample of assessment cases reviewed and the financial assessment and payment processing functions were found to be operating robustly. Testing did identify the need for more timely annual reviews, segregation of duties, oversight and authorisation controls for assessments and the need for management to consider additional resource for assessment related succession planning and service continuity, which would strengthen the overall control environment.</p> <p>It was also found that SGO carer's payments are not being suspended as prescribed in the Policy when requests for contact and information go unanswered and these are not currently tracked or monitored. Management must confirm if the policy on suspensions is to be enforced and which staff are to have responsibility for monitoring this function as it was highlighted as a relatively unknown part of the Policy. This issue may be linked to some extent to an inherent fraud risk, such as with a recent case in which it has been alleged that a carer (grandparent) was not residing at the same address as the SGO children. At the time of the audit, a fraud risk assessment for Children's and Families Service had not been submitted to the Head of Risk per the Council's Fraud Strategy and ongoing anti-fraud initiatives.</p>			
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	<u>Public Health</u>				
020	Integrated Wellness Service	<p><b><u>Adequate Assurance:</u></b></p> <p>Kirklees Wellness Service is the main provider and single point of access for wellness support to adults, via a free personalised holistic wellness offer. As well as noting that local GPs, pharmacies, and social prescribers can refer patients directly, streamlining support and ensuring a consistent and efficient offer for all communities. There are specific budgetary profit centres of £1.36m for the 2025/26 financial year, comprising:</p> <ul style="list-style-type: none"> <li>• NHS Health Check Programme (£325k).</li> <li>• Public Mental Health (£114k).</li> <li>• Physical Activity for Adults (£326k); and</li> <li>• Stop Smoking Services &amp; Interventions (£595k).</li> </ul> <p>The audit provided assurance that effective arrangements are in place in relation to the controls relating to the referral, delivery, payment for and effectiveness of the Integrated Wellness Service's performance.</p> <p>Rolling annual Service Level Agreements with the Communities Service and NHS lacked specific targets in terms of data that was recorded in the monitoring information (e.g. number of people who stopped smoking).</p> <p>Significant data exists and represents a substantial improvement on what has been in place in this area during previous reviews. Further detail (e.g. NHS numbers of individuals) would provide assurance as to the accuracy and completeness of the data supplied and meet expectations about the existence of a full audit trail in relation to payments. Improvements in this area should be considered with the assistance of the Information Governance Team.</p>	0	3	0

	<b><u>Culture &amp; Visitor Economy</u></b>				
	Guaranteed Relief Cleaners	<p><b><u>Limited Assurance:</u></b></p> <p>An investigation, and audit followed an anonymous whistleblowing concern relating to potentially falsified timesheets within the Guaranteed Relief Cleaners (GRC)Team – (about 50 staff, out of 800 in total) Whilst the allegations were not supported by the evidence collected, the investigation did identify significant systemic weaknesses in the Service’s operational controls. The Service relies heavily on informal arrangements and verbal guidance, resulting in inconsistent processes and limited transparency. Issues identified re the GRCs included</p> <ul style="list-style-type: none"> <li>• the absence of documented procedures for task allocation and timesheet recording,</li> <li>• weak attendance-verification arrangements,</li> <li>• excessive overtime</li> <li>• insufficient segregation of duties.</li> </ul> <p>Cultural barriers were also noted, with staff expressing discomfort in raising concerns. Although no deterioration in service quality was observed, the current control environment is not robust enough to ensure compliance, fairness, or cost efficiency. The weaknesses identified require urgent action to mitigate financial, operational, and reputational risks. Senior management have accepted the report’s findings and recommendations and are determining how these will be implemented to address the concerns identified.</p>	5	13	0
	• <b><u>Other Business Controls</u></b>				

	<b><u>Strategy &amp; Innovation</u></b>				
021	IT Network Access Management	<p><b><u>Adequate Assurance:</u></b></p> <p>Cyber-attacks are becoming more frequent and more advanced. Criminals now use tools like AI-driven malware and ransomware services to break into systems, steal data, and disrupt operations. They often target remote work setups, cloud services, and even everyday devices. Strong access controls act as a security gate, protecting the Council from costly breaches and compliance risks.</p> <p>The audit identified discrepancies in 2% of user accounts. A third of these accounts were then deleted, and a further quarter closed due to the audit, and others retained for legitimate reasons such as relating to casual workers, or legal obligations (e.g. 26 accounts have been retained for the Covid-19 public inquiry). A small number of accounts remain disabled, with six under investigation, two (active).</p> <p>Failures in the leaver process - caused by incomplete notification by line managers, timing gaps in HD-One leavers' reports, or missed actions within IT - led to instances where accounts had not been closed promptly, creating risks of unauthorised access, GDPR non-compliance, and operational inefficiency.</p> <p>Audit testing confirmed that arrangements for managing third-party access and the issue and monitoring of Domain Admin accounts within IT are compliant.</p> <p>This issue was subsequently discussed at the IG Board due to the corporate nature of most of the findings, and a communications plan agreed to remind all managers of their responsibility in this area.</p>	0	2	1

	<b><u>Adult Social Care</u></b>				
022	Quality of Care Provision	<p><b><u>Adequate Assurance:</u></b></p> <p>A review was completed in December 2025 to provide assurance on the effectiveness of the processes in place in relation to the Council's arrangements for monitoring and ensuring the quality of residential and domiciliary care services, procured at an annual cost of almost £140m.</p> <p>The processes in place provide assurance that the arrangements for monitoring the quality of service provision are operating effectively in relation to compliance, contractual integrity, data /monitoring systems, governance and risk.</p> <p>Assurance was also provided that inspection work is up-to-date and that the volume of work performed forms a representative picture of third-party service providers. However, services delivered internally by the Council are not reviewed as private providers are. This would appear to be an inconsistency. Whilst quarterly reports outlined the work undertaken, these would be improved by clearly reflecting the progress against the annual planned work.</p>	0	3	1

### **3.2 School Audits**

Reference	Opinion	No.
024	<b>Substantial Assurance</b>	<b>1</b>
025	<b>Adequate Assurance</b>	<b>1</b>
026	<b>Limited Assurance</b>	<b>1</b>
0	<b>No Assurance</b>	<b>0</b>

See attached private Appendix A.

### **3.3 Significant and Fundamental Recommendation Themes – cumulative**

<b><u>Fundamental/Significant Recommendation Themes</u></b>	<b><u>No. of audits identified</u></b>
Information management - GDPR	3
Information management – data protection-DPIA	6
Contract Management	8
Cash Handling	4

## **4 Investigations and other Audit Activity**

### **4.1 Corporate**

#### **National Fraud Initiative 2024/25**

Work is ongoing to complete checks arising from the highest risk areas across the set of exception reports covering the various datasets submitted. A final summary report will be prepared for inclusion in the final quarterly report.

Following legislative action to address data protection concerns, a supplementary exercise has been undertaken concerning data relating to adult social care, specifically residential accommodation and direct payments (personal care budgets). Release of exception reports was delayed by the Cabinet Office until just before Christmas and review of the data has commenced to identify and resolve any unnotified deaths and income that may affect payments to suppliers and clients. The outcome will be reported in the Quarter 4 report.

### **4.2 Corporate**

#### **Replacement Enterprise Resource Planning (ERP) System Procurement**

Provided ongoing risk and control input to the ER Project Board chaired by the Service Director of Strategy & Innovation following demonstrations of their product from leading software suppliers including the incumbent of SAP, facilitated by the Transformation Team and subsequent submission of the consultant's procurement options report.

### **4.3 Highways & Streetscene**

#### WYCA Grant Verification

Work has commenced in auditing a raft of grant claims where the Combined Authority have funded various highway and transportation projects delivered by the Council and which the Authority requires certification by the Head of Audit, prior to sign-off by the Director of Finance.

## **5. Counter Fraud Work**

### **5.1 Housing Fraud**

<b>Investigation Type</b>	<b>Cases Brought Forward</b>	<b>New Referrals</b>	<b>Ongoing</b>	<b>Closed Prosecutions</b>	<b>Closed: No Fraud Proven or Warning Issued</b>	<b>Applications Cancelled</b>	<b>Properties Returned and Application Cancelled</b>
Right To Buy	20	3	17		1	3	2
Tenancy Fraud	18	5	20		2	0	1
Multi-Agency/Service Cases	2	1	3		0	0	0

There has been a large increase in Right to Buy (RTB) applications in general since June 2024. However, the amount of RTB applications has reduced substantially in Quarter 2. Despite the high volume of credit checks processed by the fraud team in Q4 2024/25, fraud referrals have stabilised largely due to the reduction in Right to Buy discount thus making it less attractive for tenants to make an application. Tenancy Fraud seems to be increasing. It is important that these cases do not later re-present themselves as Right to Buy fraud. The frauds being encountered are becoming more complex, and cases are becoming longer. Often searches suggest fraud is being committed in other aspects of the suspects lives, resulting in increasing referrals to the Police and other government agencies.

**5.2 Council Tax and Business Rate Fraud**

Investigation Type	Cases Brought Forward	New Referrals	Ongoing	Closed Prosecutions	Closed: No Fraud Proven	Closed: Referred to Other Government Agency
Council Tax	3	0	3	0	0	0
Business Rates	4	0	4	0	0	0
COVID Grants	1	0	1	0	0	0

**5.3 Accounts Payable Fraud**

Investigation Type	Q2	YTD	Ongoing	YTD Fraud Attempted	YTD Fraud Successful	YTD Monies Reclaimed
Payment Fraud	3	3	0	3	-	-

**5.4 Adult Social Care – West Yorkshire Financial Exploitation and Financial Abuse Team**

**WYFEAT – Adult Social Care (April 2025 – March 2026 cumulative)**

Investigations	Pre-Investigations	Safeguarding Only	Yet to be designated	Closed	Value (£): YTD
1	2	2	2	-	£40,040

### **5.5 Blue (Parking) Badge Fraud**

<b>Cases Brought Forward</b>	<b>New Referrals</b>	<b>Ongoing</b>	<b>Closed - Prosecutions</b>	<b>Closed: No Fraud Proven or Warning Issued</b>
48	35	29	21	33

### **5.6 Other Investigative Work**

<b>Investigation Type</b>	<b>YTD</b>
Money Laundering Cases	0
HR Investigations	0

### **Allegation by resident**

A member of the public asserted that a piece of repair work had been subject to fraud.

A preliminary review found that work had been carried out by way of a variation to an existing contract, evidenced by photographs.

Whilst the records that related to this task were incomplete, the attributable charges were not disproportionate for the work that seemed to have been executed, and as the amount expended on the variation was quite low, no further action was appropriate.

## **6. Regulation of Investigatory Powers Act investigations**

None this period. The annual IPCO returns were submitted in January 2026.

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# Agenda Item 14

## Corporate Governance and Audit Committee – Outline Agenda Plan – 2025/26

MEETING DATE	ITEMS FOR CONSIDERATION
20 June 2025	<ol style="list-style-type: none"> <li>1. Treasury Outturn Report (Reference to Council)</li> <li>2. Annual Governance Statement (draft)</li> <li>3. 2024-25 Audit Plan</li> <li>4. QR4 of Internal Audit</li> <li>5. Annual Report of Internal Audit</li> <li>6. District Heating Update</li> <li>7. Culture of Financial Challenges and Maximising income</li> <li>8. Procurement Motion</li> </ol>
1 August 2025	<ol style="list-style-type: none"> <li>1. Annual Corporate Emergency Planning &amp; Business Continuity</li> <li>2. External Audit Verbal Progress update</li> <li>3. Annual report of the Committee (Reference to Council)</li> <li>4. IT supporting mandatory training</li> <li>5. Community Governance Review</li> </ol>
26 September 2025	<ol style="list-style-type: none"> <li>1. Annual Report on bad debt write offs 2024/25</li> <li>2. External Auditors progress report</li> <li>3. Outside Bodies Nominations</li> <li>4. Polling district and places review</li> <li>5. Information Governance Annual Report</li> <li>6. Q1 of Internal Audit - April – June 2025</li> <li>7. Update on progress against External Auditors recommendations</li> <li>8. Community Governance Review Terms of Reference</li> </ol>
28 November 2025	<ol style="list-style-type: none"> <li>1. Treasury 6-month Outturn Report</li> <li>2. Q2 of IA -July – September 2025</li> <li>3. External Audit Progress Report</li> <li>4. Risk Management Update</li> <li>5. Corporate Customer Standards Annual Report 2024/25</li> <li>6. Risk assurance process on selected services</li> <li>7. Local Government Ombudsman Code</li> </ol>
30 January 2026	<ol style="list-style-type: none"> <li>1. Dates of Council Meetings (Reference to Council)</li> <li>2. Annual Governance Statement</li> <li>3. Final Accounts</li> <li>4. Treasury Strategy Report</li> <li>5. 2024-25 Auditors Annual Report (Value for Money)</li> <li><del>6. External Review of Internal Audit – Progress Report</del></li> <li>7. Community Governance Review</li> </ol>

20 February 2026	<ol style="list-style-type: none"> <li>1. External Audit Verbal Progress Report</li> <li>2. Q3 of IA – October – December 2025</li> <li>3. Amendment to Financial Procedure Rules (Reference to Council)</li> <li>4. Amendments to Contract Procedure Rules (Reference to Council)</li> <li>5. Changes to Constitution (Reference to Council)</li> <li>6. <del>Mandatory Training Review</del></li> </ol>
24 April 2026	<ol style="list-style-type: none"> <li>1. Annual Report of Internal Audit 2024/25</li> <li>2. Q4 of IA – January – March 2026)</li> <li>3. Internal Audit Plan 2026/7</li> <li>4. 2025-26 Audit Plan</li> <li>5. Informing the Audit Risk Assessment</li> <li>6. Housing Tenancy Allocation Audit</li> <li>7. <del>Customer Complaints Interim Report</del></li> <li>8. Culture of Financial Challenges</li> <li>9. Bad Debt recovery transformation programme report</li> <li>10. Mandatory Training Review</li> </ol>