

STANDARDS COMMITTEE

Thursday,
5 July 2007
1.00 p.m.

Council Chamber,
Council Offices,
Spennymoor

AGENDA and REPORTS



This document is also available in other languages, large print and audio format upon request

العربية (Arabic)

إذا أردت المعلومات بلغة أخرى أو بطريقة أخرى، نرجو أن تطلب ذلك منا.

বাংলা (Bengali)

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

(中文 (繁體字)) (Cantonese)

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

हिन्दी (Hindi)

यदि आपको सूचना किसी अन्य भाषा या अन्य रूप में चाहिये तो कृपया हमसे कहे

polski (Polish)

Jeżeli chcieliby Państwo uzyskać informacje w innym języku lub w innym formacie, prosimy dać nam znać.

ਪੰਜਾਬੀ (Punjabi)

ਜੇ ਇਹ ਜਾਣਕਾਰੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਜਾਂ ਕਿਸੇ ਹੋਰ ਰੂਪ ਵਿਚ ਚਾਹੀਦੀ, ਤਾਂ ਇਹ ਸਾਥੋਂ ਮੰਗ ਲਓ।

Español (Spanish)

Póngase en contacto con nosotros si desea recibir información en otro idioma o formato.

اردو (Urdu)

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھیے۔

AGENDA

1. **APOLOGIES**
2. **MINUTES**
To confirm as a correct record the Minutes of the meeting held on 27th April 2007. (Pages 1 - 2)
3. **COMMITTEE ON STANDARDS IN PUBLIC LIFE: ANNUAL REPORT 2006**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 3 - 8)
4. **STANDARDS COMMITTEE FORWARD PLAN 2007/2008**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 9 - 14)
5. **TRAINING ARRANGEMENTS FOR MEMBERS: 2007**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 15 - 18)
6. **STANDARDS BOARD ROADSHOW, 12TH JUNE 2007, NEWCASTLE**
To consider the attached report of the Solicitor to the Council and Monitoring Officer. (Pages 19 - 24)
7. **ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION PART I**
To consider the attached report of the Chief Executive. (Pages 25 - 104)
8. **DATE OF NEXT MEETING**
1st November 2007 at 1.00 p.m. in the Council Chamber, Council Offices, Spennymoor.
9. **ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**
Members are respectfully requested to give the Chief Executive notice of items they would wish to raise under the heading not later than 12 noon on the day preceding the meeting, in order that consultation may take place with the Chairman who will determine whether the item will be accepted.

B. Allen
Chief Executive

Council Offices
SPENNYMOOR

Councillor L. Petterson (Chairman)
Councillors A. Gray, T. Hogan, Mrs. L. Hovvels, Mrs. E. Maddison and J. Wayman J.P

Councillor J. Marr (Spennymoor Town Council)
Mr. I. Jamieson (Independent Member)

ACCESS TO INFORMATION

Any person wishing to exercise the right of inspection in relation to this Agenda and associated papers should contact Miss. S. Billingham, Tel 01388 816166 Ext 4240, sbillingham@sedgefield.gov.uk

Item 2

SEDGEFIELD BOROUGH COUNCIL

STANDARDS COMMITTEE (SPECIAL MEETING)

Council Chamber,
Council Offices,
Spennymoor

Friday,
27 April 2007

Time: 1.00 p.m.

Present: Councillor L. Petterson (Chairman) and

Councillors Mrs. B. Graham, Mrs. C. Sproat and J. Wayman J.P

Parish/Town Council member

Councillor J. Marr

Apologies: Councillors A. Gray and Mrs. L. Hovvels

Independent Member

Mr. I. Jamieson

ST.40/06 DECLARATIONS OF INTEREST

Councillor Mrs. C. Sproat declared a personal interest in Item 3 as she was a Member of the Employment Issues Panel.

ST.41/06 ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION

NB. In accordance with Section 81 of the Local Government Act 2000 and the Members' Code of Practice of Conduct, Councillor Mrs C. Sproat declared a personal interest in the above item and remained in the meeting as an observer.

Consideration was given to a report of the Chief Executive, which detailed the need to continually review the Constitution to ensure that it reflected existing law and its operational continued to provide an efficient and effective framework on the delivery of the Council's aims and objectives. (For copy see file of Minutes).

Member's attention was drawn to the proposed changes to the Constitution outlined in the report.

Discussion was held regarding the process of the Employment Issues Panel, specifically who made the final decision and what procedures were in place for grievance and appeals. It was explained that the Chief Executive would make recommendations to the Panel, however, the final decision would be made by the Employment Issues Panel. With regard to appeals and grievance, it was explained that there was no appeals procedure as such as discussions would have been held prior to attendance at the Panel. Any grievance would need to be considered in detail, following the procedure adopted by the Council.

RECOMMENDED : *That the Council be recommended to approve the amendments set out in the Appendix and direct the Council's Monitoring Officer to :*

- a. Amend the Constitution accordingly and make all necessary and consequential amendments.*
- b. To publish an amended version on the Council's website.*

ST.42/06

IMPLEMENTATION OF THE REVISED MODEL CODE OF CONDUCT FOR MEMBERS

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer detailing the implementation of the revised Model Code of Conduct for Members. (For copy see file of Minutes).

It was explained that the revised Code of Conduct would come into force on 3rd May, 2007. Local authorities would have six months to adopt the Code, however, after October, 2007 it would apply automatically.

Member's attention was drawn to the main changes outlined in the report.

- RECOMMENDED :*
- 1. That the report be noted.*
 - 2. That by approval of full Council on 29th June, 2007, the revised Code of Conduct be adopted unamended; that the Council adopts the ten General Principles as an annex to the new Code; that Parish and Town Councils be advised to do likewise.*
 - 3. That consequential changes be made to the Council's Constitution.*

ACCESS TO INFORMATION

Any person wishing to exercise the right of inspection, etc., in relation to these Minutes and associated papers should contact Miss S. Billingham, Tel 01388 816166 Ext 4240, sbillingham@sedgefield.gov.uk

Item 3

REPORT TO STANDARDS COMMITTEE

05th JULY 2007

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

COMMITTEE ON STANDARDS IN PUBLIC LIFE: ANNUAL REPORT 2006

1. SUMMARY

- 1.1 This report is a summary of the Annual Report 2006 published by the Committee on Standards in Public Life.
- 1.2 John Major established the Committee on Standards in Public life in October 1994, the Committee was given wide terms of reference: "To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life".
- 1.3 In the course of the last year the Committee has pointed to the importance of ensuring that key mechanisms and institutions concerned with propriety continue to carry public confidence and operate in a fully proportionate manner.
- 1.4 In the course of the last year the Committee has continued to make a significant impact through the adoption of its practicable solutions in specific policy areas of public concern.

2. RECOMMENDATIONS

- 2.1 That the Standards Committee be appraised of the report.

3. DETAIL

- 3.1 **Overview of Activities:** The Committee held 9 meetings in 2006 and 12 sessions of public hearings as part of its Eleventh Inquiry. One of the major reports published by the Committee, was the Eleventh Report, "Review of the Electoral Commission".
- 3.2 The report was commissioned due to the continuing public concerns about:
 - the arrangements for voter registration;
 - postal voting on demand and the link to a number of high-profile legal cases on electoral fraud; and
 - loans to political parties with allegations that these were connected to the awarding of honours.

- 3.3 The mandate of the Electoral Commission has an impact on key issues such as electoral administration, the conduct of elections and standards of propriety in financing political parties. Each of these issues has been the subject of recent public concern, and each affects the way individuals engage in the political process and the broader question of political legitimacy.
- 3.4 For these reasons the Committee believed it was important to ask whether the Electoral Commission's current mandate, governance arrangements and accountability framework were appropriate for the purpose required of the Commission.
- 3.5 An effective Electoral Commission is a necessary and vital part of the modern institutional architecture. Its core duties should be as a regulator to ensure integrity and public confidence in the electoral process and the framework that governs political party funding and campaign expenditure. Through a combination of deficiencies in its current mandate, which is too weak in some areas and too broad in others, this has contributed to a loss of confidence by the public and political parties in the integrity of both the electoral process.
- 3.6 *Inquiry Process:* The work of the Committee is evidence based. Evidence for the Eleventh Inquiry came from written submissions, public hearings and specifically commissioned research. Conclusions are reached and recommendations are made on the basis of an analysis of the evidence received and generated during an inquiry. The Committee is expecting official responses to the report from the Government, the Electoral Commission and the Speaker's Committee.
- 3.7 *The Tenth Report: The Ethical Standards Framework for Local Government,* proposed a move to locally-based arrangements for the initial handling, investigation and determination of complaints by existing local Standards Committees, a strengthening of the independent composition of local Standards Committees, changes to the Code of Conduct and transformation of the Standards Board into a strategic regulator.
- 3.8 The Committee welcomes the overall approach that the Government and the Standards Board have taken on the new ethical environment. It continues to believe that a more proportionate and locally-based approach to ethical standards in Local Government will help embed high standards of conduct in individual authorities and increase the public's trust in their locally elected representatives.
- 3.9 On the 15th September 2006 the Committee published the results of its second national quantitative survey of public attitudes towards conduct in public life. The survey broadly confirmed that although the public is moderately positive about standards of conduct overall, they hold some negative perceptions about the behaviour of national politicians, and to a lesser, senior public officials.

- 3.10 The public's perceptions about the extent to which national politicians fail to demonstrate some key behavioural attributes may help explain the low levels of trust the public continues to have in these public office holders. It must be a matter of concern that levels of trust remain low and that, for example, Government Ministers now appear second from bottom in the list of professions people would generally trust to tell the truth.
- 3.11 The Committee have commissioned some explanatory qualitative research with members of the public to review the Seven Principles in Public Life and their descriptions. The research explored the descriptions accompanying the Seven Principles looking specifically at public reactions to current and alternative descriptions developed for each principle and a revised set of draft principles and descriptions have been developed. The Committee is currently considering the research and how best to take it forward.
- 3.12 *The Operation of the Ministerial Code:* The Committee has had a long-standing interest in the content and operation of the Ministerial Code. The Government in response to the Committee's Ninth Report accepted the case for appointing an independent adviser on ministerial interests, though on different terms to those that the Committee proposed. The Government rejected the Committee's recommendation to appoint, at the beginning of each Parliament, individuals of senior standing to a panel to investigate alleged breaches of the Ministerial Code.
- 3.13 Subsequent experience of the handling of both ministerial interests and allegations of breaches of the Code reinforced the Committee's view that the Ninth Report recommendations remained relevant and the Committee continue to press publicly for their adoption.
- 3.14 *New Civil Service Code:* The Committee's Ninth Report essentially recommended that the key principles in the Code be put on a statutory footing in a Civil Service Act and the Code itself be made as regulation under such an Act.
- 3.15 In January 2006 a consultation was launched on a new Civil Service Code. The aim of the new Code was to provide accessible, high level summary of the core values and behaviours, which are common to civil servants, in particular the Committee welcomed:
- Clear and simple descriptions of what the principles of integrity, honesty, objectivity and impartiality mean;
 - A broader definition of honesty, that includes being truthful;
 - A clear explanation of "political impartiality" as a specific duty of civil servants and as a sub-set of impartiality more generally;
 - An explicit reference to the Public Interest Disclosure Act;
 - Providing for the Civil Service Commissioners to consider taking a complaint directly from a Civil Servant.

- 3.16 *The System of Allowances and Expenses for Members of Parliament:* The Senior Salaries Board is currently reviewing the parliamentary pay and allowances initiated by the prime Minister in July 2006 and the Committee welcomes this opportunity to clarify the basis and boundaries of the allowance and expenses regime. It is hoped that the review will help build public confidence and a perception of equity with others in the arrangements for MPs.
- 3.17 *Loans for Peerages:* One of the recommendations in the Committee's Fifth Report was that all donations over £5,000 should be publicly disclosed. The Conservative Party was reported to have secured a number of multi-million pound loans from various individuals to help fund its election campaign. Nothing was subsequently heard about this issue until March 2006 when the House of Lords Appointments Commission rejected several nominations for life peerages.
- 3.18 It was subsequently revealed that the individuals had loaned large amounts of money to the Labour Party before the general election. This aroused suspicion that peerages were being sold for cash donations. A police investigation was launched and is still ongoing but is apparent that issues raised have further undermined public trust in the political class.
- 3.19 *Electoral Fraud:* The Eleventh Inquiry suggests that since the introduction of postal voting there has been a growing perception and evidence that the electoral system is more susceptible to organised electoral fraud. However, the problem is that if successful, it goes undetected. These problems arise mainly because of the issue of trust. Information received on completed electoral registration forms is taken at face value as being accurate, and virtually no checks are carried out at polling stations to verify a voter's identity. Consequentially, the Government have made a number of changes to the law through the Electoral Administration Act in an attempt to combat electoral fraud.
- 3.20 *Electoral Registration:* The system of electoral registration is probably the most critical element of the electoral administration process and underpins the most fundamental principles and therefore legitimacy of the UK's democratic processes. It is essential that the electoral register and the system of electoral registration retain the trust and confidence of both the electorate and political parties.
- 3.21 During the Eleventh Inquiry many of the individuals who gave evidence to help the Inquiry were concerned that large numbers of eligible voters were not registering and that up to 3.5 million eligible individuals were not registered and another concern was the accuracy of the register. The Electoral Commission has been in favour of introducing individual registration since 2003 as an anti-fraud measure, the Government agree that on principle individual registration is the right way forward but are yet to implement it.

4. RESOURCE IMPLICATIONS

4.1 No specific financial implications have been identified.

5. CONSULTATIONS

5.1 The Council's Management Team has considered this report.

6. OTHER MATERIAL CONSIDERATIONS

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

7. OVERVIEW AND SCRUTINY IMPLICATIONS

7.1 None apply.

8. LIST OF APPENDICES

8.1 None apply.

Contact Officer: Dennis A. Hall/Laura Starrs
Telephone Number: 01388 816166, Ext. 4268
E-mail address: dahall@sedgefield.gov.uk

Wards: N/A

Key Decision Validation: N/A

Background Papers

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

Item 4

REPORT TO STANDARDS COMMITTEE

05TH JULY 2007

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

STANDARDS COMMITTEE FORWARD PLAN 2007/2008

1. SUMMARY

- 1.1 This report details a forward plan for the Standards Committee for 2007/2008.
- 1.2 The forward plan outlines the areas that are to be considered at future Standards Committee meetings. All areas are in accordance with the Standards remit as outlined in Article 9 of the Constitution.

2. RECCOMENDATIONS

- 2.1 That the Standards Committee be appraised of the report and the forward plan be approved.

3. DETAIL

- 3.1 The forward plan has been prepared in conformity with the Standards Committee remit, and aims to;
 - Promote and maintain high standards of conduct by Councillors and co-opted Members;
 - Assist Councillors and co-opted Members to observe the Members' Code of Conduct;
 - Advise the Council on the adoption or revision of the Member's Code of Conduct;
 - Monitor the operation of the Members' Code of Conduct;
 - Advise, train or arrange to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
 - Deal with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
 - The exercise of the above in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils;
 - Overview the whistle blowing policy;
 - Oversee the constitution;
 - Deal with cases referred to the Standards Committee by the Standards Board and to conduct local determination hearings in accordance with the Model Hearing Procedure;

- Take such other steps as may from time to time be taken in accordance with the powers of the Local Government Act 2000 and any subordinate legislation there under;
- To deal with cases referred to the Standards Committee by the Council's Monitoring Officer and to conduct a hearing in accordance with the model hearing procedure, as amended, or substituted, where necessary, for that purpose.

3.2 The forward plan takes into account the Standards remit and identifies how the remit will continue to be met.

4. RESOURCE IMPLICATIONS

4.1 No specific financial implications have been identified.

5. CONSULTATIONS

5.1 The Council's Management Team has considered this report.

6. OTHER MATERIAL CONSIDERATIONS

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

7. OVERVIEW AND SCRUTINY IMPLICATIONS

7.1 None apply.

8. LIST OF APPENDICES

8.1 Appendix 1 - Forward Plan.

Contact Officer: Dennis A. Hall/Laura Starrs
Telephone Number: 01388 816166, Ext. 4268
E-mail address: dahall@sedgefield.gov.uk

Wards: N/A

Key Decision Validation: N/A

Background Papers

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3. The content has been examined by the Council’s Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

SEDGEFIELD BOROUGH COUNCIL

STANDARDS COMMITTEE FORWARD PLAN 2007/2008 AND SUPPORTING ACTIVITIES

Date	Items	How the items relate to the Standards Remit
5 th July 2007	<ul style="list-style-type: none"> • Training and development update. • Annual Report of the Committee on Standards in Public Life. • Constitutional update. • Standards Board Roadshow: Update 	<ul style="list-style-type: none"> • Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct. • Promoting and maintaining high standards of conduct by Councillors and co-opted Members. • Oversight of the Constitution.
1 st November 2007	<ul style="list-style-type: none"> • Training and development update. • Code of Conduct - Breaches 2006/07 Review. • Corporate Governance action plan update. • Constitutional update. 	<ul style="list-style-type: none"> • Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code. • Assisting Councillors and co-opted Members to observe the Members' Code of Conduct. • Monitoring the operation of the Members' Code of Conduct. • Oversight of the Constitution.

<p>7th February 2008</p>	<ul style="list-style-type: none"> • Training and development update. • Analysis of current trends in allegations of misconduct for the previous year. • Constitutional update. • Confidential Reporting Policy. • Leader's Standards and Ethical Strategy Statement. • Members training and development: attendance review (2007). • Local Filtering of Complaints 	<ul style="list-style-type: none"> • Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct. • Monitoring the operation of the Members' Code of Conduct. • Assisting Councillors and co-opted Members to observe the Members' Code of Conduct. • Promoting and maintaining high standards of conduct by Councillors and co-opted Members. • Overview of the whistle blowing policy. • Oversight of the Constitution.
<p>3rd April 2008</p>	<ul style="list-style-type: none"> • Training and development update. • Constitutional update. • Guidance/Procedures for Local Filtering of Complaints 	<ul style="list-style-type: none"> • Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct. • Promoting and maintaining high standards of conduct by Councillors and co-opted Members. • Oversight of the Constitution.

	<ul style="list-style-type: none"> • Monitoring Officers guidance and advice notes: MO, MO/SBC and MO/SBC/CONS Series. • Attendance of Monitoring Officer at Management Team and Statutory Officers Meetings. • Attendance at Cabinet and the Regulatory other Committees of the Council • Policy advice to Working Groups. • Monitoring Officer role as chair of County Monitoring Officer's Group. • Standards pages/website development. • On-line Register of Members' Interests. • Member Handbook 	<p>On going supporting activities.</p>
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Item 5

REPORT TO STANDARDS COMMITTEE

05th JULY 2007

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

TRAINING ARRANGEMENTS FOR MEMBERS: 2007

1. SUMMARY

- 1.1 This report outlines the training arrangements for Members throughout 2007.
- 1.2 Members are reminded that it is a mandatory requirement to attend at least one qualifying training event during the year. Henceforward details of member attendance/non attendance will be publicly available.

2. RECOMMENDATIONS

- 2.2 That Standards Committee be appraised of the Report and note future training events.

3. DETAIL

- 3.1 All the changes to the Code of Conduct were covered by the Monitoring Officer at the Post Election Member Induction on Standards and Ethics, which was held on the 10th May 2007.
- 3.2 A Standards Board Roadshow took place in Newcastle on the 12th June 2007, where the Council was represented. The purpose of the event was to give an overview of the revised Code of Conduct, and outline the Challenges for 2008, including the local filter for complaints and a more strategic role for the Standards Board. The issues of predetermination and bias were addressed, although not part of the Code, both are important for Members and Monitoring Officers. Attendees were given the opportunity to discuss their concerns and share their views on the revised Code of Conduct.
- 3.3 A training session facilitated by Peter Keith-Lucas of Bevan Brittan Solicitors took place on the 27th June 2007 at Ferryhill Leisure Centre, and covered in detail the changes to the Code. The event provided the opportunity for discussion on areas of the revised Code; how complaints arise, how they are dealt with; the pre-hearing process. The event was aimed at Members of Local Authority Standards Committees, Monitoring Officers and their Deputies and Town and Parish Clerks and their Members. A further report later in the year will evaluate this event in detail.
- 3.4 In the autumn of 2007, training sessions, to be delivered by the Council's Monitoring Officer will be held, focusing on the ethical

environment and the revised Code of Conduct. These sessions will be aimed at Borough Members and Town and Parish Councillors; details are as follows:

- Ferryhill Town Council: Wednesday 29th August 2007, 6.00p.m
- Great Aycliffe Town Council: Wednesday 5th September 2007, 6.30p.m.
- Sedgefield Town Council: Monday 17th September 2007 (*Time TBC*)
- Spennymoor Town Council: Wednesday 26th September 2007, 6.30p.m.

3.5 Also, in the autumn of 2007 several training sessions are planned for Borough Members, including the screening of the Standards Board's Videos/DVDs and a presentation on Regulatory Committees, details are to be confirmed.

4. RESOURCE IMPLICATIONS

4.1 No specific financial implications have been identified.

5. CONSULTATIONS

5.1 The Council's Management Team has considered this report.

6. OTHER MATERIAL CONSIDERATIONS

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

7. OVERVIEW AND SCRUTINY IMPLICATIONS

7.1 None apply.

8. LIST OF APPENDICES

8.1 None apply.

Contact Officer: Dennis A. Hall/Laura Starrs
Telephone Number: 01388 816166, Ext. 4268
E-mail address: dahall@sedgefield.gov.uk

Wards: N/A

Key Decision Validation: N/A

Background Papers

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4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

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Item 6

REPORT TO STANDARDS COMMITTEE

05th JULY 2007

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

STANDARDS BOARD ROADSHOW, 12TH JUNE 2007, NEWCASTLE

1. SUMMARY

- 1.1 This report summarises the event attended by Standards Committee Members held by the Standards Board on the 12th June 2007 at The Assembly Rooms, Newcastle.
- 1.2 The purpose of the event was to give an overview of the revised Code of Conduct, and outline the Challenges for 2008, including the local filter for complaints and a more strategic role for the Standards Board. The issues of predetermination and bias were addressed, although not part of the Code, both are important for Members and Monitoring Officers. Attendees were given the opportunity to discuss their concerns and share their views on the revised Code of Conduct.
- 1.3 Representatives of the Standards Board for England were present at the event, including the Chief Executive, David Prince, and Standards Board Member, Roger Taylor.

2. RECOMMENDATIONS

- 2.1 That the Standards Committee considers the report and the views expressed therein.

3. DETAIL

- 3.1 A number of views were expressed by the Standards Board during the course of the introductory session:-
 - Managing the change system is dependent upon strategic regulation and supporting the locally based framework.
 - The Standards Board will define the standards regime, issue statutory and other guidance and provide advice and support.
 - New Local Government Bill to receive Royal Assent in July or October, which will bring into force a raft of detailed regulations in preparation for local filtering in 2008.
- 3.2 **The Revised Code of Conduct:** Emphasise at the Roadshow was placed on the changes to the Code of Conduct and each change was outlined in detailed. The changes are as follows:

1. *Complying with Equality Laws (anti-discrimination)*: In summary, there are four main forms of discrimination; direct, indirect, harassment and victimisation, all of which will amount to a breach of the Code of Conduct. Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality.
 2. *Bullying and Intimidation*: The Code does not offer a definition of bullying but the Board gave a working definition as “*offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power or authority, which attempts to undermine an individual or a group*”, however, guidance will be issued by the Board to clarify.
 3. *Confidential Information*: It was highlighted that you can only disclose confidential information, where you have consent or are required by law, or the disclosure is made to a third party to obtain professional advice, however, the third party must agree to be bound by confidentiality. The disclosure must be reasonable and in the public interest. Board Member, Roger Taylor stressed that only in exceptional circumstances can confidentiality be breached. Members must ask themselves four questions; ask why it is confidential, raise concerns through appropriate channels seeking advice, consider circumstances, and decide how much of the information needs to be disclosed.
 4. *Disrepute*: Applies when acting in your official capacity, however when the Local Government Bill is introduced, the Code will apply to conduct in a private capacity which results in a criminal conviction, only if it involves disrepute, misusing your position or intimidation. Potentially, the Code could be amended to apply to any conduct in a private capacity, but the Government at present is only interested in conduct, which results in a criminal conviction.
- 3.3 Comment was made upon personal and prejudicial interest. The Board explained that the major change to declaring a personal interest is where a public body exemption applies. This will apply where an interest arises solely from membership, of, or position of control or management on, any other body which you were appointed or nominated by the authority or any other body exercising functions of a public nature. It was also interesting to note that a gift or hospitality now amounts to a personal interest.
- 3.4 A prejudicial interest can only materialise from a personal interest. The test is focused on what a member of the public, who knows the relevant facts, would reasonably think. If you have a prejudicial interest you can attend the meeting, but only make representations, answer questions or give evidence, if the public can do so for the same purpose (this does not give you the same rights that the public might have to stay in the meeting afterwards).

- 3.5 **Bias and Predetermination:** Although not part of the Code a short presentation explained both issues. Bias and predetermination is mainly a common law, natural justice ground but nevertheless has prevented Members participating in meetings. To summarise, the Board made reference to statements made by Phil Woolas, one of particular interest was “what members must not do is finally make up their mind before the council meeting, so as not to be prepared to listen to the arguments and representations under consideration at the meeting. Also, they must not give the impression that this is their position”.
- 3.6 **Challenges for 2008:** Chief Executive, David Prince, stressed the need for a local focus on ethical issues. By 2008, the following aspects of the ethical standards regime will be transferred to local ownership:
- Filtering allegations
 - Reporting on Performance
- 3.7 A summary of the statistical figures relating to complaints was presented, interestingly:
- There has been at least one complaint about a Member of each District Council over five years;
 - A quarter of all other principal authorities had no complaints made about their own Members in five years;
 - A principal authority can expect an average of six complaints about its own Members each year;
 - There have been no complaints about Members of 80% of all Parish Councils over five years;
 - A District Council with 100+ Parishes can expect around 18 allegations about them each year.
- 3.8 Board Member, Roger Taylor laid emphasis on making the elements of local investigation work based on a local system. The whole process for dealing with allegations will be local, not just the investigation and hearing but the actual receiving of allegations and the decision whether to refer them for investigation.
- 3.9 The Board raised issues for local authorities to consider when receiving and assessing complaints, for example the handling of the allegations, the receipt and notification, the decision taken by the Standards Committee, criteria to use and appeal mechanisms. Focus was placed on the pilot schemes, which the Standards Board are currently supervising. 50 authorities signed up to the scheme and the pilots are covering three areas, receiving allegations, joint Standards Committees and reporting and intervention, feedback will be available when the pilots are complete.
- 3.10 During the questions and discussions section of the event, issues relating to the revised Code of Conduct were discussed and other emerging issues were identified as follows:-

- How many cases can you expect to be dealing with?
- How will your Standards Committee make referral decisions?
- How long will it take to make the decision?
- How important are consistent criteria?
- How will joint arrangements be managed?
- Does the work of the Standards Board need publicising?

4. RESOURCE IMPLICATIONS

4.1 No specific financial implications have been identified.

5. CONSULTATIONS

5.1 The Council's Management Team has considered this report.

6. OTHER MATERIAL CONSIDERATIONS

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

7. OVERVIEW AND SCRUTINY IMPLICATIONS

7.1 None apply.

8. LIST OF APPENDICES

8.1 None apply.

Contact Officer: Dennis A. Hall/Laura Starrs
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Wards: N/A

Key Decision Validation: N/A

Background Papers

The Code of Conduct – Guide for Members
Roadshow 2007 - Presentation

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council’s Head of the Paid Service or his representative	<input type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council’s S.151 Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council’s Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

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**REPORT TO STANDARDS COMMITTEE
 CABINET 19TH JULY 2007
 COUNCIL 27TH JULY 2007**

5TH JULY 2007

**REPORT OF CHIEF
 EXECUTIVE**

PORTFOLIO: STRATEGIC LEADERSHIP GROUP

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION (1)

CHANGES TO CONTRACT PROCEDURE RULES

1 SUMMARY

- 1.1 The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place to the Constitution to ensure it is up-to-date.
- 1.2 The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives. This report is concerned specifically with the Council's Contract Procedure Rules (CPRs) contained in Part 4 Section G of the Constitution.
- 1.3 This report provides details of the revised Contract Procedure Rules that have been developed following meetings of a review group of departmental representatives from across the Council and advice from the Council's Monitoring Officer.

2 RECOMMENDATIONS

- 2.1 It is recommended that Standards Committee:-
- consider the revised Contract Procedure Rules shown in Appendix 1 and advise Council to approve this report;
 - directs the Council's Monitoring Officer to amend the Constitution accordingly, make all necessary and consequential amendments; and to publish an amended version on the Council's website;
 - helps to facilitate a procurement training programme by providing names of officers within each Department responsible for procurement activity

3 CONTRACT PROCEDURE RULES

Background

- 3.1 Contract Procedure Rules provide a corporate framework for the procurement of all goods, services and works for the Council. They are an important part of ensuring value for money and ensure the correct appointment of Contractors.

The existing Contract Procedure Rules (CPRs) have been in place since adoption of the Constitution in 2002. Since that time there have been several significant influences that have had an impact on local government procurement activity:

- (a) The launch of the National Procurement Strategy, which sets out how central

government, working together with partners from the public, private and voluntary sectors, intends to improve local government procurement

- (b) The Gershon Efficiency Review, which highlighted several workstreams where local government could achieve significant gains; procurement is one of these workstreams
- (c) The drive to increase shared service provision, driven by Central Government policies Local Area Agreements
- (d) The development of Centres of Excellence to develop procurement excellence and to co-ordinate strategic procurement activity
- (e) The increasing profile of purchasing consortia, such as the Office of Government Commerce (OGC Buying Solutions) and the North East Purchasing Organisation (NEPO)
- (f) Recent guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- (g) As outlined in the Local Government White Paper “Strong and Prosperous Communities”, Government will continue to encourage cross-cutting reviews and service collaboration, and there will be increasing and changing demands on Councils budgets and departments to deliver services.

3.2 It is important to ensure that the Council’s procurement activity takes account of the national drivers mentioned above.

3.3 At a more local level, it is also important that Sedgefield BC continues to obtain value for money and propriety in the spending of public money and delivers services efficiently and effectively. It is therefore appropriate to review and improve the Council’s CPRs to further enhance the Council’s ability to procure works, goods and services more effectively.

The review of the existing CPRs also ensures that the Council is fully complying with recommended Corporate Governance arrangements issued by CIPFA and the Society of Local Authority Chief Executives (SOLACE).

The Council’s own Procurement Strategy is currently under review. The CPRs have an important role in the achievement of future Corporate and Procurement outcomes.

The revised rules are provided in full in **Appendix 1**.

Summary of Key Changes to Contract Procedure Rules

3.4 Key aspects of the changes that have been made to the contract procedure rules are detailed in the ensuing paragraphs and they cover the following broad areas of procurement:

- Financial Thresholds
- European Union Directives
- E-Procurement

- Procurement Consortia
- Engagement of Consultants
- Partnerships

A more direct comparison between the old contract procedure rules and the new procedure rules can be found in **Appendix 2**.

Financial Thresholds

- 3.5 The setting of financial thresholds is an important aspect of procurement that can have a major impact on the effectiveness and efficiency of an organisation's procurement practices. Setting thresholds that are too high can increase the risk of achieving poor value for money. On the other hand, setting thresholds that are too low creates beauracracy, additional administration and reduced flexibility which can compromise the Council's ability to provide responsive customer focused services.
- 3.6 Consultation was widely held in determining the new thresholds which included comparisons of thresholds in operation across other local authorities and advice from CIPFA and other legal advisors. However, the determination of thresholds is ultimately a local decision for each authority based on its own financial management arrangements and risk assessments.
- 3.7 The following table summarises the thresholds and related procurement rules for awarding and approving contracts that are now incorporated in the revised CPRs following the outcome of the consultation:

CPR	Total Contract Value	Award Procedure	Approval
2	Above EU thresholds £144,371 for goods and services £3,611,319 for works	<input type="checkbox"/> EU procurement procedure, or where not applicable <input type="checkbox"/> Invitation to Tender by advertisement/or select list to a minimum of 4 companies	Formally consult the Solicitor to the Council and Procurement Officer
5	Less than £1,000	<input type="checkbox"/> Regard to be given for need to obtain value for money	Chief Officer
6	£1,000 - £24,999.99	<input type="checkbox"/> Minimum 3 quotations required <input type="checkbox"/> Regard to be given for need to obtain value for money	Chief Officer
7	£25,000 - £49,999.99	<input type="checkbox"/> Invitation to Tender <input type="checkbox"/> Minimum 4 companies <input type="checkbox"/> No advert required	Chief Officer
CPR	Total Contract Value	Award Procedure	Approval
8	Schemes of a Specialist Nature In excess of £25,000	<input type="checkbox"/> Invitation to Tender <input type="checkbox"/> Minimum 3 companies <input type="checkbox"/> No advert required	Chief Officer
9	Single Tender (a) In excess of £25,000	<input type="checkbox"/> Invitation to Tender <input type="checkbox"/> Single contractor <input type="checkbox"/> No advert required <input type="checkbox"/> Single Tender action not to be undertaken prior to approval	Chief Officer, Director of Resources, Monitoring Officer, in consultation with appropriate Cabinet Member
10	Negotiated Tenders (b)	<input type="checkbox"/> Negotiate tender price	Chief Officer,

		with existing/previous contractor <input type="checkbox"/> Negotiated Tender action not to be undertaken prior to approval	Director of Resources, Monitoring Officer, in consultation with appropriate Cabinet Member
11	Selective Tendering Select Lists (c) in excess of £50,000	<input type="checkbox"/> Invitation to Tender <input type="checkbox"/> Minimum 4 companies on Select List	Chief Officer
12	Selective Tendering Ad Hoc (d) lists in excess of £50,000	<input type="checkbox"/> Invitation to Tender <input type="checkbox"/> Minimum 4 companies <input type="checkbox"/> Advert required	Chief Officer

(a) *Single Tender* - where the Chief Officer has decided that there is only one possible contractor or supplier suitable for a given contract

(b) *Negotiated Tenders* - where the Chief Officer has decided that it is economic to re-engage a contractor who previously performed successfully on a similar project, or is carrying out an existing contract within a similar location. In such cases, the Chief Officer concerned may negotiate a tender price with the selected contractor.

(c) *Select Lists* - "Lists" which are kept of companies to be invited to tender for contracts for the supply of goods services or materials of specified categories, values or amounts or for the execution of specified categories of works

(d) *Adhoc Lists* – "Lists" of companies who have replied to a public contract notice published by the Council

3.8 The review of the financial thresholds has sought to adopt best practice, increase efficiency in the procurement process and to ensure compliance with competitive arrangements. The key changes include the raising of the threshold for undertaking a formal tendering exercise from £10,000 to £25,000 backed up by a requirement to ensure that a minimum number of comparative quotes are obtained for spending between £1,000 and £25,000.

3.6 European Union Directives

The procurement of goods, services and works must comply with European Union (EU) public procurement processes of inviting tenders through the Official Journal of the European Union (OJEU) where the value of goods, services and works exceeds prescribed financial thresholds. The EU thresholds were last amended in January 2006 and the revised CPRs (Rule 2) reflect the new limits, which are **£144,371 for goods and services** and **£3,611,319 for works**.

3.7 E-Procurement

E-procurement is concerned with the use of electronic methods in the purchasing process. Local authorities have been encouraged to take up e-procurement to realise financial efficiency and other benefits. The revisions to the CPRs take account of the emergence of electronic procurement such as electronic tendering (Rules 2, 23, 26, and 32).

3.8 Procurement Consortia

A consortium is a group of organisations coming together to carry out collective purchasing. Consortium working is becoming an important tool to improve value for money and achieve efficiency savings. These take two forms – 1) National Procurement Consortia and 2) Local Procurement Consortia. Much of the goods and services procured are 'common' to others and significant economies of scale can be achieved when buying through consortia. In addition, consortium procurement teams 'deal with contracts everyday' – so it avoids duplication and effort from other members of the consortium. The revised CPRs incorporate

new guidance (Rule 14 and 15) relating to the procurement of goods, services and works via consortia arrangements.

3.9 Engagement of Consultants

The engagement of consultants is an increasing area of spend within local government as more challenging and innovative forms of service delivery are being considered requiring specialisms and knowledge not normally held within Councils. The revised CPRs (Rule 21) clarify that the engagement of consultants is to be treated as a 'supply of services', which means that CPRs must be adhered to when appointing consultants.

3.10 Partnerships

Partnerships and other joint working arrangements are having a greater emphasis on the activities of the public sector. The Council cannot achieve its objectives by acting alone and is increasingly engaging with wider stakeholders and partners in delivering services. The revised CPRs contain new guidance surrounding procurement in partnerships arrangements (Rule 22) outlining the parameters for establishment and monitoring of partnerships. Specifically, the rules stipulate that in a partnership the **lead organisation's** own contract procedure rules are to be followed, providing that legal and value for money obligations are complied with.

Implementation and Training

- 3.11 To ensure that the revised CPRs are implemented and embedded effectively across the Council, a comprehensive training programme will be delivered to Directors, Heads of Service and senior managers/procurement staff. A "Plain English" guidance document, supported by a series of process flow-charts, will be prepared for reference purposes and disseminated to all departments. Additionally, support and guidance will be available via the Procurement Officer within the Financial Services Section of the Resources Department.
- 3.12 To ensure that the training is delivered to the correct audience, Management Team are requested to provide the names of officers responsible for procurement within each Department across the Council as soon as possible.
- 3.13 A Procurement Toolkit is being developed collaboratively by the Durham Procurement Partnership. This toolkit will provide access to a vast range of Procurement guidance.

4 RESOURCE IMPLICATIONS

- 4.1 The contents of this report do not contain any material resource implications other than officer time required in preparing and delivering training packages and small printing costs associated with preparing guidance documents. These can be met from existing budgeted resources.

5. CONSULTATIONS

- 5.1 The proposed amendments to the CPRs have been developed following a robust consultation process between officers with procurement responsibility from all departments of the Council and reflect the results of these consultations.
- 5.2 Account has been taken from CIPFA guidance on Contract Procedure Rules issued in 2006.

6 OTHER MATERIAL CONSIDERATIONS

Links to Corporate Objectives/Values

- 6.1 The amendments to the CPRs contribute significantly to the Councils Corporate Value to “*Be responsible with and accountable for public finances.*” Contract Procedure Rules are central to the delivery of modern local government services and also contribute to the Corporate Value to “*Achieve continuous improvement and innovation in service delivery.*”

Risk Management

- 6.2 The revision to the CPRs facilitate an improvement in the Councils existing procurement arrangements, particularly by addressing key risks around Partnerships, Procurement Consortia and e-Procurement. These are procurement issues, which have emerged since the adoption of the current CPRs and represent an area of risk to the procurement activity currently undertaken by the Council. The changes to the financial thresholds are also aimed at improving the efficiency and effectiveness of procurement practice and reducing the risk of not achieving value for money. Further details can be found in **Appendix 3**, which contains a detailed risk assessment.

Health & Safety

There are no Health & Safety implications resulting from this report.

Equality & Diversity

There are no Equality & Diversity implications resulting from this report.

Legal & Constitutional

This report recommends a change to the Council’s Constitution, in that the existing Contract Procedure Rules are to be amended/replaced with the revised rules set out in Appendix 1 of this report.

Other Material Considerations

No other material considerations have been identified.

7 **LIST OF APPENDICES**

Appendix 1 – Revised Contract Procedure Rules

Appendix 2 – Contract Procedure Rules, showing amendments made to the current CPRs

Appendix 3 – Risk Assessment

Contact Officer	Susan Docherty – Procurement Officer
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E-mail address	sdocherty@sedgefield.gov.uk

Wards: Not applicable

Key Decision Validation: This report does not represent a key decision.

Background Papers:

Sedgefield Borough Council – The Constitution
National Procurement Strategy for Local Government

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils S.151 Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

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INTRODUCTION

The Contract Procedure Rules provide a corporate framework for the procurement of all goods, services and works for the Council. These Procedure Rules have been developed to ensure that all procurement activity is carried out with high regard for the Council's Code of Conduct. They are designed to ensure the Council obtains value for money together with the required level of quality and performance in all contracts that are let.

The Contract Procedure Rules are divided into four sections:

- Section A deals with compliance of the Procedure Rules and explains the main exceptions to these Procedure Rules.
- Section B deals with the competition requirements and the relevant procurement thresholds.
- Section C deals with tendering procedures.
- Section D deals with contracts and other formalities.

These Contract Procedure Rules set out how the Council selects contractors and suppliers to perform the works and supply the goods, materials and services the Council needs to carry out its duties. Many Council contracts are also subject to UK and European laws, which specify how they must be let. These laws must be complied with and if they conflict with the Contract Procedure Rules, the law must be followed.

Rules are minimum requirements demanded of officers and members. However, where circumstances justify it, any procurement situation can be subjected to a more comprehensive competitive approach than that laid out in these Contract Procedure Rules.

Any text formatted in *italics* throughout this document is deemed to be Guidance and is not intended to be part of the Rules.

Each individual procurement exercise must be carried out with a duty to achieving Value for Money.

The submission of reports to Cabinet can often be deemed appropriate in order to keep elected members informed of project proposals, as well as the procurement aspects.

PROCEDURE RULE 1

Contracts to Comply with Procedure Rules

- 1.1 Every contract made by or on behalf of the Council shall comply with these Procedure Rules. Any exception to this Procedure Rule may only be made subject to approval first being granted by the Cabinet.
- 1.2 Subject to Procedure Rules 1.1 and 1.3 every contract for the supply of goods and services and for the execution of works made by or on behalf of the Council shall comply with these Rules and the Council's Financial Procedure Rules. All Council employees and organisations or companies engaged to act in any capacity to procure, manage or supervise a contract must be provided with a copy of (or access to) these Procedure Rules and comply with them.
- 1.3 Every contract made under these Procedure Rules shall comply with any legislative requirement of the United Kingdom NB Local Government Act 1999 and of the European Union (EU Directives).
- 1.4 All procurement activity must be undertaken with regard to high standards of probity and in accordance with the relevant sections of the Council's Constitution. Officers shall undertake procurement activity with integrity, to the highest ethical standards, and be ensure the process is well-documented to provide an "auditable trail" and in a manner, which:
 - (a) avoids any conflicts added or potential conflicts of interest, and if any such conflicts of interest do arise, these shall be referred immediately to the Head of Organisational Development and recorded in the Register of Interests.
 - (b) is open and transparent and in all cases a central file in respect of each individual procurement exercise undertaken shall be retained by the relevant Chief Officer and will contain a record of all stages in the procurement process including a record of decisions, who made them, the rationale for the decisions and, where required, signed by the appropriate officers and members as referred to throughout the Contract Procedure Rules. Where required by the individual Procedure Rules a copy of the necessary documentation shall be sent to the Head of Organisational Development.
- 1.5 Reporting requirements in respect of Capital Programme schemes are contained in Procedure Rules 18 and 38 must be complied with.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

PROCEDURE RULE 2

Public Notice of Contracts - European Union Directives

2.1 The procurement of goods services and works must comply with the European Union public procurement legislation where applicable. Where such legislation is applicable and any conflict with these Rules arises, it takes precedence over these Rules. Current regulations require tenders to be advertised in the EU Journal where the value exceeds:

- (a) £3,611,319 for works, and *
- (b) £144,371 for the purchase of goods and services *

In estimating relevant values, officers shall have regard to the rules regarding aggregation.

2.2 Where the EU Procedure is required, the Officer shall consult the Solicitor to the Council and the Procurement Section to determine the method of conducting the purchase.

** Above figures apply from 1st January 2006 and are reviewed periodically by the EC.
For any further update to these figures refer to the Council's Procurement Section.*

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

PROCEDURE RULE 3

Exceptions to Contract Procedure Rules

- 3.1 Subject to statutory requirements tenders need not be invited in accordance with these Rules in the following cases:
- (a) In the case of the supply of goods where:
 - (i) the goods or materials are proprietary articles and in the opinion of the appropriate Chief Officer no reasonably satisfactory alternative is available, or
 - (ii) the prices of goods or materials are wholly controlled by statutory bodies, trade organisations or Government Order and in the opinion of the appropriate Chief Officer no reasonably satisfactory alternative is available.
 - (b) Where the purchase of a named or proprietary product is required to be compatible with an existing installation as approved by the Chief Officer.
 - (c) The work to be executed or the goods or services to be supplied are controlled by a statutory body.
- 3.2 Where the contract for the execution of work or the supply of goods or services certified by the appropriate Chief Officer to be required so urgently as to preclude the invitation of tenders, providing the value of this contract does not exceed the current European threshold (taking account of the rules of aggregation). The Chief Officer in consultation with the appropriate Cabinet Member shall agree the appropriate procurement option to be undertaken and prepare a report for submission to the next Cabinet, for information, reflecting the urgency of the situation. A record of the decision shall be retained on a central file held by the relevant Chief Officer and a copy sent to the Head of Organisational Development (in accordance with Procedure Rule 1.4)
- 3.3 In respect of **Consortium Arrangements** tenders need not be invited in accordance with these Rules where they have been previously undertaken by or on behalf of any consortium, collaboration or similar body, of which the Council is either a member or is able to access contracts for goods, services or works (in accordance with Procedure Rules 14 and 15). Officers shall ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK and EU procurement directives and regulations.
- 3.4 Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed (including the delivery, opening and acceptance of tenders) unless those provisions are inconsistent with the method by which tenders are dealt with by the consortium, collaboration or other body concerned and are not detrimental to the Council.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

Exemptions under this rule shall be notified to the Head of Organisational Development.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 31) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 4

Preparation of Select Lists of Contractors

- 4.1 This Procedure Rule shall have effect where the Chief Officer in consultation with the appropriate Cabinet Member has determined that "Lists" be kept of persons to be invited to tender for contracts for the supply of goods services or materials of specified categories, values or amounts or for the execution of specified categories of works.
- 4.2 The "Lists" shall:-
- (a) be compiled and maintained by the Chief Officer;
 - (b) contain the names of all persons who are approved; and
 - (c) indicate whether a person whose name is included in them is approved for contracts for all, or only some, of the specified values or amounts or categories.
 - (d) be open to inspection by any Member of the Council.
- 4.3 The use of an approved list must be structured in order to ensure open and fair competition with an appropriate rotation of suppliers from the list.
- 4.4 At least four weeks before a list is first compiled, notices inviting applications for inclusion in it shall be published:
- (a) On the Council's website
 - (b) In at least one local newspaper, unless, in the opinion of the appropriate Chief Officer following consultation with the appropriate Cabinet Member, if applicable, this will not elicit any response because of the specialist nature of the contract, in which case public notice shall be given as set out in paragraph (c) below,
 - (c) In at least one newspaper or journal circulating among such persons or bodies as undertake such contracts.
- 4.5 After the expiration of the period specified in the public notice the Chief Officer must consider the expressions of interest returned and will record all the persons who have expressed an interest and those who have satisfied the criteria of technical, health and safety and financial capability, this record will remain on the central file held by the relevant Chief Officer.
- 4.6 The said "Lists" shall be amended as required from time to time with appropriate records maintained and kept on the central files as to the removal and/or addition of companies to the said "Lists" and shall be reviewed at regular intervals of not less than one year or more than five years.
- 4.7 At least four weeks before each review every person or body whose name appears in the "Lists" shall be asked whether they wish their name to remain on the "Lists" and notices shall be published as required by paragraph (4.4) of this Procedure Rule.
- 4.8 The appropriate Chief Officer shall be responsible for notifying a supplier/contractor of inclusion/non-inclusion on any "List".
- 4.9 Firms included in any "Lists" must satisfy the criteria of technical, health and safety

and financial capability as determined by the appropriate Chief Officer and the Director of Resources.

- 4.10 The reasons for disqualifying any contractor on the basis of failing to meet technical, health and safety and financial capability or other pre-qualification criteria must be recorded.

Guidance Note (C) attached relating to preparation of "Lists" and procedures for selecting firms to tender for schemes must be followed.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

COMPETITION REQUIREMENTS - SUMMARY OF FINANCIAL THRESHOLDS

The following table summarises the procurement and approval process that needs to be taken for various financial thresholds. **REFER TO THE SPECIFIED PROCEDURE RULES FOR MORE DETAILED OPERATIONAL INFORMATION.**

CPR	Total Contract Value	Award Procedure	Approval
5	Less than £1,000	Regard to be given to the need to obtain value for money.	Chief Officer
6	£1,000 - £24,999.99	3 quotations required. Regard to be given to the need to obtain value for money.	Chief Officer
7	£25,000 - £49,999.99	Invitation to tender to 4 companies, no advert required.	Chief Officer
8	Schemes of a Specialist Nature. In excess of £25,000	A minimum number of 3 contractors or suppliers shall be invited to tender, where possible. No advert required.	Chief Officer
9	Single Tender In excess of £25,000	Single tender action shall not be taken prior to approval Invitation to tender to single contractor identified, no advert required.	Chief Officer, Director of Resources, Monitoring Officer Appropriate Cabinet Member
10	Negotiated Tenders.	Single tender action shall not be taken prior to approval Negotiate tender price with existing/previous contractor.	Chief Officer, Director of Resources, Monitoring Officer Appropriate Cabinet Member
11	Selective Tendering–Select Lists. In excess of £50,000	Invitation to tender to 4 companies on Select List.	Chief Officer
12	Selective Tendering – Ad - Hoc Lists. In excess of £50,000	Invitation to tender to 4 companies, advert required.	Chief Officer
2	Above EU Threshold £3,611,319 for works & £144,371 for goods and services * <i>* Figures apply from 1st January 2006 and are reviewed periodically by the EC</i>	EU Procedure or, where this does not apply, Invitation to Tender by advertisement/list to at least four contractors.	Formally consult the Solicitor to the Council and the Procurement Section – see Contract Procedure Rule 2

PROCEDURE RULE 5**Contracts estimated value less than £1,000**

- 5.1 Where it is estimated by the appropriate Chief Officer that the value of goods, materials or services to be supplied or works to be executed at any one time or during a specified period is less than £1,000 and the provisions of Procedure Rule 4 in relation to “Lists” of Tenderers are not considered appropriate, the Chief Officer may enter into a contract for the supply of those goods or materials or for the works to be executed without obtaining tenders. However, regard must be had to the need to obtain value for money and to the fact that the expenditure can be accommodated within the appropriate budget.
- 5.2 The Chief Officer shall keep a record of all correspondence/negotiations to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve Value for Money (subject to Procedure Rule 1.4).

Delegation referred to in 5.1 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 30) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 6**Contracts estimated to cost between £1,000 and £24,999.99**

- 6.1 Where it is estimated by the appropriate Chief Officer that the value of goods, materials or services to be supplied or works to be executed at any one time or during a specified period is more than £1,000 and up to £24,999.99 and the provisions of Procedure Rule 4 in relation to “Lists” of Tenderers are not considered appropriate, the Chief Officer may enter into a contract for the supply of those goods or materials or for the works to be executed without obtaining tenders.
- 6.2 Where appropriate a minimum of 3 written quotations are required to be sought, and kept on a central file retained by the relevant Chief Officer for audit purposes (in accordance with Procedure Rule 1.4). Regard must be had to the need to obtain value for money and to the fact that the expenditure can be accommodated within the appropriate budget.
- 6.3 The Chief Officer shall keep a record of all correspondence/negotiations to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve Value for Money (subject to Procedure Rule 1.4).

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

Delegation referred to in 6.1 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 30) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 7**Contracts estimated to cost between £25,000 and £49,999.99**

- 7.1 Where the total value of goods, services or works is estimated to cost between £25,000 and £49,999.99, the persons to be invited to tender (at least 4 wherever possible) shall be selected by the Chief Officer.
- 7.2 In cases where the goods, services or works are covered by an approved list maintained under Procedure Rule 4, the approved list must be used and at least four tenders obtained (and more where, in the opinion of the Chief Officer, there is a reasonable level of competition or variety of solutions). The use of an approved list must be structured in order to ensure open and fair competition with an appropriate rotation of suppliers from the list.
- 7.3 In determining the persons to be invited to tender regard shall be had to current technical ability and any other relevant factors with a view to ensuring that the Council obtains value for money.

Delegation included in Schedule of Powers Delegated to Officers.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 30) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 8**Schemes of a Specialist Nature - Estimated Contract Value in Excess of £25,000**

8.1 This Procedure Rule shall apply where a Chief Officer considers that, because of the specialist nature of works to be undertaken, it is appropriate to invite tenders only from those firms with the relevant experience and expertise. Examples of when this rule can be used are:-

- The purchase or repair of patented or proprietary articles or articles sold only at a fixed price;
- Works primarily involving specialist professional or technical skills or competencies or expertise in a subject or area where it is recognised that such skills or expertise are not generally available.

8.2 A minimum number of 3 contractors or suppliers shall be invited to tender, where possible.

8.3 The Chief Officer shall identify the firms to be invited to tender. The reasons for selecting the particular contractors or suppliers shall be recorded and retained on the central file held by the relevant Chief Officer (subject to Procedure Rule 1.4).

8.4 Firms must satisfy the criteria of technical, health and safety and financial capability as determined by the appropriate Chief Officer and Director of Resources before any contract is awarded.

8.5 The Chief Officer shall keep a record of all correspondence/negotiations to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve Value for Money (subject to Procedure Rule 1.4).

8.6 This Procedure Rule cannot be used if EU Procedure applies (refer to Procedure Rule 2).

Delegation referred to in 8.2 included in Schedule of Powers Delegated to Officers.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed. This note also contains guidance as to the definition of Schemes of a Specialist Nature.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 31) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 9**Single Tenders - Estimated Contract Value in Excess of £25,000**

- 9.1 This Procedure Rule shall apply where the Chief Officer has decided that there is only one possible contractor or supplier suitable for a given contract. Where this is the case, the Chief Officer concerned may invite and accept a tender from a single person or body.
- 9.2 Before single tender action is to be taken, a report shall be prepared for written approval by the Chief Officer in consultation with the Director of Resources, the Monitoring Officer and the appropriate Cabinet Member and a record of the decision shall be retained by the service. This report will set out in detail the justification for the single tender.
- 9.3 Single tender action shall not be taken prior to approval from the Director of Resources, the Monitoring Officer and the appropriate Cabinet Member.
- 9.4 The Chief Officer shall keep a record of all correspondence/negotiations to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve Value for Money (subject to Procedure Rule 1.4).

Delegation referred to in 9.2 included in Schedule of Powers Delegated to Officers.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 37 must be adhered to.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 31) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 10**Negotiated tenders**

- 10.1 This Rule shall apply where the Chief Officer has decided that it is economic to re-engage a contractor who previously performed successfully on a similar project, or is carrying out an existing contract nearby the proposed contract. In such cases, the Chief Officer concerned may negotiate a tender price with the selected contractor.
- 10.2 Before negotiations take place a report shall be prepared for written approval by the Chief Officer in consultation with the Director or Resources, the Monitoring Officer and the appropriate Cabinet Member and a record of the decision shall be retained by the service and a copy sent to the Head of Organisational Development (in accordance with Procedure Rule 1.4).
- 10.3 This report will set out in detail the justification for entering into negotiations - financial (e.g. outcome of recent competitive tendering) and non-financial, together with criteria governing cost increases if the negotiations relate to contractual arrangements for specific categories of work.
- 10.4 Negotiated tender action shall not be taken without prior approval from the Director of Resources and the Monitoring Officer.
- 10.5 As with all issues of this nature regard must be had to achieving value for money.

Delegation referred to in 10.2 included in Schedule of Powers Delegated to Officers.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 31) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 11**Selective Tendering - Select List - Estimated contract value in excess of £50,000**

- 11.1 Select Lists may be used for the selection of suitable contractors (including national frameworks such as Construction Line, G-CAT or S-CAT) for contracts that are estimated to be for amounts exceeding £50,000. The procedures for establishing Select Lists are outlined in Procedure Rule 4.
- 11.2 Where invitation to tender for a contract is limited to persons whose names appear on the "Lists" maintained under Procedure Rule 4, an invitation to tender for that contract shall be sent to:
- (a) at least four of those persons whose names appear in the "Lists" as being approved for a contract for that value or amount or of that category.
 - (b) the selection of potential sub-contractors to be invited to submit bids from select lists will be strictly by rotation, except whereby otherwise justified and agreed with the appropriate Chief Officer.
 - (c) If there are fewer than four such persons on the list then the invitation to tender shall be sent to all such persons unless the Chief Officer believes that there is a reasoned justification for not doing so. The reasons for which must be recorded and retained on the central file held by the appropriate Chief Officer (in accordance with Procedure Rule 1.4).
 - (d) If there are more than four such persons, the persons invited to tender shall be determined by the appropriate Chief Officer who shall have regard to current technical capability and any other relevant factors with a view to ensuring that the Council obtains value for money.
- 11.3 Where the value of the contract is likely to exceed the European threshold (taking account of the rules of aggregation), it must be tendered in accordance with the relevant European procurement directive and procurement regulations. The exception to this Rule is in cases where goods, services or works can be obtained through an approved list or framework contract which has been established via the relevant EU procurement process (for example, S-CAT).

Delegation referred to in 11.3 included in Schedule of Powers Delegated to Officers.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 31) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 12**Selective Tendering – Ad Hoc List - Estimated contract value in excess of £50,000**

- 12.1 This Procedure Rule shall apply where the Chief Officer has decided that invitation to tender for a contract whose estimated value exceeds £50,000 is to be limited to some or all of those contractors who have replied to a public notice published in accordance with this Procedure Rule.
- 12.2 For the purpose of this Procedure Rule public notice shall be given:
- (a) on the Council's website;
 - (b) in at least one local newspaper, circulating in the Borough unless, in the opinion of the appropriate Chief Officer, this will not elicit any response because of the specialist nature of the contract, in which case public notice shall be given as set out in paragraph (c) below, and
 - (c) where the value of the proposed contract exceeds £100,000 in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts, and
 - (d) at the discretion of the Chief Officer to all or a selected number of persons or bodies named in a list maintained under Procedure Rule 4. The Chief Officer shall record their reasons for selection and criteria adopted in making such selection.
- 12.3 The public notice shall
- (a) specify details of the contract into which the Council wish to enter and state where further details can be obtained;
 - (b) invite expressions of interest from persons or bodies wishing to be considered in the tender list and
 - (c) specify a time limit, being not less than 14 days, within which such applications are to be submitted to the Council.
- 12.4 After the expiration of the period specified in the public notice invitations to tender for the contract shall be sent out to not less than 4 of the persons or bodies who applied for permission to tender, selected by the Chief Officer, or where fewer than 4 persons or bodies have applied and are considered suitable, to such of those persons or bodies as the Chief Officer considers suitable.
- 12.5 The Chief Officer shall keep a record of all correspondence/negotiations to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve value for money (subject to Procedure Rule 1.4).

Delegation referred to in 12.1, 12.2, 12.3 included in Schedule of Powers Delegated to Officers.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 31) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 13**Emergency Works**

- 13.1 Where the contract is for the execution of work or the supply of goods or materials where, in the opinion of the appropriate Chief Officer emergency action is necessary to render a building, highway or structure safe and watertight, or to preserve property for which the Council is responsible or to deal with a source of danger to persons (including a danger to health). A report of action and expenditure incurred under this part of this Procedure Rule of an amount exceeding that delegated to the relevant Chief Officer shall be made to Management Team.

Delegation referred to in 13.1 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

PROCEDURE RULE 14**Use of Central Government Purchasing Arrangements or Organisations**

- 14.1 This rule shall apply where the Chief Officer has decided that the most appropriate method of appointing a contractor or supplier is to utilise a central government purchasing arrangement or organisation such as the Office of Government Commerce(2), Construction Line etc. The procedures established by Central Government for the use of such an arrangement or organisation must be followed, as must any relevant European Union Procurement rules and any applicable requirement of this constitution.
- 14.2 The reasons for using a central government purchasing arrangement or organisation shall be recorded and personally signed by the Chief Officer and retained on a central file held by the said Chief Officer (subject to Procedure Rule 1.4).

Delegation referred to in 14.2 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

PROCEDURE RULE 15**Use of Local Purchasing Organisations**

- 15.1 This rule shall apply where the Chief Officer has decided that the most appropriate method of appointing a contractor or supplier is to utilise a local purchasing organisation such as the North East Purchasing Organisation (NEPO).
- 15.2 The procedures established by such a local purchasing organisation for its use must be followed, as must any relevant European Union procurement rules and any applicable requirement of this constitution.
- 15.3 References to a “local purchasing organisation” shall include participation in informal consortia of other public and private bodies where the lead organisation is from the public sector and uses tendering procedures which are broadly comparable with these rules.
- 15.4 The reasons for using a local government purchasing organisation arrangement shall be recorded and personally signed by the Chief Officer and retained on a central file held by the said Chief Officer (in accordance with Procedure Rule 1.4).

Delegation referred to in 15.4 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

PROCEDURE RULE 16**Purchase and Sale of Land/Property**

- 16.1 Before disposing of an interest in land/property held by the Council the appropriate Chief Officer shall prepare a report for submission to the Cabinet containing full details of the most appropriate method of disposal, the price and other terms and conditions.
- 16.2 In so doing, regard shall be had to the requirements of sections 123 to 127 of the Local Government Act 1972 (or any statutory modification thereof) and, in particular, shall consider (where applicable) the need for obtaining ministerial consent in those cases where a disposal is contemplated at less than the best consideration reasonably obtainable.
- 16.3 The Chief Officer shall determine the most appropriate method of the disposal and if appropriate tendering shall be undertaken in accordance with Procedure Rules.
- 16.4 As far as possible reserve prices shall be placed in order to ensure that the Council obtains value for money. However, there is a need to consider the provisions of the 1972 General Disposal Consent (England) 2003 which gives Local Authorities freedom to dispose of lands at less than best price reasonably obtainable where the Council considers that such disposal will secure the promotion or improvement of the economic social or environmental well-being of its area.
- 16.5 Where there is a proposal to dispose of land at less than the best which is reasonably obtainable, using the provisions of the 2003 General Disposal Consent this shall be included in the report prepared for submission to Cabinet.
- 16.6 Any proposal to acquire any interest in land/property shall be the subject of a report by the appropriate Chief Officer to the Cabinet containing full particulars of the interest to be acquired, price and other terms and conditions.

The Council's Cabinet has the following delegated power where urgent action is essential:-

"To agree to the acquisition, management and disposal of all land and buildings and to confirm terms."

Guidance Note (D) attached - must be followed.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

With respect to the sale of land or property, consideration needs to given to whether VAT needs to be included. Accountancy Section must be consulted for guidance in this area.

PROCEDURE RULE 17**Sale of Vehicles, Plant, Machinery, Equipment etc.**

- 17.1 The Chief Officer of each Department shall have authority to declare that the Council has vehicles, plant, machinery, equipment etc. surplus to requirements and that he wishes to dispose of them accordingly.
- 17.2 The Chief Officer shall decide upon an estimated residual value for each item he wishes to dispose of.
- 17.3 Where individual items to be disposed of are valued at £1,000 or less, then the Chief Officer shall arrange to dispose of such items by whatever means is considered the most cost effective.
- 17.4 Where individual items to be disposed of are valued in excess of £1,000 but less than £25,000 the Chief Officer concerned shall invite quotations to purchase from interested parties by way of public notice or he shall arrange to sell the items by public auction, if he considers this latter course of action more suitable.
- 17.5 If it is proposed to sell an item(s) by public auction, proper arrangements shall be made with a reputable organisation, normally involved with such business on a regular day-to-day basis, and those arrangements shall include confirmation by the organisation that the auction will be open to members of the general public.
- 17.6 If the estimated value of individual items to be sold is £25,000 or more, or, in the opinion of the Chief Officer, the item(s) are of a specialist nature (whether or not the value exceeds £25,000), then the Chief Officer may, as an alternative to sale by public auction, invite quotations to purchase by means of advertisement in trade or specialist publications instead of, or in addition to, local newspaper advertisement.
- 17.7 The disposal of any assets subject to leasing arrangements must be in a manner approved by the leasing company.
- 17.8 Detailed records must be kept to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve value for money (in accordance with Procedure Rule 1.4).

Delegation referred to in 17.3, 17.4, 17.6 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

With respect to the sale of land or property, consideration needs to be given to whether VAT needs to be included. Accountancy Section must be consulted for guidance in this area.

PROCEDURE RULE 18

Scheme Proposal - Capital Programme

18.1 Before tenders or quotations for the execution of any works included in the Capital Programme are invited, the Cabinet shall obtain from the appropriate Chief Officer a report on the proposals including the relevant financial information.

Link to Procedure Rule 38.

Guidance Note (B) attached relating to Capital Programme procedures must be followed - also relates to Procedure Rule 38.

PROCEDURE RULE 19**‘Main Contractor’ Arrangements**

- 19.1 Where it is necessary to enter into sub-contracts and/or supply arrangements whilst operating as a ‘main contractor’ such arrangements will be approved by the relevant Chief Officer in relation to the use of select lists of contractors and short-listing arrangements (all “Select Lists” shall be prepared in accordance with Procedure Rule 4).
- 19.2 The selection of potential sub-contractors to be invited to submit bids from select lists will be by rotation, except whereby otherwise justified and agreed with the appropriate Chief Officer.
- 19.3 In respect of Procedure Rule 19.1 above the appropriate Chief Officer shall not be obliged to seek tenders in accordance with these Procedure Rules but shall be required to ensure that value for money is obtained and keep detailed records of quotations, processes and negotiations on the central file of sub-contractors selection criteria, quotations, prices and negotiations to ensure that the appropriate evidence is available to demonstrate compliance with its duty to achieve value for money.

Delegation referred to in 19.3 included in Schedule of Powers Delegated to Officers.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

When entering into 'contracts' with suppliers/sub-contractors, the 'Contractor' must ensure that maximum protection which 'contracts' offer is secured, e.g. contracts to be "Under Seal" (Procedure Rule 30) and use of "Contract Bonds" (Procedure Rule 33) wherever appropriate.

PROCEDURE RULE 20**Nominated/Named Sub-Contractors and Suppliers**

- 20.1 Tenders for sub-contracts and supplies to be performed by sub-contractors and suppliers shall be invited in accordance with the methods and arrangements prescribed in these Procedure Rules.
- 20.2 The appropriate Chief Officer is authorised to nominate or name to the main contractor the sub-contractor or suppliers whose tender, obtained in accordance with the preceding sub-paragraph is, in his or her opinion, the most satisfactory; provided that, where the tender is not the most economically advantageous received, the Chief Officer sets out in writing the reasons for this which shall be personally signed by the Chief Officer concerned, or his or her nominee and retained on a central file held by the said Chief Officer (in accordance with Procedure Rule 1.4). The appropriate Cabinet Member shall be kept informed.

PROCEDURE RULE 21**Engagement of Consultants**

- 21.1 A Chief Officer may only appoint external consultants (including Construction and Catering) or advisors providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the service. Where such services are available in-house, the Chief Officer must consult with the Director of Resources before taking any decision to make an external appointment.
- 21.2 External consultants and technical officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.
- 21.3 All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the Chief Officer,.
- 21.4 The Chief Officer shall ensure that any consultant working for the Council has appropriate professional indemnity insurance.
- 21.5 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.

PROCEDURE RULE 22**Partnerships**

- 22.1 These Rules apply to any proposal for the Council to become involved in a partnership, including the management and termination of any such arrangement.
- 22.2 A 'partnership' is a joint-working arrangement involving the Council and one or more legally independent organisations through which either a specific programme or project or through which services within any of the functions of the Council are to be provided.
- 22.3 Partnerships represent a variety of arrangements both statutory and non-statutory including public sector joint committees, joint boards and consortia, partnering arrangements/pooled budgets, joint ventures with private sector companies, companies limited by guarantee (trust) and a charities.
- 22.4 The development of a partnership must always be subject to the Council's formal approval mechanism, in which Corporate Management Team and Cabinet must approve a business case for the proposed partnership demonstrating its contribution to corporate objectives. The business case will include a proportionate cost benefit analysis of each potential option for delivery including a full risk assessment in order to support the case for partnership creation.
- 22.5 If the partnership is prescribed by statute, all partners will sign a formal and comprehensive partnership agreement and the partnership managed accordingly.
- 22.6 If the proposal is for a discretionary partnership, the Contract Procedure Rule relevant to the value of the proposed contract will be followed in order to select the best value partner.
- 22.7 Discretionary partnerships will be subject to formal contractual agreement appropriate to the partnership structure to be adopted. Advice must be sought from Legal Services in the preparation of such contracts.
- 22.8 Each partnership will be recorded in the corporate partnerships database and its performance managed and monitored in accordance with the corporate guidance on partnerships governance.
- 22.9 Procurements within partnerships will be undertaken in line with the lead organisation's contract procedure rules, provided this complies with all legal obligations and the Council's objectives in respect of value for money.
- 22.10 Termination of partnerships before the scheduled end-date will be determined by a range of factors, including poor performance, partner relationships and external factors such changes in the operating environment. Any decision on early termination will be subject to Cabinet approval.

PROCEDURE RULE 23

Tender Envelopes

23.1 Where invitation to tender is required in accordance with these Procedure Rules, every notice of such invitation shall state that no tender will be received except in the envelope provided by the Council or, where no such envelope is available, in a plain sealed envelope which shall bear the word "Tender -" followed by the subject to which it relates and the closing date and time for receipt of the tender, but shall not bear any name or mark indicating the sender, and such envelopes shall remain in the custody of the Chief Executive Officer or an official of the Council designated by him until the time appointed for their opening.

Electronic Tendering System

23.2 Where the Council's electronic tendering system is used for invitation to tender every notice of such invitation shall state that a fully priced tender is to be returned, via the Council's electronic tendering system delivered electronically to the Chief Executive Officer. In the event that tenderers are unable or unwilling to submit a response electronically officers shall ensure that procedures in respect of 'opt out' are adhered to. Completed tenders shall be returned in the sealed tender envelope, which must not bear any name or mark indicating the sender. Particular care should be taken that the Tenderer's identity is not apparent from any image, resulting from a postal franking device, appearing on the envelope or package.

PROCEDURE RULE 24**Late Tenders**

- 24.1 Where a tender is submitted in competition and is received after the specified time then it shall be disqualified. Any such tender shall be returned promptly to the tenderer who should be notified accordingly. The tender envelope may be opened to ascertain the name and address of the tenderer concerned.
- 24.2 The only exception to Procedure Rule 24 where a late tender may be considered is if none of the other tenders received have been opened or no other tenders have been received. The officer responsible for the opening of tenders must keep a record of the date and time of receipt of late tenders and the circumstances resulting in their acceptance.

PROCEDURE RULE 25

Attempted Alteration of Tender

- 25.1 If any person, firm or company who, having submitted to the Council a tender shall, subsequent to the opening of tenders, seek to amend such tender (other than may be provided for in the tender documents) then such amendment shall disqualify that tender from further consideration by the Council.

PROCEDURE RULE 26

Opening of Tenders

- 26.1 All tenders will be opened at the same time as soon as possible after the deadline for their receipt.
- 26.2 If all tenders are received via the electronic tendering system, they will be opened by 2 officers representing the Chief Executive.
- 26.3 If at least one is received in a tender envelope, all tenders will be opened in the presence of:-
- (i) Two Members of the Council - wherever possible one will be a member of the Cabinet, and
 - (ii) The Chief Executive or an official of the Council designated by him.
- 26.4 The Chief Executive will keep a record of all tenders received, which will be signed by those present when the tenders are opened.

PROCEDURE RULE 27

Acceptance of Tenders

- 27.1 The most economically advantageous tender for the supply of goods or services to the Council shall be accepted by the Chief Officer and where it has been judged as the most appropriate against a pre-determined evaluation model available at the time the tenders are sought. Due regard must be made to achieving value for money.
- 27.2 The most economically advantageous tender for the purchase of goods or services from the Council shall be accepted by the Chief Officer.
- 27.3 Any tender not satisfying Rules 27.1 and 27.2, shall not be accepted except as authorised by the Chief Officer following consultation with the appropriate Cabinet Member, the Monitoring Officer and Director of Resources where it is in the interests of the Council as being the most suitable having regard to the Budget and Policy Framework. Full details should be retained on the central files held by the relevant Chief Officer.
- 27.4 The appropriate Chief Officer shall have authority to negotiate with any tenderer for the purpose of rectifying or taking account of some error or omission appearing in any tender or priced bill of quantities.
- 27.5 For all procurements covered by the EU Procurement Directives, a minimum of 10 calendar days mandatory standstill period is required between the communication of the notification of the award decision and contract conclusion, with day 1 being the day after the award decision is issued, by fax or email and in writing to all tenderers. This is to allow contractors/suppliers an opportunity to challenge the decision. The notification of the award decision, based on the most economically advantageous tender, shall contain:
- the award criteria;
 - the score the tenderer obtained against those award criteria;
 - the score the winning tenderer obtained;
 - the name of the winning tenderer.

Delegation referred to in 27.1 included in Schedule of Powers Delegated to Officers.

For guidance on Evaluation Criteria, contact the Procurement Officer.

PROCEDURE RULE 28

Acceptance of Tenders above approved budgets/estimates

28.1 A report in writing shall be made to the Cabinet seeking approval where the acceptance of a tender would exceed an approved budget/estimate.

Need to comply with Financial Procedure Rules.

If expenditure relates to Capital Programme reporting arrangements detailed in Procedure Rules 18 and 38 must be adhered to.

PROCEDURE RULE 29**Negotiations Following Receipt of Tenders**

- 29.1 This Procedure Rule applies only to negotiations following the receipt of a quotation or tender submitted in accordance with these Procedure Rules.
- 29.2 Subject always to the statutory procurement framework the Chief Officer may, after consulting with the Council's Procurement Section, authorise negotiations with the two most economically advantageous tenderers (and such other tenderers as the appropriate Chief Officer decides in the interests of genuine competition) or quotation providers if he or she considers that none of the tenders or quotations are acceptable and it is in the Council's interest to do so. In cases where a procurement process is for multiple providers, the number of tenderers selected for negotiation may be increased appropriate to the number of contracts to be let.
- 29.3 Negotiations shall be conducted on behalf of the Council by at least two appropriate officers from the service concerned. The Council's Procurement Section shall be invited to the negotiation meetings. A full written record shall be kept of the results of the negotiations, signed by the Chief Officer or his or her nominee personally, retained on a central file held by the said Chief Officer and a copy sent to the Procurement Section (in accordance with to Procedure Rule 1.4). The appropriate Cabinet Member shall be kept informed.
- 29.4 An amended tender following negotiations under Procedure Rule 29 may not be accepted unless it is demonstrably more economically advantageous than all of the written tenders previously obtained.
- 29.5 Procedure Rule 29 shall not apply to any contract that is governed by EU procurement directives.

Guidance Note (A) attached relating to keeping records of correspondence/negotiations etc. must be followed.

PROCEDURE RULE 30**Contracts to be in Writing**

- 30.1 All contracts shall be in writing in a form approved by the Chief Executive Officer.
- 30.2 The Chief Executive Officer's approval of forms of contracts is deemed to be given in respect of any form of contract approved by the relevant professional association or other recognised body appropriate to the subject matter of the contract concerned.

The Chief Executive Officer's approval of forms of contracts may be given by the Director of Resources or the Solicitor to the Council. Such approval shall not be necessary in the case of forms of contract issued by the following professional associations or other recognised bodies:-

- Institute of Civil Engineers***
- Joint Contractors Tribunal*
- Joint Contracts Landscapes Industries*
- Institute of Electrical Engineers*
- Law Society*
- Royal Institution of Chartered Surveyors*
- Royal Institute of British Architects*
- Chartered Institute of Building Services Engineers*

However, forms of contract which, in the ordinary course of business, are commonly used by suppliers of goods or services, will still require approval e.g. computer contracts or contracts for the provision of software.

In cases of doubt then the matter shall be referred to the Director of Resources or the Solicitor to the Council well in advance of the time when contract commitments are to be entered into.

PROCEDURE RULE 31**Signing of Contracts/Use of Common Seal of the Council**

- 31.1 Every contract which does not exceed £50,000 shall be signed by the appropriate Chief Officer or an officer designated on his behalf - this shall not apply to contracts entered into under the Common Seal of the Council.
- 31.2 Every contract which exceeds £50,000 shall be signed by the Chief Executive Officer or the Director of Resources or the Solicitor to the Council.
- 31.3 Every contract which exceeds £100,000 shall be entered into under the Common Seal of the Council and where appropriate.
- 31.4 In addition to (3) above the use of the Common Seal shall be obligatory in the following circumstances:-

The Common Seal shall be used in connection with the Council entering into a Deed, unless otherwise required by statute, for the disposal or acquisition of interests in land, in connection with any building contract, construction contract or contract for works of an engineering or technical nature where the use of the Seal will afford additional protection to the Council. In these situations the use of the Seal shall be dispensed with only with the approval of the Chief Executive Officer, the Director of Resources or the Solicitor to the Council.

Delegations referred to in 31.1 and 31.2 included in Schedule of Powers Delegated to Officers.

Procedure Rule 38 in Part VI of Procedure Rules relating to Meetings and Proceedings states the signing of documents to which the Common Seal is affixed can only be undertaken by the Chief Executive Officer, Director of Resources or the Solicitor to the Council.

Essential that in order to maximise protection the conditions in this Procedure Rule be used as appropriate in respect of contracts/sub-contracts entered into.

PROCEDURE RULE 32

Contract Conditions

32.1 Every contract in writing or electronic format shall, where appropriate, specify:-

- (a) the goods, materials or services to be supplied and the work to be executed;
- (b) full details of all prices to be paid, detailing the frequency and method of calculation (if any) with a statement of discounts or other deductions; and
- (c) the period of time within which the contract is to be performed;
- (d) such other conditions and terms as may be agreed between the parties.

32.2 Liquidated and Ascertained Damages

Every contract which exceeds:-

- (a) £100,000 and is anticipated to exceed 12 months duration; or
- (b) £250,000 irrespective of duration;
- (c) or where appropriate;

and is either for the execution of works or for the supply of goods, materials or services otherwise than at one time shall provide for liquidated damages to be paid by the Contractor in case the terms of the Contract are not duly performed.

A clause shall be inserted to secure that, should the contractor fail to execute the work or deliver the goods or materials, either in whole or in part, within the time(s) specified in the contract, the Council, without prejudice to any other remedy for breach of contract, shall be entitled to determine the contract, either in whole or in part, or to the extent of the default, and to make alternative arrangements for the execution of the work or to purchase other goods or materials, as the case may be to make good:

- (i) such default, or
- (ii) in the event of the contract being wholly determined, the unexecuted work or the goods or materials remaining to be delivered.

The clause shall further secure that the amount of work by which the cost of providing for the execution of the work by other means, or the purchasing of other goods or materials, exceeds the amount which would have been payable to the contractor, within the time or times specified, shall be payable by the contractor.

Essential that in order to maximise protection the conditions in this Procedure Rule be used as appropriate in respect of contracts/sub-contracts entered into.

32.3 Breach

Every written or electronic contract must contain a clause to secure that if the contractor fails to comply with its contractual obligations in whole or in part, or commits a fundamental breach of the contract, the Council may, without prejudice to any other remedy available to it:

- (a) Terminate the contract, either wholly or to the extent of such default;
- (b) Complete the contract itself or through another contractor or agent to make good the default,
- (c) Recover from the contractor any additional costs incurred in completing the contract to the original specification.

32.4 Late Payment

The contract shall require that if one or more sums of money to be received by the Council, the contractor responsible for the payment of such sum or sums must pay interest in respect of late payment at the rate stated in the contract from the date when payment is due until the date when payment is received.

In every written or electronic contract consideration will be given to inserting the following clauses or a variant thereof:

32.5 Statutory Requirements - Equality & Diversity

In the performance of the contract, the contractor must comply with all statutory requirements and current legislation relating to the promotion of equality on the grounds of race, gender, ethnicity, age, disability, religion or belief and sexual orientation.

32.6 Statutory Requirements – Health & Safety

In the performance of the contact, the contractor must comply with the requirements of the Health and Safety at Work etc. Act 1974 and of any other relevant Acts, Regulations or Orders pertaining to health and safety.

32.7 Statutory Requirements – Best Value

Contractors discharging Council functions must comply with the duty of Best Value under the Local Government Act 1999 (as amended).

32.8 Transferring, Assigning and Sub-letting

In every written or electronic contract for the execution of work or for the supply of goods or materials the following or equivalent clauses shall be inserted.

“The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, the whole or any portion of its contract without the written permission of the Council. Sub-letting of any part of the work shall be prohibited, except to the extent permitted in writing by the officer concerned in accordance with the provisions of the contact”.

32.9 Performance Information

Every written and electronic contract shall contain detail of relevant performance criteria, targets, standards and information on how the contract will be monitored, reviewed and managed by the Council.

32.10 Freedom of Information Act 2000

All tenders and contracts must contain a notice relating to the Freedom of Information Act and a schedule that clearly identifies those sections of clauses that are commercially confidential within the terms of the Freedom of Information Act.

32.11 Other

Other contractual conditions shall be included as required within these Procedure Rules, the Code of Practice or as directed by the Solicitor to the Council.

PROCEDURE RULE 33**Contract Bond**

33.3 The Council will also require a contractor to give sufficient security for the due performance of any Contract as follows:-

- (i) The Contractor will be required to enter into a Contract Guarantee Bond in a sum equal to 10% of the Contract sum or 10% of the annual sum if the Contract exceeds 12 months duration and he must allow in his tender for the cost of this provision.
- (ii) In the event of the Contractor being unable to obtain a satisfactory Contract Guarantee Bond within 14 days of notification to him of acceptance of his Tender, the acceptance of his Tender may be revoked.

Essential that in order to maximise protection the conditions in this Procedure Rule be used as appropriate in respect of contracts/sub-contracts entered into.

PROCEDURE RULE 34**Cancellation of Contracts - Inducements**

- 34.1 In every written contract a clause shall be inserted to ensure that the Council shall be entitled to cancel the contract, and to recover from the contractor the amount of any loss or damages resulting from such cancellation, if the contractor or its employees or agents (with or without its knowledge):
- (a) does anything improper to influence the Council to award the contractor any contract; and/or
 - (b) commits an offence under the Prevention of Corruption Acts 1889 to 1916 (as amended) or under Section 117 of the Local Government Act 1972.
- 34.2 For the purposes of this Procedure Rule the term "contractor" includes any person acting on behalf of the contractor or with his knowledge or consent and whether or not the contract is in writing or oral or made by way of order for goods or services.

It is essential that all parties with whom the Council has dealings must be aware of the Council's attitude regarding 'inducements'.

Correspondence leading to a contract can be construed as part of the contract.

The following must be incorporated into all orders/correspondence:-

"This order is subject to the current Procedure Rules of the Council".

"The Council may cancel this contract/order if any inducement has been offered to any employee".

Standard Forms of Contract e.g. ICE, JCT etc. usually contain a specific section relating to 'inducements' etc.

PROCEDURE RULE 35

Standard/Specification

- 35.1 Except where the law requires otherwise, where an appropriate International Standard, British Standard Specification, or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every written contract the value or amount of which exceeds £25,000 shall require that, as the case may be, all goods and materials used and supplied, and all workmanship, shall be in accordance with that standard, any equivalent European Union standard, or of a higher standard.

A clear specification of requirements (identifying outputs or outcomes rather than inputs, unless there is a demonstrable need to specify inputs) shall be produced.

PROCEDURE RULE 36**Extending Existing Contracts**

- 36.1 The Chief Officer, after consultation with the appropriate Chief Officer, may extend a contract up to a limit of 10% of the original contract value and subject to the extension being within the scope of the original scheme. All such decisions shall be recorded and personally signed by the Chief Officer concerned, or his or her nominee and retained on a central file by the said Chief Officer (in accordance with Procedure Rule 1.4). A copy of the decision shall also be sent to the Procurement Section, and the Chief Officer shall ensure that the appropriate Cabinet Member is kept informed.
- 36.2 Extensions to capital project contracts that will fall outside the scope of the original scheme will require the approval of the relevant Chief Officer for values below £100,000. Extensions with a value of £100,000 or more must go to the Cabinet for approval. This does not apply to operational contracts for goods and services that are not key decisions (i.e. where annual or periodic contracts are to be extended). The definition of a key decision is set out in Part 3, Responsibility for Functions, B - Cabinet Functions, of the Constitution. In such cases the Chief Officer or the Cabinet must, before taking the decision, consider tendering or negotiating the additional work, and ensure that any additional required funding is secured. A written record of the decision with reasons shall be personally signed by the Chief Officer concerned or his or her nominee and the record be retained on a central file held by the said Chief Officer, and a copy sent to the Procurement Section.
- 36.3 If the original contract was subject to the EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice, or if the notice explicitly contained provision for extension.
- 36.4 If the contract was not subject to the EU procurement regulations, any extension must not take the total value of the contract above the EU thresholds.
- 36.5 If the contract was awarded as a framework contract, the total contract period, including any extensions, cannot exceed four years.

PROCEDURE RULE 37***Variation Orders and Extra Works Orders***

- 37.1 The Chief Officer must record every variation order or extra works order immediately it is raised. If the issue of Variation Order(s) would at the date of the Variation Order(s) increase the original contract price by more than 10% these must be reported to the Director of Resources who will consider if it should be reported to Cabinet.
- 37.2 Where contracts are entered into on fluctuating basis, the 10% relates to the original tender sum as adjusted under the terms of the contract.
- 37.3 Where the contract price is inclusive of a sum for contingencies, the limits outlined in paragraph 37.1 above must relate to the total contract price.
- 37.4 Where such additional expenditure relates to a Capital Scheme, every effort must be made to meet the cost from within the overall Capital Programme for that Service. If this is not possible, a report must be submitted to the Cabinet.

Included in Schedule of Powers Delegated to Officers.

Link to Capital Programme and Contracts Sections of Financial Procedure Rules – paragraphs 24 and 54.

PROCEDURE RULE 38

Compliance with Financial Procedure Rules

38.1 The Cabinet and Officers of the Council shall comply with the Council's Financial Procedure Rules. Particular attention is drawn to the Rule relating to Capital Programmes.

Link to Procedure Rule 18.

Guidance Note (B) attached relating to Capital Programme procedures must be followed - also relates to Procedure Rule 18.

PROCEDURE RULE 39

Non-Commercial Matters

- 39.1 In relation to the making of a Public Supply or Works contract within the meaning of Section 17 of the Local Government Act 1988 consideration shall be given to the duty imposed by that section to exercise the functions regulated by that section without reference to non-commercial matters.

Guidance Note (E) attached details the non-commercial matters which must not be referred to in making Public Supply or Works Contracts.

PROCEDURE RULE 40

Review of Cash Limits

- 40.1 The cash limits referred to in these Procedure Rules shall be reviewed annually by the Procurement Section and an appropriate notification shall be provided to each Chief Officer. Such notification shall not amount to a formal amendment of the Constitution.

PROCEDURE RULE 41

Lease or Credit Arrangements

- 41.1 The Chief Officer must consult with the Head of Financial Services prior to entering into any lease or credit arrangement.

PROCEDURE RULE 42

Claims

- 42.1 The Chief Officer must inform the Solicitor to the Council immediately of any claims (or anticipated claims) by or against contractors that are the subject of dispute between the Council and the contractor.

Guidance Note A

KEEPING OF RECORDS OF CORRESPONDENCE/NEGOTIATIONS ETC.

The Contract Procedure Rules provide varying degrees of delegated power for officers to obtain and accept competitive prices and enter into contracts on behalf of the Council for goods, materials or services to be supplied or works to be executed.

Throughout the exercise of these delegated powers it is essential to ensure that value for money is achieved.

In addition officers exercising these delegated powers must ensure that detailed records are kept of all quotations, prices and negotiations etc. in a form acceptable to the Chief Executive Officer and the Director of Resources held on a central file by the relevant Chief Officer.

Where the Total Value is **less than £25,000**, the following records must be kept:

- any exemption under Rule 3** together with the reasons for it
- any reasons for deciding that the provisions of Rule 4 in relation to “Lists” of Tenderers are not considered appropriate
- how and why persons etc. invited to submit quotations were selected
- invitations to quote and Quotations
- methods of receiving and recording quotations
- a record:
 - of any exemptions and the reasons for them
 - of the reason if the most economically advantageous quotation is not accepted
- written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced
- details of acceptance of finally agreed prices, terms and conditions

Where the Total Value **exceeds £25,000** the Officer must record:

- any exception under Rule 3** together with the reasons for it
- any reasons for deciding that the provisions of Rule 4 in relation to “Lists” of Tenderers are not considered appropriate
- any reasons for not selecting particular contractors in relation to Rule 8
- the nature of the specialist works, the reasons for deciding that works are of a specialist nature and why fewer than three contractors have been selected in relation to Rule 8*
- the method for obtaining bids
- any Contracting Decision and the reasons for it
- the Award Criteria in descending order of importance
- Tender documents sent to and received from Candidates

- pre-tender market research
- clarification and post-tender negotiation (to include minutes of meetings)
- the contract documents
- post-contract evaluation and monitoring
- communications with Candidates and with the successful contractor throughout the period of the contract
- the reasons why it is considered that selection from the List referred to in Rule 7 is not considered appropriate

**** Definition of Specialist Works – Works primarily involving specialist, professional or technical skills or competencies or expertise in a subject or area where it is recognised that such skills or expertise are not generally available.***

***** Definition of “Urgent” - The urgency must be unforeseen – for example, a current supplier ceases to operate, or a contract is terminated for poor performance. Urgency caused by previous delay by the Council or a requirement to implement a strategy or project urgently will not justify an exception to the financial thresholds.***

Guidance Note B

CAPITAL EXPENDITURE APPROVAL PROTOCOL

The Council’s Corporate Capital Strategy, Asset Management Plan, Housing Revenue Account Business Plan and Medium Term Financial Plan will set the framework for developing and evaluating capital projects over a three year period (reviewed and agreed on an annual basis) – from the preparation of bids (CP1’s) through to the reporting of capital expenditure at

- Strategic Working Group
- Management Team
- Cabinet.

This is summarised as follows:-

1. PREPARATION OF CAPITAL PROGRAMMES

- 1.1 From July/August onwards, Working Groups will begin preparation of initial Capital Programmes for the following three years. Account will be taken of national, local priorities, corporate and portfolio priorities, schemes already underway and others previously agreed by reviewing progress / outcomes of existing programmes. In accordance with good risk management practice, all schemes must be risk assessed using the risk prioritisation matrix (as per the CP1 proforma);

- 1.2 All potential capital projects must be detailed in CP1 forms and considered by the Strategic Working Groups using the agreed corporate assessment methodology and guidance in order to prepare a scored/prioritised list of potential schemes. Potential schemes will be considered in light of spend to date information and all bids must be accompanied by a detailed justification statement - identifying contributions to Aims, Community Outcomes and Corporate Values;

- 1.3 The indicative timetable to be used for preparation and monitoring of Capital Programmes is as follows:

DATE	ACTION
July / August	Departmental Directors, Heads of Service and Strategic Working Groups commence review of current Capital Programme and emerging CP1 forms. <ul style="list-style-type: none"> □ Update current/ongoing schemes □ New proposals
September / October	Consideration of CP1s by Directors/Heads of Service <ul style="list-style-type: none"> □ Rank/prioritise CP1 bids
November / December	Management Team consider and review CP1 bids
January / March	Strategic Working Groups <ul style="list-style-type: none"> □ consider proposed CP1 schemes against allocated resources and reprioritise where necessary
March	Report to Management Team and then Cabinet to finalise programme (complete by 31 March 20XX).

DATE	ACTION
During Year (April – March 20XX)	Quarterly finance/performance report submitted to SWG/MT/Cabinet to monitor implementation/progress on Capital Programme

NB: In determining the recommended allocation of resources, Management Team will adhere to the following key principles:

- Resources will be directed towards achieving the Council’s vision and priorities and asset management plan requirements.
- All potential sources of external grant funding will be explored in resourcing priorities.
- Impact on revenue budgets.
- Alternative approaches to procurement (such as partnering).

2. PROCEDURE RULES AND FINANCIAL REGULATIONS

2.1 Procedure Rules relating to Contracts (18 and 38) and Financial Procedure Rules (paragraphs 3.3.5) make specific reference to Capital Programme expenditure. Capital Programme expenditure, like other expenditure, must comply with Procedure Rules as far as the process of obtaining prices for work, etc., is concerned – this relates to tenders/quotations/negotiations, etc.

In addition Contract Procedure Rules and Financial Regulations impose additional controls in the way Capital Programme expenditure is reported to the Cabinet.

Procedure Rule 18 states:-

“Before tenders or quotations for the execution of any works included in the Capital Programme are invited, the Cabinet shall obtain from the appropriate Chief Officer a report on the proposals including the relevant financial information.”

2.2 Following the allocation of capital resources by Council and no later than 31st March each year, detailed programmes for each portfolio area will be prepared by the relevant Chief Officer and reported to Cabinet for approval, as follows:-

PORTFOLIO	CHIEF OFFICER
<ul style="list-style-type: none"> <input type="checkbox"/> Strategic Leadership <input type="checkbox"/> Social Regeneration and Partnership <input type="checkbox"/> Learning and Employment 	Chief Executive
<ul style="list-style-type: none"> <input type="checkbox"/> Community Health <input type="checkbox"/> Leisure and Culture 	Director of Leisure
<ul style="list-style-type: none"> <input type="checkbox"/> Housing Revenue Account 	Director of Housing
<ul style="list-style-type: none"> <input type="checkbox"/> Safer Communities <input type="checkbox"/> Environment <input type="checkbox"/> Planning 	Director of Neighbourhood Services

NB: These reports will be based on the prioritised schedule of schemes agreed by the Strategic Working Group and include estimated costs for each scheme in

an itemised programme. The report will clearly identify those schemes required for asset management and Decent Homes Standards purposes. The report will also contain the recommendation for Cabinet to approve the programme and that, subject to the necessary arithmetic checks, the appropriate Chief Officer is authorised, in consultation with the appropriate Cabinet Member, to accept the most economically advantageous tender provided that the figure is within approved budgets/estimates.

2.3 No further reports will be submitted to Cabinet in relation to the individual schemes, unless:

- There is a significant change in the nature of the project
- The gross value of the project is in excess of £50,000 and is in relation to an outward facing service area.

NB: The £50,000 trigger will not apply to schemes included in the Asset Management Plan and Decent Homes Standards Plan. In other cases, the itemised capital programme report will note that further reports will be submitted as the year progresses in relation to these schemes to ensure sufficient engagement of members in these proposals.

- There is a change in the year due to resource availability (grant related issues) or a change in priorities that impacts on the programmed use of capital resources for the portfolio;

NB: In such cases the itemised capital programme will be redrawn and re-submitted for approval, with a clear rationale given for the required change and impact on the existing three year programme.

- Once tenders/quotations, etc. have been sought and received in accordance with the Procedure Rules, it is necessary to report details to Cabinet in accordance with Contract Procedure Rules 18, 16 and 17.

2.4 Cabinet will receive monitoring reports on the progress of Capital Schemes at least three times per annum, [position as at 31/7/20XX, 30/9/20XX and 31/12/20XX

Actual Outturn against the approved capital programmes for each portfolio will be reported to Cabinet no later than 30 June each year, together with reasons for the difference and any learning issues etc, where the actual cost exceeded approved budget by more than 5%.

- NB: All overspends will be automatically deducted from the resources available in the following financial year and appropriate adjustments made against the programmes reported to Council by 30 June. Any committed underspend may be carried forward, subject to approval by the Director of Resources.

3. **CONTRACTS - GENERAL**

3.1 It is essential to ensure that Contract Procedure Rules and Financial Regulations are adhered to in respect of all schemes, whether or not they are included in Capital Programmes.

- 3.2 Particular attention is drawn to the need for expenditure in excess of approved tender sums to be reported to the Cabinet in accordance with Contract Procedure Rule 37.

Guidance Note C**COMPILATION OF SELECT LISTS AND SELECTION OF CONTRACTORS TO BE INVITED TO TENDER FOR SPECIFIC CONTRACTS****(PROCEDURE RULE 4)**

This note has been prepared as guidance to members of staff who are involved with the establishment of Select Lists and to those who are involved with the procedures for selecting contractors from those for each scheme within a particular financial year.

It relates to the selection of contractors for works in relation to Procedure Rule No. 3 4.

A COMPILATION OF SELECT LISTS**1. Through the process of advertising**

- (a) Advertising procedures will comply with the appropriate UK and EC regulations as described in Procedure Rules 4 and 12.
- (b) Those contractors who respond to the advertisements are required to complete a questionnaire and provide various documentation which is evaluated in order to ascertain the company's financial, safety and technical suitability.

The general principles given below will be complied with.

- (c) The timetable for the production of select lists is:-
 - *Advertise locally and nationally.*
 - *Carry out checks for technical, financial and safety requirements on all applications.*
 - *A list of all applicants for each category, with those recommended for each list being highlighted, is submitted to Cabinet for approval.*

2. Through the use of Constructionline* (See note on page 207)

Where Contractors are to be selected through the Constructionline process, it will be necessary to identify Contractors from the list providing the appropriate category of work and taking into consideration the various matters detailed in this Guidance Note Para. B(i) to (vi) below. The "final checks" described in Para. C will also be applied.

B SELECTION OF CONTRACTORS FOR A PARTICULAR TENDER

Upon completion of either of the above processes the following criteria shall be considered before Contractors are selected to tender for particular schemes:-

(i) Is the company of an appropriate size?

(eg as the majority of the schemes undertaken by the Highways Group are less than £20,000 in value, the larger companies who are normally involved in multi-million pound projects are not, as a rule, able to compete with the small, locally based operator). The size of the contractor is therefore matched with the price range of works for which he may compete.

(ii) Is the company fairly local?

(eg it is unlikely that a small company based in Leeds say, will be able to compete with a similar sized firm located in Middlesbrough or Bishop Auckland).

(iii) Do they have any financial restrictions?

As part of its submission, the company must include certain financial information for examination by the Council's Resources Department.

The result of these would be to identify if the company is financially sound enough to be included on a particular list and whether there would be any limitations to the value of work for which they would be allowed to tender.

(iv) Do they have relevant experience?

(e.g. a number of firms apply for the Highways category list who are largely building-orientated with their civil engineering experience limited to footpaths and parking associated with buildings. As there is a considerable difference between this and working in the Adopted Highway these firms are rejected). Matters such as size of project, experience, reputation for quality, efficient organisation are taken into account.

(v) Is the Health and Safety document satisfactory?

All Health and Safety documentation shall be examined by the Council's Human Resources Officer (Policy and Safety) every 3 years.

(vi) Have they carried out work for the Authority before?

If not, have they been able to submit the names of referees who could give some indication of their capabilities? If the answer to both these questions is NO then the firm is rejected.

C SELECTION OF CONTRACTORS FOR A PARTICULAR CONTRACT FROM THE ABOVE SELECT LISTS

Once the contractors have been identified for each select list they are put into a randomly ordered list.

Contractors are then selected in succession for each subsequent scheme subject to continued satisfactory performance by each of the contractors included.

A number of final checks would be made including:-

- (A) *What work are contractors currently tendering for SBC?*
- (B) *What is their financial limit?*
- (C) *Who else is on the list (comparing past tender prices (too high etc.)?*
- (D) *Are any of the contractors currently working on other schemes within another category of work?*
- (E) *Inadequate performance on a particular scheme may preclude a contractor from future tender opportunities.*
- (F) *Past performance both positive and negative may influence whether or not a company is invited to tender for a particular contract.*

It will be standard practice to invite four contractors to tender for contracts unless circumstances require otherwise. The Housing Department will always be invited to tender for contracts it is capable of carrying out.

An explanation will be placed on file, sanctioned by the Section Head, as to why those firms listed for each particular scheme were included (i.e. on rotation; or why out of rotation eg a particular contractor failed to perform and was therefore precluded from a particular list). The overall aim in selecting contractors to tender is to achieve value for money for the Council.

Constructionline:

Constructionline is the UK's largest register of qualified construction services. It is designed to streamline pre-qualification procedures, increase quality and reduce costs by supplying the construction industry and clients with a single national qualification system. That is a system of vetting contractors and consultants according to strict technical and financial criteria, so as to allow them to pre-qualify for tender lists for public and private sector contracts. By providing a central source of information, Constructionline cuts through the current duplication of effort by both firms and clients in applying for inclusion on and maintaining individual in-house lists.

Created and owned by the Department of Communities and Local Government (DCLG), Constructionline is a key part of the Government's drive to improve quality and efficiency in the construction industry. Anyone who procures construction services has a duty to examine how Constructionline can strengthen their own internal procedures and realise their own savings. DCLG has ensured that the service is FREE to all public sector clients.

There are over 8,000 contractors and consultants registered on Constructionline operating from 16,000 branch offices across the UK. They are qualified to criteria set and audited by DCLG. They cover the full spectrum of construction activities, from architecture to demolition, and range in size from small specialists to the largest main contractors.

Guidance Note D**PURCHASE AND SALE OF LAND/PROPERTY****(PROCEDURE RULE 16)**

1. The terms "Purchase" and "Sale" shall respectively include purchases and sales of freehold and leasehold interests, the grant of leases and land assembly exercises undertaken for the purposes of the Council's functions.
2. Every report to the Cabinet shall contain such information as to the terms of the transaction as is reasonably necessary to enable the Committee to arrive at its decision in an informed manner.
3. In particular, Cabinet shall be given full details of the terms, including consideration for money or monies worth, obligations to be imposed upon the Council, e.g. in respect of the grant of planning permission or the exercise of other statutory functions.
4. If "early entry" is being requested, the date shall be specified in the report, together with details of arrangements for advance payment and appropriately worded indemnities in order to protect the Council's position pending final completion of the transaction.
5. Full details of costs and fees which are to be incurred shall also be set out in the report or an estimate thereof.
6. Where the Council is contemplating compulsory acquisition, details of the planning justification, together with particulars of proposed applications for planning permissions shall also be set out in the report.

Guidance Note E

NON-COMMERCIAL MATTERS

(PROCEDURE RULE 39)

Non-Commercial Matters which must not be referred to in making Public Supply or Works Contracts:-

- (a) Terms and conditions of employment.
- (b) Terms of sub-contracts which constitute contracts, in the case of individuals, for the provision by them as self-employed people of their services only.
- (c) Involvement of contractors in irrelevant fields of Government Policy.
- (d) The conduct of contractors or their employees in industrial disputes.
- (e) Country of origin of supplies to, or the location in any country of the business interests of contractors.
- (f) Any political industrial or sectarian affiliations or interests.
- (g) Financial support or lack of it towards any institution which the local authority either supports or withholds support.
- (h) The use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984.

(Local Government Act 1988 - Section 17(5))

COMPARISON OF NEW AND OLD CONTRACT PROCEDURE RULES

New CPR Ref	Description	Old CPR Ref	Description
1	Introduction	1	Introduction
2	Contracts to Comply with Procedure Rules	2	Contracts to Comply with Procedure Rules
3	Public Notice of Contracts - European Union Directives	2	Public Notice of Contracts - EC Directives
4	Exceptions to Contract Procedure Rules NEW	3	Lists of Tenderers Drawn Up on a Regular Basis
5	Setting up Select Lists of Contractors	7	Tenders Not Required in Certain Circumstances - estimated value £10,000 or less
6	Summary of Competition Requirements and Financial Thresholds NEW	5	Contracts estimated to cost between £10,000 and £25,000
7	Contracts estimated to cost less than £1,000	6	Schemes of a Specialist Nature - estimated contract value in excess of £25,000
8	Contracts estimated to cost between £1,000 and £24,999.99	8	Negotiated Tenders - Estimated Cost in Excess of £10,000
9	Contracts estimated to cost between £25,000 and £49,999.99 NEW	4	Selective Tendering - Estimated contract value in excess of £25,000
10	Schemes of a Specialist Nature - estimated contract value in excess of £25,000	9	Emergency Works
11	Single Tenders – estimated contract value in excess of £25,000 NEW	10	Purchase and Sale of Land/Property
12	Negotiated Tenders	11	Sale of Vehicles, Plant, Machinery, Equipment etc.
13	Selective Tendering – Select Lists Estimated contract value in excess of £50,000	15	Scheme Proposal - Capital Programme
14	Selective Tendering – Ad Hoc Lists Estimated contract value in excess of £50,000 NEW	14	Nominated Sub-Contractors and Suppliers
15	Emergency Works	12	Tender Envelopes
16	Use of Central Government Purchasing Arrangements or Organisations NEW	18	Attempted Alteration of Tender
17	Use of Local Purchasing Organisations NEW	13	Opening of Tenders
18	Purchase and Sale of Land/Property	16	Acceptance of Tenders
19	Sale of Vehicles, Plant, Machinery, Equipment etc.		
20	Scheme Proposal - Capital Programme		
21	'Main Contractor' Arrangements NEW		
22	Nominated/Named Sub-Contractors and Suppliers		
23	Engagement of Consultants NEW		
24	Partnerships NEW		
25	Tender Envelopes and Electronic Tendering System		
26	Late Tenders NEW		
27	Attempted Alteration of Tender		
	Opening of Tenders		
	Acceptance of Tenders		

New CPR Ref	Description	Old CPR Ref	Description
28	Acceptance of Tenders above an approved budget/ estimate	17	Acceptance of Tenders above an approved budget/ estimate
29	Negotiations following Receipt of Tenders NEW	19	Contracts to be in Writing
30	Contracts to be in Writing	20	Signing of Contracts/Use of Common Seal of the Council
31	Signing of Contracts/Use of Common Seal of the Council	21	Contract Specification/Contract Bond
32	Contract Conditions NEW	23	Cancellation of Contracts - Inducements
33	Contract Bond	22	Standard/Specification
34	Cancellation of Contracts - Inducements	24	Expenditure in excess of approved Tender Sum
35	Standard/Specification	25	Compliance with Financial Regulations
36	Extending Existing Contracts NEW	26	Non-Commercial Matters
37	Expenditure in excess of approved Tender Sum / Variation and Extra Works Orders	27	Review of Cash Limits
38	Compliance with Financial Procedure Rules		
39	Non-Commercial Matters		
40	Review of Cash Limits		
41	Lease or Credit Arrangements NEW		
42	Claims NEW		
A	Keeping of Records of Correspondence/Prices/Negotiations	A	Keeping of Records of Correspondence/Prices/ Capital Expenditure Approval Protocol.
B	Capital Expenditure Approval Protocol.	B	Compilation of Select Lists and selection of Contractors to be invited to tender for specific contracts
C	Compilation of Select Lists and selection of Contractors to be invited to tender for specific contracts	C	Purchase and Sale of Land/Property (Buildings)
D	Purchase and Sale of Land/Property (Buildings)	D	Non-Commercial Matters
E	Non-Commercial Matters	E	

RISK ASSESSMENT

RISK ASSESSMENT MATRIX						
Likelihood of Risk Happening	A	Very high				
	B	High		7	1,3,4,6	
	C	Significant		2	5	
	D	Low				
	E	Very low				
	F	Almost impossible				
<p>1. Write down the risks below and score them.</p> <p>2. Enter the risk number from the left hand column below into the relevant box in the matrix above.</p> <p>3. Identify the target score, enter in the matrix above and note the appropriate actions to deal with the risk in the right hand column below.</p>			4	3	2	1
			Negligible	Marginal	Critical	Catastrophic
			Impact			
RED: HIGH Priority AMBER: MEDIUM Priority GREEN: Low Priority						
No	Description of risk	Likelihood of risk	Impact	Overall score	Target score	Actions required to achieve the target score
1	Non-compliance with EU Procurement Directives	High	Critical	B2	F2	Ensure EU Procurement forms part of Procurement Training and that EU Thresholds are readily updated and accessible
2	Freedom of Information	Significant	Marginal	C3	D3	Ensure Procurement staff are aware of FOI and the procedures for dealing with requests
3	Failure to achieve Value for Money and efficiency savings	High	Critical	B2	D3	Increase awareness and adherence to Contract Procedure Rules through training and guidance
4	High Value of Non contracted spend	High	Critical	B2	E2	Increase awareness and adherence to Contract Procedure Rules through training and guidance
5	Lack of Procurement awareness, knowledge and skills	Significant	Critical	C2	D3	Increased awareness and improved knowledge and skills through training and guidance
6	Lack of aggregated and collaborative spend	High	Critical	B2	D3	Communicate importance of aggregating spend, collaboration and adherence to Contract Procedure Rules through training and guidance
7	Electronic procurement not being used	High	Marginal	B3	D3	Promote and utilise eMarketplace and eTendering

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REPORT TO STANDARDS COMMITTEE

5TH JULY 2007

REPORT OF CHIEF EXECUTIVE

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION (2)

1. SUMMARY

- 1.1 The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place. This is the second of two review reports to be tabled at Council on the 27th July.
- 1.2 The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives. This report is a further review for the purposes of Article 16 of the Constitution.
- 1.3 The recommendations in this report, based on advice from the Council's Monitoring Officer, and following meetings of the Constitutional Review Group, reflect those areas where it is considered appropriate to make some further changes, viz:
 - changes to the remit of the Audit Committee (Part 10 refers).
 - various changes to the Officer Delegations at Part 3 – Responsibility for Functions – C. Officer Delegations:
 - (a) to amend R6 and R18.
 - (b) a new CE61 to deal with decisions in recess proposed by the Chief Executive.
 - (c) a new NS **** to cover Sections 29 and 350 of the Gaming Act 2005 proposed by the Inspection and Licensing Services Manager.
 - (d) a new NS *** to cover the Local Authorities (Functions and Responsibilities) (England) (Amendment) (No. 2) Regulations 2007, under the Health Act 2006 No Smoking Regulations.
 - changes to the Officers Code of Conduct at Part 5 – Codes and Protocols – B. Officer Code of Conduct, proposed by the Head of Organisational Development.

2. RECOMMENDATIONS

- 2.1 That Cabinet note, in particular, the proposal for a new delegation to the Chief Executive, CE61, to cover decision making during the summer recess.
- 2.2 That the Council approves the amendments set out in the Appendix and directs the Council's Monitoring Officer:
 - (a) to amend the Constitution accordingly and make all necessary and consequential amendments; and
 - (b) to publish an amended version on the Council's website.

3. BACKGROUND

- 3.1 Work is ongoing in reviewing the Constitution. A number of officers have formed a Constitutional Review Group, headed by the Monitoring Officer, and its purpose is to consider proposals for change with a view to reflecting the law and improving the efficiency of decision taking within the authority.
- 3.2 Previous reviews are identified in the list of background papers accompanying this Report.

4. LEGAL IMPLICATIONS

- 4.1 It is intended that these changes shall have immediate effect.
- 4.2 The principal changes are referred to in paragraph 1.3 above.

5. CONSULTATIONS

- 5.1 Management Team has been consulted on the proposed changes. Standards Committee to consider this Report on 5th July 2007.
- 5.2 All Departments of the Council have been consulted with regard to the amendments suggested in this report.

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Ward(s)

Key Decision Validation

Background Papers

Reports:

- Council - 16th May 2003
- Council - 26th June 2003
- Standards Committee - 4th November 2003
- Council - 26th November 2003
- Council - 21st May 2004
- Cabinet - 25th November 2004
- Council - 25th February 2005
- Standards Committee - 3rd November 2005
- Council - 25th November 2005
- Standards Committee - 9th February 2006
- Council - 24th February 2006
- Standards Committee - 6th April 2006
- Council - 21st April 2006
- Standards Committee – 5th May 2006
- Council – 19th May 2006
- Standards Committee – 6th July 2006
- Council – 28th July 2006
- Standards Committee – 2nd November 2006
- Council – 24th November 2006
- Standards Committee – 8th February 2007
- Council – 27th February 2007
- Standards Committee – 5th April 2007
- Council – 20th April 2007
- Standards Committee (Special Meeting) – 27th April 2007
- Council – 18th May 2007
- Standards Committee

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Page Reference and Proposed Amendment	Basis for Change
<p>Page 17 - Articles of the Constitution – Article 10 – Audit Committee Paragraph 10.3 – Role and Function</p> <p>To amend as follows:</p> <p>(i) To be satisfied that the Council’s Treasury Management arrangements are effective and comply with current CIPFA guidance. To set and review the indicators associated with the Prudential Code for Local Authorities.</p>	<p>Omitted from the original role and function of the Audit Committee.</p>
<p>Page 58 - Part 3 – Responsibility for Functions – C. Officer Delegations:</p> <p>(a) Amend R6 – LGA 1972 – S112 – Signing of cheques.</p> <p>Delete Audit Services Manager and replace with Audit and Resources Manager.</p> <p>Delete Policy and Finance Manager and replace with Risk and Governance Manager.</p> <p>(b) Amend R18 – Certification of Grant Claims</p> <p>Delete Audit Services Manager and replace with Audit and Resources Manager.</p> <p>(c) a new CE61 to deal with decisions in recess:-</p> <p>“Determination of operational matters such as might otherwise require Cabinet approval during the period of recess subject to prior consultation with the Leader of the Council: these determinations shall be reported to the next Cabinet for retrospective approval insofar as necessary.”</p> <p>(d) a new NS **** to cover:</p> <p>Section 29 of the Gaming Act 2005 – to provide information to the Gambling Commission.</p> <p>Section 350 of the Gaming Act 2005 – to provide information to persons and bodies listed in Schedule 6, Part 1.</p> <p style="text-align: right;"><i>Cont’d. ...</i></p>	<p>Director of Resources – Redesignation of Posts</p> <p>Director of Resources – Redesignation of Posts</p> <p>Chief Executive Officer</p> <p>Director of Neighbourhood Services; Head of Environment Services; Inspection and Licensing Services Manager and Principal Licensing Officer</p>

Page Reference and Proposed Amendment	Basis for Change
<p>(e) the Local Authorities (Functions and Responsibilities) (England) (Amendment) (No. 2) Regulations 2007 under the Health Act 2006 No Smoking Regulations.</p> <p>(1) Power to transfer enforcement functions to another enforcement authority.</p>	<p>Director of Neighbourhood Services, Head of Environment Services</p>
<p>Page 190 - Part 5 – Codes and Protocols – B. Officers’ Code of Conduct : Paragraph 13.3</p> <p>To change “£20” to “£25”.</p>	<p>Head of Organisational Development</p>

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