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DATE: 19 November 2015

To: Members of the
AUDIT SUB-COMMITTEE

Councillor Neil Reddin FCCA (Chairman)

Councillor Alan Collins (Vice-Chairman)

Councillors Ian Dunn, Peter Fortune, William Huntington-Thresher, Keith Onslow and Stephen Wells

A meeting of the Audit Sub-Committee will be held at Committee Room 1 - Bromley Civic Centre on **TUESDAY 1 DECEMBER 2015 AT 7.00 PM**

MARK BOWEN
Director of Corporate Services

Copies of the documents referred to below can be obtained from
<http://cds.bromley.gov.uk/>

A G E N D A

- 1 **APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**
 - 2 **DECLARATIONS OF INTEREST**
 - 3 **CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 25TH JUNE 2015 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION (Pages 5 - 10)**
 - 4 **QUESTIONS FROM MEMBERS OF THE PUBLIC OR COUNCILLORS ATTENDING THE MEETING**
- In accordance with the Council's Constitution, questions to this Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on 25TH November 2015.
- 5 **MATTERS OUTSTANDING--PART 1 (Pages 11 - 16)**
 - 6 **QUESTIONS ON THE AUDIT SUB COMMITTEE REDACTED REPORTS PUBLISHED ON THE WEB**

The published reports are as follows:

- Parks and Green Space Final Report—2014/15
- Property Management Final Report—2014/15
- Redacted Downe Primary School Final Audit Report

- Redacted Commercial Property Rents Account
- Redacted Direct Payment Final Audit Report—2015/16
- Redacted Final Planning Enforcement Audit—2014/15
- Redacted Final Audit Report for Merit Pay
- Redacted Final Follow Up Audit for Family Placements—2015/16
- Redacted Final Housing Benefit Audit Report—2014/15
- Redacted Final Debtors Report—2014/15
- Redacted Final Follow Up Report For Leaving Care—2015/16
- Redacted Final Purchase Card Follow Up Audit Report—2015/16
- Redacted Final Report Building Maintenance Report—2014/15
- Redacted Oak Lodge Final Audit Report—2015/16
- Final Internal Audit report for St Olaves and St Saviours
- Redacted IT Assets and Software Licences Follow Up—2015/16
- Redacted Pool Cars and Fuel Cards Follow Up Audit—2015/16
- Redacted Main Accounting Audit—2014/2015
- Key to LAC Follow Up Redacted Report
- Redacted Liberata Final Report—2015/16
- Redacted Waste Audit—2015/16

Members have been provided with advance copies of the reports via email.

The reports are also available on the Council's website via the following link:

<http://cds.bromley.gov.uk/ieListDocuments.aspx?MId=5577>

Printed copies of reports are available upon request by contacting Steve Wood on 0208 313 4316 or by email—stephen.wood@bromley.gov.uk

7 INTERNAL AUDIT PROGRESS REPORT (Pages 17 - 92)

8 FINANCIAL REGULATIONS & CONTRACT PROCEDURE RULES (Pages 93 - 380)

9 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the item of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

10 MATTERS ARISING FROM THE MEETING ON 25TH JUNE 2015-PART 2 (Pages 381 - 384)

11 INTERNAL AUDIT FRAUD & INVESTIGATION REPORT (Pages 385 - 424)

12 EXEMPT MINUTES OF THE MEETING HELD ON 25TH JUNE 2015 (Pages 425 - 432) Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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AUDIT SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 25 June 2015

Present:

Councillor Neil Reddin FCCA (Chairman)
Councillor Alan Collins (Vice-Chairman)
Peter Fortune, William Huntington-Thresher, Keith Onslow and
Angela Wilkins

Also Present:

Luis Remedios and Paul Symonds Head of Internal Audit
Mark Bowen, Director of Corporate Services
Paul Symonds, Assistant Director for Transport and Highways

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies were received from Councillor Ian Dunn, Councillor Angela Wilkins attended as substitute.

Apologies were received from Cllr Stephen Wells.

Cllr Fortune apologised for coming late.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 1st April 2015 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION

The public minutes from 1st April 2015 were agreed.

4 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

5 MATTERS ARISING (Part 1)

Report No: CSD15077

The Committee considered the latest Matters Arising report and noted that all matters had either been resolved, or were in the process of being completed.

RESOLVED that the Matters Arising report be noted.

6 ANNUAL AUDIT REPORT

Report CEO 1507

This report was written by the Head of Internal Audit for member information, and was also intended to assist the Council in meeting the financial management and internal control requirements of the Accounts and Audit Regulations 2011.

The Committee heard that control issues highlighted in the audit reports could be grouped under 4 categories:

- Organisational
- Financial
- Operational
- Compliance

Members were directed to the Table on page 9 of the report headed "Recommendations by Category", and also to the associated Pie Chart on page 10 of the report that showed the same data. The Committee noted that the main audit recommendations for 2014-15 were:

1. Supervisory and Monitoring recommendations—24%
2. None or obsolete procedures recommendations—15%
3. Recommendations relating to lack of supporting documents—9%
4. Breach of Financial Regulations or Procedures--9%

The Head of Audit then referred Members to Appendix A which detailed a summary of progress and all other audit activity from 1st April 2014 to 23rd March 2015. He felt that good progress had been made.

Members were directed to Appendix C which was the Draft Annual Governance Statement. Members were asked to consider and approve this Statement.

RESOLVED:

(1) that the Annual Audit Report be noted

(2) that the Draft Annual Governance Statement be approved

7 INTERNAL AUDIT PROGRESS REPORT

Report Number CEO 1508

Members were referred to the Priority 1 update report (Appendix A). The Head of Internal Audit felt that there was now light at the end of the tunnel, and that good progress was being made. He was confident that by November 2015, most recommendations would be implemented. The Head of Internal Audit updated the Committee as follows:

Leaving Care:

A dedicated officer had now been appointed, and this would aid in the implementation of recommendations.

Looked after Children:

Some progress had been made in this area although it was the case that two priority one recommendations still remained. Management were making concerted efforts to implement all the required recommendations. Recovery issues in this case were difficult and now sat with Liberata.

Family Placements

The Head of Audit mentioned that following the nil assurance opinion, the progress made to implement the 8 priority one recommendations was slow with 6 still considered to be outstanding. The officer tasked with implementing these recommendations had recently left the Authority and this may have hampered progress. Management are aware of the need to progress implementation.

Building Maintenance:

After conducting follow ups and sample testing, Internal Audit were now happy that the required improvements had been made, and that Building Maintenance could now be removed from the Priority 1 list.

Creditors:

The Priority 1 issue in relation to raising retrospective orders was still outstanding. The matter was referred to Directors Group and it was agreed that the position would be addressed.

Rent Arrears:

This was still on the Priority 1 list as the level of rent arrears was still high. Much of the arrears were historical and some would need to be written off. An ongoing audit was taking place, and an update would be provided at the next meeting.

Essential Car Users:

Three Priority 1 issues were outstanding. The ECU criteria was being reviewed by management. The scheme was being phased out over the next two years. Audit had advised that there were now 7 staff members that had been in receipt of the allowance, even though they were not doing any mileage. This will be reviewed by management. An email would be sent to advise managers that the relevant checks need to be conducted on driving licenses and business insurance.

The Committee were briefed that RB Greenwich had recently had a system put in place that could check the status of driving licences straight away. It was agreed that the Head of Audit would speak with the Transport Manager at RB Greenwich to get some more information concerning the system, and to see if this was a system that LBB could also use.

Domciliary Care:

The Head of Audit stated that as a result of an audit two priority one recommendations were made in respect of service arrangements closed on incorrect dates or not closed; and in respect of Extra Care Housing where actual hours delivered were different to planned hours for clients.

The list of 12 Internal Audit reports publicised on the web was highlighted to Members.

The Committee then turned their attention to page 11 of the report (Section 3.32) concerning the nomination for "Auditor of the Year". It was disclosed that this award was going to Mr James Newell for his solid audit work throughout the year. A Member enquired what the reward was for attaining this title. The response was that it had to do with the honour of attaining the award, rather than anything else. It was however the case that there would be an award ceremony with the Mayor, plus the award of the "Tickner Cup". The Committee felt it would be appropriate for an expression of thanks to James be conveyed to him from the Audit Sub Committee.

The Committee were reminded that all new cases of Housing Benefit Fraud would be referred to the DWP's Single Fraud Integrated Service as from the 1st July 2015. RB Greenwich would only conclude cases where a summons had been issued prior to transfer. Transfers to SFIS would be recorded, and Internal Audit would request periodic updates from the DWP.

It was noted that Zurich Municipal had been tasked to undertake a Public Health Risk and Insurance Review concerning Public Health related risks. The draft document had gone to the Director of Public Health for scrutiny. The work on developing the Risk Road Map was currently being undertaken by Zurich.

RESOLVED:

- (1) that the Internal Audit Progress Report be noted**
- (2) the list of Internal Audit Reports publicised on the Web be noted**
- (3) that the nomination for Auditor of the Year be noted**
- (4) that the benefits of the counter fraud partnership with RB Greenwich and impending changes be noted**
- (5) that the arrangements around risk management be noted**
- (6) that the Head of Audit contact RB Greenwich to find out more about the system in use for checking driving license details with DVLA**
- (7) that an expression of thanks be conveyed from the Audit Committee to James Newell for his solid audit work**

8 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the press and public be excluded during consideration of the items of business listed below as it was likely in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present, there would be disclosure to them of exempt information.

9 EXEMPT MINUTES OF THE MEETING HELD ON 1st April 2015

The exempt minutes of the meeting held on the 1st April 2015 were noted and agreed.

10 MATTERS ARISING (Part 2)

Report CSD 15078

The part two-private Matters Arising report was noted.

11 INTERNAL AUDIT FRAUD & INVESTIGATION REPORT

Report CEO 1509

This report was written by the Head of Internal Audit to inform Members of recent internal audit activity on fraud and investigations across the Council, and provided updates on matters arising from previous Audit Sub Committee meetings.

The full minutes of this item will be detailed in the part two minutes.

12 ANNUAL FRAUD REPORT

Report CEO 1506

The report informed Members of all fraud and investigation activity for 2014/15. It summarised all the allegations of fraud that had been received, investigations of matters not fraud related but breach of financial regulations/procedures, results of our housing benefit partnership with the Royal Borough of Greenwich and findings from the National Fraud Initiative (NFI) data match exercise. The report also made reference to other matters such as major investigations, individual cases of interest and a summary of the fraud register.

The minutes relating to this part two report are detailed in the part two minutes.

The Meeting ended at 8.45 pm

Chairman

Report No.
CSD16003

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **AUDIT SUB-COMMITTEE**

Date: **1st December 2015**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MATTERS ARISING**

Contact Officer: Stephen Wood, Democratic Services Officer
Tel: 020 8313 4316 E-mail: Stephen.Wood@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Resources

Ward: n/a

1. Reason for report

To update the Sub-Committee on progress with Matters Arising (Part 1) from previous meetings.

2. **RECOMMENDATION(S)**

To note and comment on progress with matters outstanding from previous meetings.

To recommend any action as deemed appropriate with respect to matters that have not been resolved.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council
-

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: **£326,980.**
 5. Source of funding: 2015/16 revenue budget
-

Staff

1. Number of staff (current and additional): 8.75fte
 2. If from existing staff resources, number of staff hours: Completion of "Matters Arising" reports for the Audit Sub Committee normally takes a few hours per meeting.
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Legal

1. Legal Requirement: None:
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): This report is intended primarily for the benefit of members of the Audit Sub-Committee.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Attached is a schedule of matters outstanding from previous meetings of the Audit Sub Committee with a note of progress made. Most of these issues are taken up in more detail in the progress reports on this agenda (parts 1 and 2). Once an outstanding matter has been completed it will be removed from the schedule.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel
Background Documents: (Access via Contact Officer)	Previous Minutes of Audit Sub Committee.

Appendix 1

Issue & Date	Summary	Action being taken	By	Estimated Completion
Minute 29 1 st April 2015 Internal Audit Progress Report	The Committee were interested to learn that a new online Risk Management course was being developed with Workforce Development.	Ongoing. Will be finished after work with Zurich is completed.	Audit and Zurich	Update will be provided in the Progress Report.
Minute 30 1 st April 2015 Internal Audit Plan for 2015/16	A Member stated that Councillors should be more involved in the scrutiny of contracts, as Members had a responsibility to the public, and that the failure to monitor contracts previously should be remembered.	PDS Committees referred the matter to the E&R PDS Committee for their attention.	PDS Committee Chairmen.	A Contracts Working Party has now been formed and has met on three occasions from September 2015.
Minute 7 Internal Audit Progress Report Resolution 6	It was resolved that the Head of Audit contact RB Greenwich to find out more about the system in use for checking driving license details with DVLA	Head of Audit has contacted RB Greenwich. It was noted that individual managers at RB Greenwich check driving licenses and motor insurance details. DVLA not contacted unless it is felt that enhanced checks are required.	Head of Audit.	Completed.
Minute 7 Internal Audit Progress Report Resolution 7	It was resolved that an expression of thanks be conveyed from the Audit Committee to James Newell for his solid audit work.	Appreciation was conveyed to James Newell at the presentation for Auditor of the Year.	Audit Committee, CEO and Mayor.	Completed
Internal Audit Fraud and Investigation Report Part 2 Reports.	Matters relating to: Insurance Investigation Castlecombe Children and Family Centre Referred Fraud Cases Review of Temporary	See updated Part 2 reports on the December Agenda.	Head of Internal Audit	Various.

	Accommodation FPN's and Disabled Facilities Grants.			
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Report No.
CEO 15011

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **AUDIT SUB-COMMITTEE**

Date: **Tuesday 1 December 2015**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **INTERNAL AUDIT PROGRESS REPORT**

Contact Officer: Luis Remedios, Head of Audit
Tel: 020 8313 4886 E-mail: luis.remedios@bromley.gov.uk

Chief Officer: Chief Executive

Ward: (All Wards);

1. Reason for report

This report informs Members of recent audit activity across the Council and provides updates on matters arising from the last Audit Sub Committee. It covers:-

- 3.1 Priority One Recommendations
- 3.26 Audit Activity
- 3.28 Publication of Internal Audit Reports
- 3.31 Waivers
- 3.35 VfM arrangements
- 3.40 Housing Benefit Update
- 3.44 Update of the Anti-Fraud and Corruption Strategy
- 3.47 Other Matters
- 3.58 Letter of Representation
- 3.60 Training
- 3.62 Risk Management

2. **RECOMMENDATION(S)**

- a. **Note the Progress report and comment upon matters arising.**
- b. **Note the list of Internal Audit Reports publicised on the web.**
- c. **Note the list of waivers sought since March 2015.**

- d. Note the continuing achievements of the counter fraud partnership with the Royal Borough of Greenwich and impending changes.**
- e. Approve the amendments made to the Corporate Financial Regulations.**
- f. Approve the revised Anti-Fraud and Corruption Policy**
- g. Note the arrangements around risk management.**
- h. Note the Letter of Representation**
- i. Note the Training- Audit Controls**

Corporate Policy

1. Policy Status: Not Applicable:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Internal Audit
 4. Total current budget for this head: £540K including £174K fraud partnership costs
 5. Source of funding: General fund, Admin subsidy, Admin penalties, Legal cost recoveries
-

Staff

1. Number of staff (current and additional): 6 FTE including 0.5 FTE risk officer post
 2. If from existing staff resources, number of staff hours: 209 audit days per quarter is spent on the audit plan and fraud and investigations with 110 days per annum bought in from LB Wandsworth to augment the audit plan but excluding RB Greenwich investigators time
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approximately 110 including Chief Officers, Head Teachers and Governors
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

3.1 The latest list of outstanding priority one recommendations is shown in Appendix A. There has been further addition detailed below or in Part 2 since the last meeting of this Committee. There has also been some movement in priority one recommendations brought forward that are detailed below

3.2 Progress on implementation of recommendations for Fixed Penalty Notices (1 outstanding priority ones out of 6- see part 2). New Priority one recommendations relating to the stray dog contract, CCTV, Waste Services, Astley Day Centre and Disabled Facilities Grants are covered in part 2 of this agenda). The rest of the updates are detailed below. Family Placements (of the 8 priority one recommendations 3 remain outstanding and 5 partially implemented); Looked After Children (2 priority ones made both implemented); Leaving Care (9 priority 1 recommendations made of which 7 have been implemented and 2 are partially implemented); Creditors (1 outstanding priority one recommendation out of 1 priority one made); Essential Car Users allowances (3 priority one recommendations made, of which all 3 have been implemented); Transition Team (1 priority one recommendation made which is outstanding); and Domiciliary Care (2 priority one recommendations made both of which remain outstanding). There is also a brief reference below to the outstanding priority one recommendations on Rent Arrears. There is a new recommendation on a primary school.

3.3 Family Placements

3.4 The audit was carried out as part of the 2014/15 audit plan and was at the request of the Assistant Director –Safeguarding and Social Care. As a result of our findings we issued a nil assurance and there were 8 priority one recommendations in respect of overpayments, children’s savings, legal orders, special guardianship orders, kinship allowances, residence orders, adoption allowances and training. Internal Audit followed up these recommendations and reported to the previous meeting of this Committee that progress was not satisfactory and that six priority one recommendations remained outstanding, one partially implemented and one i.e. adoption allowances fully implemented. The second follow has been completed and our findings are shown below.

- Overpayments: During the follow up audit in September 2015, the level of the overpayments £56,592.61. The amount outstanding as at 7/10/15 was £61,264.66. These relate to the aged debt report.

The large overpayment of £21K is still outstanding. The original invoice has been cancelled and reissued in joint names and it should be noted that there has been some payment against the outstanding amount albeit minimal.

The review of the respite rates remains outstanding as confirmed by the Head of Service, Care & Resources and was highlighted within the original report.

A report detailing overpayments to foster carers of allowances and retainers was provided to the Auditor on 11/11/15. The total of overpayments was £2,436.62 and the report is dated 9/11/15.

These are over and above the aged debt report. This remains as partially implemented.

- Savings: During the follow up report in September 2015 this had been marked as partially implemented. The Auditor requested evidence that savings are confirmed as part of the review process. The Auditor is awaiting a response from management. This remains as partially implemented.

- Legal Orders: Sample testing was undertaken for Residence Orders and Special Guardianship Orders (SGO’s). It was found that for 4 out of 10 residence orders, the legal order could not be located within Carestore. For the SGO’s all ten legal orders were located. The Head of Service, Care & Resources, confirmed that the department had made progress and had approximately 90% of the legal orders. Internal Audit recognises that there has been progress here. This remains as partially implemented.

- Connected Person (Kinship): A sample of ten kinship/connected persons allowances, were tested. It was found that two payments had not been automatically uplifted and therefore underpayments had been made since 1/4/15 in both cases for approximately £250 in total. This remains as partially implemented.
- Residence Orders: Out of a sample of ten cases, it was found that 4 residence legal orders could not be located. It should be noted that some of these rates may have originated from when these allowances used to be financially assessed but none of the rates reconcile back to the agreed rates for residence allowances currently. The original records were also not available for review. This applied to six cases.
Additionally, for two cases the cost of living increase had been missed and therefore underpayments had been made of approximately £75.00 in total. A further case had been set up with a specific amount rather than an age related rate. A response is awaited from management but the underpayment in this case is approximately £550. The service will also undertake the residence order welfare checks, which is good practice. Information has been requested from management to verify that the welfare checks are up to date. This recommendation remains as outstanding.
- Special Guardianship Orders: Sample testing was undertaken for ten special guardianship order (SGO) allowances. All of the SGO legal orders could be located. However; these allowances are subject to an annual financial assessment. Issues arose with 4 out of the ten cases sampled. For two cases the financial assessment form could not be located and therefore the allowances in payment could not be verified. For the remaining two cases, one allowance was due to stop in October 2015 (no exact date), but payments remained in place at the time of testing. The last case the allowance was due to change once the carer had claimed child benefit/child tax credit. There was no indication when this was likely to be completed as the allowance level would be affected. This remains as partially implemented.
- Training: -Information was requested from the Head of Service, Care & Resources and the Group Manager, Family Placements. This information was not readily available. Internal Audit tested nine members of staff that may have completed the mandatory training for financial regulations and contract procedure rules. It was found that only one out of the nine members of staff had completed and passed the training. It was noted that some of the staff still had not been identified as needing to complete the training and therefore had not yet been set up. The Group Manager advised that staff had received Carefirst training. We have been informed by management that staff will be required to complete the financial regulations and contract procedure rules training as soon as possible. This recommendation remains as outstanding,
- This recommendation was increased to a Priority 1 recommendation during the follow up report in September 2015. A report was provided to the Auditor detailing that there were 10 outstanding DBS checks from 20/7/15-24/10/2015. Of these 10, 8 were at Stage 4 and over 60 days. Furthermore, 8 carers had children currently placed with them with an outstanding DBS check at the time of the review. Management had previously stated that ' formal risk assessments are undertaken and an increase in visiting frequency must be put in place where there is a delay in obtaining an up to date DBS and a child is already in placement'. The auditor was advised that the risk assessments were located within Carestore, but all 8 could not be located on 12/11/15. The Group Manager has since advised that two of the DBS checks have since been received and provided evidence of risk assessments. The increased visits are not recorded separately.
- Of the 8 priority one recommendations tested to confirm implementation showed that 3 were still outstanding and 5 were found to have been partially implemented.

3.5 Leaving Care (Payments to Clients)

3.6 A previous audit of this area resulted in a nil assurance opinion and 9 priority one recommendations were reported to this Committee. The issues were in respect of the effectiveness of the overall controls for cash handling, supporting documentation, monitoring, reconciliation and review of pathway plans. At the previous meeting Members were updated on the progress made by management to implement the 9 priority one recommendations identified in the audit review. Although significant improvements to the procedures relating to payments to leaving care clients and cash handling within the division, these procedures had only been operational for a short time and therefore Internal Audit concluded that 2 were outstanding, 6 were partially implemented, and one i.e. cash payments to bank accounts was implemented. The second follow up review has been completed and our findings are shown below:

- **Policies and Procedures:** The monitoring officer has now completed the procedure notes and included the areas suggested during the follow up audit. The section relating to imprest will need to be updated once the new imprest officer has been appointed and roles and responsibilities for the monitoring officer may need to be revised. This recommendation is now considered to be implemented
- **Documents to Support Payments and Authorisation:** The previous update to committee reported a shortfall of £218 at year end for the imprest managed by Children's Services. Since then Finance and Internal Audit have met with management to discuss the numerous errors found by Finance, indicating that the £5K and £10K imprests were poorly run and poorly managed. The errors indicated that there was no basic grasp of imprest management and the cash book was altered to match the cash balance. The bank statements had not been included in the reconciliation to independently verify the account. Finance did not identify any fraud however the record keeping at the time was so poor it would not have been possible to evidence financial irregularities. Management immediately imposed additional controls; the LCT monitoring officer was tasked with supervisory responsibility and the Group Manager would independently reconcile the accounts. Management have agreed to create a permanent finance officer post with a suitable personnel specification.

A sample of 5 clients was selected to check the accuracy of data shown on the payments schedule, completion of the Request For Finance (RFF) forms and petty cash vouchers. 10 RFF were correctly authorised and completed with the P and T number to identify the client. For the petty cash vouchers checked, three signatures were evidenced to support the transfer of cash from imprest holder, case worker and client. The supporting documentation was available as a scanned record on CareStore.

The original recommendation relating to documentation and authorisation is now considered to be implemented.

- **Monitoring of payments:** Case workers are now responsible for updating their client's payments record. The monitoring officer will reconcile the payments shown in ORACLE to the client payment record on monthly. For the sample selected, payments for the capped grants were recorded on the individual client record. This recommendation is now considered to be implemented.
- **Reconciliations:** As discussed above the monitoring officer now reconciles client records held on CareStore to ORACLE monthly. Any payments through CareFirst do not have the Client T number on the expenditure code as the relevant field has insufficient characters. The expenditure is therefore allocated to a default code that the monitoring officer now reviews monthly and allocates to the correct client. VAT is also accounted for as the team now consistently record the gross value against the grant. This ensures that clients receiving their Setting Up Home Allowance (SUHA) as cash payments receive the same value as those

ordering SUHA items through the Authority's procurement procedures. This recommendation is now considered implemented.

- Pathway Plans: Pathway plans continue to be a priority for the team and there has been significant improvement. A Business Objects report run for 29.10.15 detailed the all leaving care clients and the date due for the next pathway plan. 198 clients were identified on this report of these, 46 (23%) were outstanding as at 28.10.15. Allowing for a two week tolerance, 35 (18%) were overdue, 20 (10%) were overdue using a 1 month tolerance and 11 (6%) were more than 2 months overdue. For the 5 clients selected for audit examination the pathway plans have been completed 6 monthly within a 2 week tolerance. The administration, control and execution of pathway plans has improved since the original audit finalised in September 2014. However for the timely completion of pathway plans, compliant to legislation and to negate adverse comments from external inspections it is suggested that 10% overdue by more than one month still evidences a need to improve and the recommendation will therefore remain as partially implemented.
- Storage space: The LCT has reviewed storage opportunities with alternative suppliers, but costs also needed to be measured against accessibility. Several firms offered comparable terms but were introductory offers that would increase in the medium/long term. The market testing has allowed the Group Manager to renegotiate better terms with YellowBox and the Authority are now paying £140 per month compared to the £355 evidenced during the audit. There is now an inventory of stored items and the review did lead to a reduction in items held. The team are considering the retention policy for stored items which will need to be formalised and agreed. In practice the Group Manager can assess the merit of each case. Sufficient progress has been made to close this recommendation
- Purchase card: The purchase card transaction report issued to officers in October 2015 was used to select 5 payments made by the leaving care team. Of the 5, 2 were satisfactorily checked to the payments schedule and supported by an authorised RFF. For 1 transaction the payment appears to have been part of a multiple RFF and it is not clear on the payment schedule if the correct payment has been posted. For 2 of the 5 selected the purchasing officer has not yet validated the payment to allocate the spend to the client and budget code. These payments related to 09.07.15 and 24.07.15. The transaction report identified 3 officers in the leaving care team with outstanding purchases not validated in a timely manner. The total spend on these outstanding transactions is £7,356.95 relating 48 transactions, procured between 10.1.15 to 10.10.15. The supporting documentation has improved for the leaving care payments but the timely validation and authorisation of purchase card transactions needs to be improved and the recommendation is therefore partially implemented.
- Cash security: An audit check on the LCT safe was carried out on the 29.10.15. Three envelopes for £30, £40 and £80 were secured and agreed to the entries record on the schedule. The safe record was well kept, evidenced that uncollected funds were returned the imprest account and officers had signed each entry to evidence accountability. The team site records the balance for food vouchers held however there was a difference of £20; £455 counted, £475 expected. The Group Manager evidenced a £20 gift voucher awarded to a client that had been exchanged for equivalent value food vouchers. This practice should not have been allowed; the voucher record will be amended with an adequate audit trail to evidence the adjustment and account for the gift card. Significant improvement has been made to cash security in the section and this recommendation is considered implemented.
- To summarise, the findings of this review are that of the 6 partially implemented recommendations 4 are implemented and 2 relating to pathway plans and purchase cards remain as partially implemented but acknowledged that the team have evidenced further improvement this time. For the two outstanding recommendations relating to storage and supporting documentation, sufficient improvement has been evidenced to consider these

recommendations to be implemented. Internal Audit and Finance continue to liaise with the Department to remedy the issues regarding the administration of the imprest account and this will be reviewed outside of the P1 process.

3.7 Looked After Children

3.8 The audit review was finalised in May 2014, identifying two priority 1 findings that have been reviewed for previous audit sub meetings to update on the progress to implement the recommendations relating to payment authorisation resulting in a case of overpayment and timely completion of assessments and reviews. This is the fourth follow up and the findings are shown below:

- Payment authorisation- The original invoice to recover the overpayment was issued to the wife only, however the husband and wife are jointly responsible for the debt and had both signed the agreement as foster carers. The invoice was reissued at the beginning of October to the couple. As at 4th November, the outstanding balance is £21.2K; £50 is being paid monthly as two separate £25 payments, although this is not an agreed arrangement. The debt is subject to recovery procedures and one reminder letter has been sent. The couple have contacted Liberata as they are unable to make proposed payments as both are part time students, on benefits and experiencing financial hardship. Liberata are investigating these claims and will consider the next action to be taken once all enquiries have been concluded.

A sample of 5 LAC cases were selected for audit examination to ensure that the period of care was supported by an authorised funding decision, completed in a timely manner. For 4 cases there were no issues arising however for 1 case the fostering team had authorised a kinship payment outside of the agreed procedure and had not involved the Central Placements Team. This placement related to February 2015 and the Head of Service confirmed that the system has been changed in August 2015 to improve control. This case indicated a weakness in the Fostering Team rather than the LAC team and has been passed included in the Family Placement follow up for consideration. Sufficient progress has been made by the LAC team and with the overpayment now in debt recovery this recommendation is implemented.

- Timely completion of assessments and reviews- The second recommendation related to the timely completion of assessments and reviews. The sample of 5 cases was discussed with the LAC Group manager checked to CareFirst. In all cases there were care plans and placement plans completed and authorised in a timely manner for the period of care selected. The recommendation is therefore considered implemented.

3.9 Creditors

3.10 The original Internal Audit report identified that there was a significant number of orders that were raised retrospectively. A 'retrospective purchase order' report was run in May 2013 that showed that after adjustments there were 3,290 orders that had been made in the period 30/01/13 to 30/05/13, with two thirds of these attributed to 30 officers. Raising orders is crucial to committing expenditure for accounting purposes as well as verifying goods received to what was ordered. A recent audit has shown that there is still an issue with raising retrospective orders. The previous follow up showed that for the period 01/01/14 to 31/01/15, 8,981 retrospective orders were raised or 691 per month. The latest follow up showed that for the period 1/07/15 to 30/09/15 1,818 retrospective orders were raised with 64% of these relating to six areas including Housing accounting for 43% of the total. A new system for Housing is currently being tendered for that will have purchase order functionality and is expected to address this issue. It has been agreed that Chief Officers will address the problem areas that

should result in a reduction of retrospective orders. The recommendation therefore remains outstanding.

3.11 Rent Arrears –Emergency Accommodation

3.12 In 2011-12 when this recommendation was first made the total amount of rent arrears was £1.3 million and at the time there were 326 clients in temporary accommodation. By February 2015 890 number of people being housed in TA. We had previously reported that the arrears figure was £3.57 million at December 2014 and that the increase was partly a result of write offs not being actioned, a reconciliation to close accounts for Orchard and Shipman clients not having taken place (which is expanded upon in Part 2 of this agenda) and the increased number of clients being placed in TA. Action has been taken to rectify these findings however at October 2015, the rent arrears had increased to £3.58 million, with 953 clients in temporary accommodation. Write offs were actioned and the reconciliation with Orchard and Shipman is underway (as identified in the Audit of Orchard and Shipman) that could further reduce the arrears figure. There remains a high level of uncollected rent and therefore this recommendation remains outstanding.

3.13 Review of Essential Car Users

3.14 This audit was part of the 2013/14 Internal Audit plan and the findings below have been subject to discussion at Directors' meetings. Our audit identified three priority one findings in relation to a number of essential car users who had claimed little or no mileage since the review of the scheme in November 2012, the need to check eligibility to drive cars for business purposes and having a car for use and the need to review criteria to prevent anomalies. The reimbursement of car allowances has been reviewed and the essential user car lump sum payment is to be phased out commencing in 2016/17 and ceasing in 2017/18.

3.15 Review Usage-The previous follow up on the issue of essential car users who had claimed little or no mileage showed that there were 7 essential car users who had not claimed any mileage which was referred to management for review. A review of these users was carried out and explanations given. Management have stated that yearly reviews will be undertaken to ensure continued entitlement to the allowance until the scheme is phased out.

3.16 Check eligibility to drive cars for business purposes and having a car for use- all managers have been reminded of their responsibility to check both driving licences and insurance cover for business use.

3.17 Transition Team

3.18 A priority one recommendation was made in respect of overpayments and underpayments on a sample of direct payment cases that was reported to this Committee.

3.19 A new Interim Team Manager is in post and the recommendations made within the report are in the process of being actioned and overpayments are due to be clawed back. At the time of undertaking the follow up the recommendation was still to be actioned and therefore, the priority one recommendation is still outstanding. This still remains a priority for the service and will be managed through the finance meetings scheduled.

3.20 Domiciliary Care-

3.21 An audit of this area resulted in two priority one recommendations relating to service agreements closed on incorrect dates and also non closure. Sample testing showed that at the time of the audit, out of the sample of 44 cases selected for review, issues arose in 14 cases in

relation to the dates of service and in one case non-closure. The second recommendation related to Extra Care Housing where in three units the actual hours delivered was not reconciled to planned hours. A follow up of these two recommendations has shown that:

- 3.22 The follow up of the recommendation in respect of the closure of services for deceased clients, 3 cases had been closed on differing dates from the expected end date and for one case the client is marked as deceased but the service agreements remain open on Carefirst. These have been queried with the Commissioning team initially and a response is awaited. This recommendation remains outstanding.
- 3.23 In respect of the actual hours reconciling back to the planned hours the following issues arose with seven cases. The actual hours delivered in a specific week were reconciled back to the planned hours and any variances noted. For six cases queries were raised with the variances for sample weeks, one client had been missed off the spreadsheet and there were no timesheet for this client. Issues also arose with reconciling the planned hours on Carefirst. These queries regarding the variances and reconciling hours have been raised with the Group Manager. This recommendation remains outstanding.

3.24 **Primary School**

- 3.25 An audit of this School resulted in a priority one recommendation in relation to cash control. Examination of the safe list (provided in the 2013-14 cash and Bank audit) found the limit for cash to be held in the School's safe was £600. Counting of all of the cash held in the safe found it totalled £4939. It was discussed with the Business Manager that it was not always possible to keep everything in the safe due to the size of it. It was also noted that items such as paying in books and bank mandate are held in the safe, which do not need to be. Stamps are held in the safe, though there is no stock control process in recording the use of these and how many have been purchased. Money held in the safe, related to scholastic books sales (£468), uniform sales (£67) and PTA Disco money (£898) but there are not records held to substantiate the amount held. Additionally a log is not kept of items held in the safe. In addition to this £3340 of school money to be banked was also held in the safe. Money taken for the School shop (sale of stationery) is not held in the safe, but in a lockable cupboard in the office. Since the completion of this audit the School has converted to an academy and therefore this recommendation will be followed up by the responsible officer.

3.26 **Audit Activity**

- 3.27 Members of this Committee were recently updated of our progress against the 2015/16 internal audit plan, completion of work brought forward from the 2014/15 plan and investigations. The period covered by the update was April 2015 to September 2015. There has been some slippage in the 2015/16 internal audit plan due to priority one findings arising from our investigations and audits that appear in part 2 of this agenda. The returned audit satisfaction questionnaire indicates a score of 4.3 out of 5 on finalised audit reports which is good. In addition to audit planned work we also carried out the following:

- Fraud and investigations.
- Updating Financial Regulations and the Fraud and Corruption Strategy.
- Advice and support on Financial Regulations, variations to change in system controls.
- Liaison role in assisting management inquiries.
- Monitoring role of the Greenwich Fraud partnership.
- Developing an e-learning training package in respect of audit controls.

- Liaison work with our external auditors in preparation of their audit of the 2014/15 accounts.
- Updating the risk register to promote consistency.
- Involvement in proactive exercises.
- Committee work.

3.28 **Publication of Internal Audit Reports**

3.29 At the last meeting of this Committee we reported our fifth batch of Internal Audit reports finalised since March 2014 that was published on the web. In total 76 reports were publicised on the web. We gave explanations for seeking exemptions from publicising for four reports- three on contractual matters and one report on whistle blowing allegations.

3.30 Since the last cycle of this Committee we have published a further 20 redacted final reports making a total of 96 since publications first started.

- Parks & Greenspace
- Property Management
- Commercial Property Rents
- Direct Payments
- Downe Primary School
- Planning Enforcement
- Merit Pay
- Review of Debtors-Income
- Follow up Audit of Family Placements
- Follow up Review of Leaving Care
- Housing Benefit Review
- Follow up Review of Purchase Cards
- Building Maintenance Audit
- Follow up Review of IT Licenses & Asset Register
- Oak Lodge Primary School
- Follow up Review of Pooled Cars & Fuel Cards
- St Olave's & St Saviour's Grammar School
- Main Accounting

- Review of Exchequer and Customer Services Contract
- Review of Green Garden Waste

3.31 Waivers

3.32 Members of this Committee took the decision to only report on waivers sought under the Contract Procedure Rules 3 and 13.1 and to therefore exclude specific exemptions provided to officers under the Council's Scheme of Delegation which relate to social care placements. The list attached as Appendix B reflects waivers sought for the period March 2015 to September 2015.

3.33 As required by the Contract Procedure Rules (CPR) this Committee has to be updated on waivers sought across the Authority at six monthly intervals. The last update was reported to this Committee in March 2015 and covered waivers sought up to February 2015. The list is collated from the Heads of Finance for each of the Service areas and any information kept by the Chief Officers. Members are asked to review this list and comment as necessary preferably prior to the meeting so that officers can extract the details on queried waivers

3.34 The waiver procedure has been simplified by issue of a guidance procedure that forms part of the Contract Procedure Rules. This documents defines a **Waiver** as – **“the dispensation of the need for compliance with a particular requirement of these Contract Procedure Rules”**

Where the estimated value of this requirement is likely to exceed;

- **£50k** The Agreement of the Chief Officer needs to be obtained; The matter also needs to be included in the bi-annual report submitted to Audit Sub Committee;
- **£100k-£1m** The Chief Officer in Agreement with the Director of Corporate Services and the Director of Finance together with the Approval of the Portfolio Holder. The matter also needs to be included in the bi-annual report to Audit Sub Committee;
- **£1m and Above** The Chief Officer in Agreement with the Director of Corporate Services and the Director of Finance together with the Approval of the Executive or Council as appropriate.

3.35 Value for Money Arrangements

3.36 We had previously reported that we still had to complete one rolled over review of VfM arrangements for Planning Services. This is now reported on below.

3.37 The standard methodology to review value for money arrangements (VfM) was agreed by Members in September 2010. The matrix to assess value for money gives a rating 1 to 4, with 1 equating to not met and 4 equating to fully met. The VfM arrangements for this service was discussed with management and based on the findings, a score rating of 3 out of 4 is reported, which is substantially met.

3.38 The assessment of the value for money arrangements was based on the following findings.

- A benchmarking exercise was completed for 2014/15. For Planning and Development Services, Bromley's unit costs were 12.1% lower than the nearest neighbour average and were ranked 12th highest in the group. Compared to other authorities across England, Bromley's unit costs were 53.3% lower than average. Its unit costs were ranked 106th highest out of 123 comparable authorities (with 1 the highest cost).

- Customer satisfaction feedback is regularly requested. Results indicate a satisfaction level of around 62% which is around the average for Local Planning Authorities based on the last available national data.
- Complaints are monitored but improvements are suggested. See Finding 3.
- Liaison with other Authorities performing well is undertaken. Improvements have been made in the time taken to determine planning applications; reduce the number of pending planning applications and enforcement cases and improve staff management in the Enforcement and Appeals team.
- The planning service overall is within budget. However, within planning enforcement, there are overspends within other running expenses of £34K and legal expenses. However, these have been offset by other areas.
- Income has increased in respect of planning applications of approximately 13%.
- Zero based budgeting has not been utilised.

3.39 With the reduction in resources and the commissioning out of services we are proposing to carry out reviews of VfM arrangements for the following audits– Youth Offending Team and SEN.

3.40 **Housing Benefit Update**

3.41 Members had previously been informed that the proposed move by the DWP towards a Single Fraud Integrated Service (SFIS) has now been completed effective from 1st July 2015. Migration of data was completed and apart from ongoing cases where a summons was issued before the transfer, we no longer investigate housing benefit fraud. As a consequence we now have only 2FTE's managed by RB Greenwich that investigate all other Bromley related fraud.

3.42 At the last cycle we had reported our intention to cease reporting on housing benefit statistics but given the volume of activity to conclude case we are submitting appendices C, D and E for the final time. Since the commencement of the partnership in April 2002, through to September 2015, the Council has successfully prosecuted 420 claimants to date for benefit fraud; issued 379 court summonses; given 104 formal cautions; and administered 430 penalties.

3.43 Housing Benefit Fraud Cases Referred to the DWP- in the spreadsheet of referred cases maintained by RB Greenwich there are 118 cases that were referred to the SFIS team of the DWP since the transfer. We have been informed that 29 cases are under criminal investigation, 6 cases where there has been no trace of a referral, 37 cases where no update is given, 1 case closed and the rest are marked as to be advised by their Referral Enhancement Routing Team.

3.44 **Anti-Fraud and Corruption Strategy**

3.45 Given the transfer of Housing Benefit fraud to the DWP, changes to the whistleblowing policy, some legislative changes, compliance with the CIPFA Code of Practice on managing the risk of fraud and corruption, the abolition of the Audit Commission and the fact that the strategy was last updated in 2010, it was necessary to revamp the current document with the objective of simplifying/streamlining the document. Members are asked to comment on and approve the new document attached as Appendix F.

3.46 On approval of the above strategy Internal Audit will update the fraud training toolkit with the latest version from the web providers.

3.47 **Other Matters-**

3.48 Code of Transparency; Local audit contract for local authorities; Objection to the accounts-update; Public Sector Internal Audit Standards; Code of Corporate Governance. All expanded on below.

- 3.49 **Code of Transparency-** the Department for Communities and Local Government (DCLG) published a revised Transparency Code in February 2015. The Code sets out key principles for local authorities in creating greater transparency through the publication of public data. The Government believes that local people are interested in how their authority tackles fraud and have introduced a mandatory requirement in respect of fraud data. Attached as Appendix G is our publication on the web of the fraud statistics for 2014/15.
- 3.50 **Local audit contracts for local authorities-** the Local Audit and Accountability Act 2014 requires local authorities to appoint an audit panel that will advise the local authority on the selection and appointment of external auditors and maintaining an independent relationship with their local auditors. The DCLG has decided to extend the audit contracts for one year only. This means that from the financial year 2018/19 the appointment process under the Local Audit and Accountability Act 2014 will be operational. Under the legislation appointments must be in place before the start of the financial year to which they relate – so in practice the procurement must be completed by December 2017. Public Sector Audit Appointments Ltd who manage the current contract following the abolition of the Audit Commission are consulting on the 2016/17 audit fees. They are proposing that the audit fee and certification fees are set for the same level as 2015/16.
- 3.51 **Objections to the accounts-update-**Members should note that there are three objections to the accounts that are ongoing:
- Legality of our parking enforcement contract (mainly around the use of incentives and performance targets contained within the contract). This was lodged as part of the 2012/13 public inspection and audit.
 - Bailiff enforcement that Bromley allowed unlawful fees and costs to be incurred in the execution of warrants for parking/traffic debt). This was lodged as part of the 2013/14 public inspection and audit.
 - London Councils (we have incurred unlawful expenditure in the provision of the Parking on Private Land Appeals service). This was lodged as part of the 2013/14 public inspection and audit.
 - As a result the accounts for 2012/13, 2013/14 and 2014/15 remain open and further objections may still be lodged until such time as they can be formally concluded.
- 3.52 Members should note that to date these objections have cost Bromley £40k in actual costs as invoiced by the External Auditor with an indication from them that the fee could be about £50k.
- 3.53 **Public Sector Internal Audit Standards**
- 3.54 The Public Sector Internal Audit Standards (PSIAS) came in to effect in April 2013. Many of the requirements of the previous standards are still relevant to the new standards. One of the requirements of the new standards is to have an Internal Audit Charter in place that should be approved by the Audit Committee that this Committee did in June 2013.
- 3.55 The standards also require an external assessment of the service every 5 years. Rather than employ a firm of accountants/auditors, the Society of London Treasurers felt that it would be more cost effective and useful if there was a London wide forum to undertake this task. Consequently we have joined a London wide external assessment group to undertake this assessment on a cyclical basis. We are provisionally due to be reviewed in early 2016.
- 3.56 **Code of Corporate Governance-** The International Framework: Good Governance in the Public Sector was published jointly by CIPFA (the Chartered Institute of Public Finance and Accountancy) and IFAC (the International Federation of Accountants) in July 2014.

3.57 Using their definition, governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved. CIPFA and SOLACE (Society of Local Authority Chief Executives and Senior Managers) have since carried out a review of their own Framework: Delivering Good Governance in Local Government to ensure that it remains 'fit for purpose'. Following a consultation, CIPFA/ SOLACE aim to issue new guidelines which will apply for this financial year. Our current Code of Corporate Governance was agreed by full Council in September 2013 and we will review and update accordingly as part of the Annual Governance Statement process for 2015/16.

3.58 **Letter of Representation -**

3.59 The Letter of Representation is attached to this report for information. It sets out the key undertakings given by the Director of Finance to the External Auditors in relation to the 2014/15 Statement of Accounts, the information provided, accounting policies, fraud and non-compliance with laws and regulations, related party transactions, employee benefits, contractual arrangements/agreements, litigation and claims, taxation, using the work of experts, pension fund assets and liabilities, pension fund registered status, bank accounts, subsequent events, retirement benefits, provisions, assets and liabilities, disclosures and items specific to local government. Members are asked to note the Letter of Representation attached as Appendix H.

3.60 **Training –**

3.61 **Audit Controls- online interactive training** - we are in the process of developing an online interactive training package for officers to promote findings and resultant control weaknesses identified from Internal Audit reports. The training is aimed at managers and officers who have finance related functions and is expected to be about 30-40 minutes in duration including a question and answer session.

3.62 **Risk Management-**

3.63 Members of this Committee had previously been informed that Bromley were working with colleagues at Zurich Municipal who are also our insurers. The first phase of the review concerned Public Health the outcome of which was reported to the last cycle of this Committee. The issue of contingent liability levels resulting from the diagnostic activities of contractors (which are excluded from our Public Liability policy) is ongoing as our Insurance Team continues to clarify with Zurich where liability might arise and whether this would be covered under other existing policies.

3.64 The second phase reviewed risk reporting arrangements i.e. reporting new risks, significant risk changes, risk mitigation exceptions and reporting on corporate risks with implications across the various departments. Zurich has also proposed a revised risk matrix, and new impact and likelihood guidelines that have been accepted by the Corporate Risk Management Group (see Appendix I which includes the new reporting structure). The new risk matrix now utilises four levels of risk; high, significant, medium and low in contrast to high, medium and low previously. In using the new guidelines for impact and likelihood and plotting these on the revised risk matrix the number of high risks has dropped from 21 to 3 and the number in the new significant risk category has increased by 13 with a further 5 now in the medium risk category (see Appendix J). We have reported the outcome of this exercise to all the Departmental Management Teams and asked them to review the initial outcome of the revised risk ratings. Going forward we will monitor all the high and significant net risks and focus on the reporting and managing of risk exceptions.

3.65 Corporate risk- There remains work to be done on ensuring that the corporate risks are adequately reflected. Currently we use a 'top 10' template with generic headings e.g. Failure to achieve Building a Better Bromley objectives, linked to risks identified in the risk register This is

being reviewed by the Corporate Risk Management Group. Our main corporate risks are our capacity to achieve sufficient savings to close the funding gap and the success of the commissioning programme.

- 3.66 The final part of the exercise working with Zurich and Learning and Development is to produce a new e-learning online tutorial for risk management. The aim is to provide a 30 minute interactive package that officers can access and complete as a replacement to running risk management courses. The implementation of this training package is expected to be in early 2016.

4. POLICY IMPLICATIONS

None.

5. FINANCIAL IMPLICATIONS

Some of the findings identified in the audit reports mentioned above will have financial implications.

6. LEGAL IMPLICATIONS

There is a statutory requirement to provide an internal audit function through the Accounts and Audit Regulations 2011.

7. PERSONNEL IMPLICATIONS

Staff in breach of financial rules and procedures or acting inappropriately against the Council's legal and financial interests may be subject to disciplinary actions or/and police investigations.

Non-Applicable Sections:	Policy Implications
Background Documents: (Access via Contact Officer)	Published internal audit reports on the web are discussed in this report

Report Number/Date	Title	Opinion	No. of Priority One's	Details of original Recommendation	Implemented	Responsible Officer	Comments	Risk of fraud or loss
ECHS/068/01/2011	Emergency Accommodation & Rent Accounts	Limited Assurance	1	Service Teams, including LATCH, Leaving Care Services, Core and Cluster [now Supported Living], Traveller and Orchard and Shipman are not recovering rent arrears or monitoring the debts of their clients, which on 10/2/12 gave an accumulative total of £533,753.50 in these groups. Teams did not have access to the accounting files on Anite. In addition, these teams do not hold detailed procedures to outline the process for the recovery of debts The previous audit also highlighted problems with rent arrears in emergency accommodation. Total rent arrears for current and former clients stands at £1,266,528 compared to £1,268,466 in January 2012.	In progress	Exchequer Manager/Liberata Sundry Debtors Section Manager/Group Manager Leaving Care Team/Group Manager Residential Services/Group Manager Housing Needs	See comments in progress report.	High
CEXFin/009/2013	Creditors	Limited Assurance in the area of orders not being raised	1	5/27 payments sampled (excludes Confirm payments from the sample of 35) had orders raised on the same day as or after the invoice date. A 'retrospective purchase order' report was run in May 2013. This showed 4,788 retrospective purchase orders had been made in the period 30/01/13 to 30/05/13, with 68% of these attributed to 30 officers. However further examination of this report identified duplicated purchase order lines therefore producing inaccurate results with the actual total of 3,290 retrospective order being raised during the period. This would reflect new results to identify areas of concern.	In progress	Exchequer Manager	See comments in progress report.	High
ECHS/017/01/2014	Family Placements	No Assurance	6 0/s and 1 partially implemented	Significant findings in relation to the following areas :-Overpayments , Savings, Legal Orders, Connected Persons Allowances, Residence Orders, Adoption Allowances, Special Guardianship Orders and Training.	In Progress	Director, Childrens Services.	Previously agreed by management. The second follow up demonstrated that slow progress has been made in implementing these priority 8 one recommendations. See part 1 progress report.	High

Report Number/Date	Title	Opinion	No. of Priority One's	Details of original Recommendation	Implemented	Responsible Officer	Comments	Risk of fraud or loss
ECH/018/01/2013	Review of Leaving Care (Payment to Clients)	Nil Assurance	2o/s - partial	Significant findings in relation to the following areas:- Policies and procedures, documents to support payments, authorisation of Request for Finance Forms, cash payments to bank accounts, monitoring of payments, reconciliations, pathway plans, use of the purchase card and cash security.	In progress	Group Manager LCT	7 P1 recommendations implemented;2 P1s are partially o/s. See Part 1 - progress report.	High
ECS/2014	Fixed Penalty Notices	N/A	1 o/s	See part 2 - 4 have been implemented relating to attempted recovery from the contractor; reconciliation of FPN's; procedure; and availability of prime documents. 2 not implemented relating to the transfer to the PCN system and contract monitoring.	In Progress	Asst Dir. S,S & Greenspace	Outstanding P1 relates to the contractual arrangements with the provider. See Part 2	High
ECH/035/01/2014	Transition Team	Follow Up	1	Direct payment service agreements were found to either be in overpayment due to the incorrect amount being being or the incorrect time perios e.g term time only. Underpayments were found due to the rates not being upliftyed on review as expected or the incorrect amount being paid.	In progress	Group Manager, CLDT.	Follow up indicated that it is o/s. See part 1 progress report.	High
ECH/007/01/2014	Domicilliary Care	Follow Up	2	Services closed with incorrect dates or not actioned in a timely manner. Extra Care Housing - no reconciliation of actual hours provided to clients across thre units.	In progress	Head of Assessment &Care Management &Strategic Commissioner Client Resources.Group Manager,Care Manager and Operational	Follow up indicated that both are o/s. See part 1 progress report	High
ENV/019/03/2015	Disabled Facilities Grants	N/A	1	Part 2	In progress	Head of Environmental Protection	Part 2	High
ENV/013/01/2015	CCTV	N/A	1	Part 2	In progress	Head of Environmental Protection	Part 2	High
CX/076/02/2015	Astley Day Centre financial health check	N/A	3	Part 2	In Progress	1. Head of Direct Care Services in conjunction with Certitude. 2. Assistant Director, Adult Social Care. 3. Head of Direct Care Services.	Part 2.	High

Report Number/Date	Title	Opinion	No. of Priority One's	Details of original Recommendation	Implemented	Responsible Officer	Comments	Risk of fraud or loss
CEX/012/01/2015	Stray Dogs Contract	N/A	9	Part 2	In progress	Head of Environmental Protection	Part 2	High
ENV/003/01/2015	Waste Services Audit	limited	2	<p>1. Management should ensure that information on all receipts is retained so that income can be independently verified and reconciled. Going forward Management should explore system based solutions for collecting and recording income which have the functionality of collecting income by direct debit and retaining an audit trail of receipts.</p> <p>2. Management review is required to ensure that the online referrals for missed collections for all types of waste are escalated in line with procedures irrespective of the method of referral. Audit testing as part of this review was restricted to missed collections for GGW. However this issue must affect all types of waste collection.</p>	In progress	Head of Waste services and Contracts Manager (Waste & Refuse service)	See Part 2	High
The following priority one recommendations have been implemented: None see comments column above								
Looked After Children- 2 priority 1 recommendations implemented-see progress report								
Essential Car users- all 3 implemented								
Family Placents - o fully implemented 3 outstanding and 5 partially implemented								
Fixed Penalty Notices 1 implemented								
Leaving Care (Payment to Clients)- 7 implemented; 2 Partially implemented								

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Waivers - From March 2015 to September 2015

APPENDIX B

Waivers > £50,000									
DIRECTORATE	SERVICE AREA	CUMULATIVE VALUE	ANNUAL AMOUNT	NO OF PREVIOUS WAIVERS	VALUE OF PREVIOUS WAIVERS	DETAILS- PARTICULARS FOR SEEKING WAIVER	PERIOD FROM	PERIOD TO	APPROVAL
Education, Care and Health Services	Strategic Education Capital and Client Services	£178,434	£168,084	1	£10,350	To act as employers agent and lead consultant, providing architectural, building services drawings and quantity surveying duties and deliver reports including energy and sustainability sections for the proposed 1 to 2 FE expansion at Edgebury Primary School	01/02/15	30/09/2017	Assistant Directors Education and Commissioning, Director of ECHS, Director of Corporate Services, Director of Finance and Portfolio Holder
Education, Care and Health Services	Commissioning	£94,100	£94,100			To review, redesign changes to the current in-house reablement services provided in the Early Intervention Service	01/04/15	01/07/2015	Assistant Director Commissioning, Director of ECHS, Director of Corporate Services, Director of Finance and Portfolio Holder
Education, Care and Health Services	Schools Finance Team	£971,220	£90,000	Original purchase in 1994, previous waivers not available	£881,220 (Est)	Sims Licences on behalf of schools. Annual maintenance charge plus add on for additional modules as requested by individual schools. Fully recharged to schools	01/04/15	31/03/17	Assistant Director Commissioning, Director of ECHS, Director of Corporate Services and Director of Finance
Education, Care and Health Services	Pre School Specialist Support & Disability Services/Outreach & Inclusion Team/Supporting Inclusion in Pre-Schools (SIPS)	£225,700	£225,700			SIPS support to multiple pre school and nursery settings	01/04/15	31/03/16	Assistant Directors Education and Commissioning, Director of ECHS, Director of Corporate Services, Director of Finance and Portfolio Holder
Education, Care and Health Services	Strategic Education Capital and Client Services	£462,220	£466,220			Urgent refurbishment at Royston Children and Family Centre	01/05/15	31/08/16	Assistant Directors Education and Commissioning, Portfolio Holder
Education, Care and Health Services	Supporting People	£352,880	£352,880			Tenancy sustainment services	01/10/15	30/09/16	Care Services PDS 23/6/15
Education, Care and Health Services	Strategic Education Capital and Client Services	£1,414,700	£370,500			Construction of modular accommodation at Malcom, Midfield, Scotts Park and Worsley Bridge	01/05/15	31/08/17	Assistant Directors Education and Commissioning, Director of ECHS, Portfolio Holder and Executive decision 10/6/15

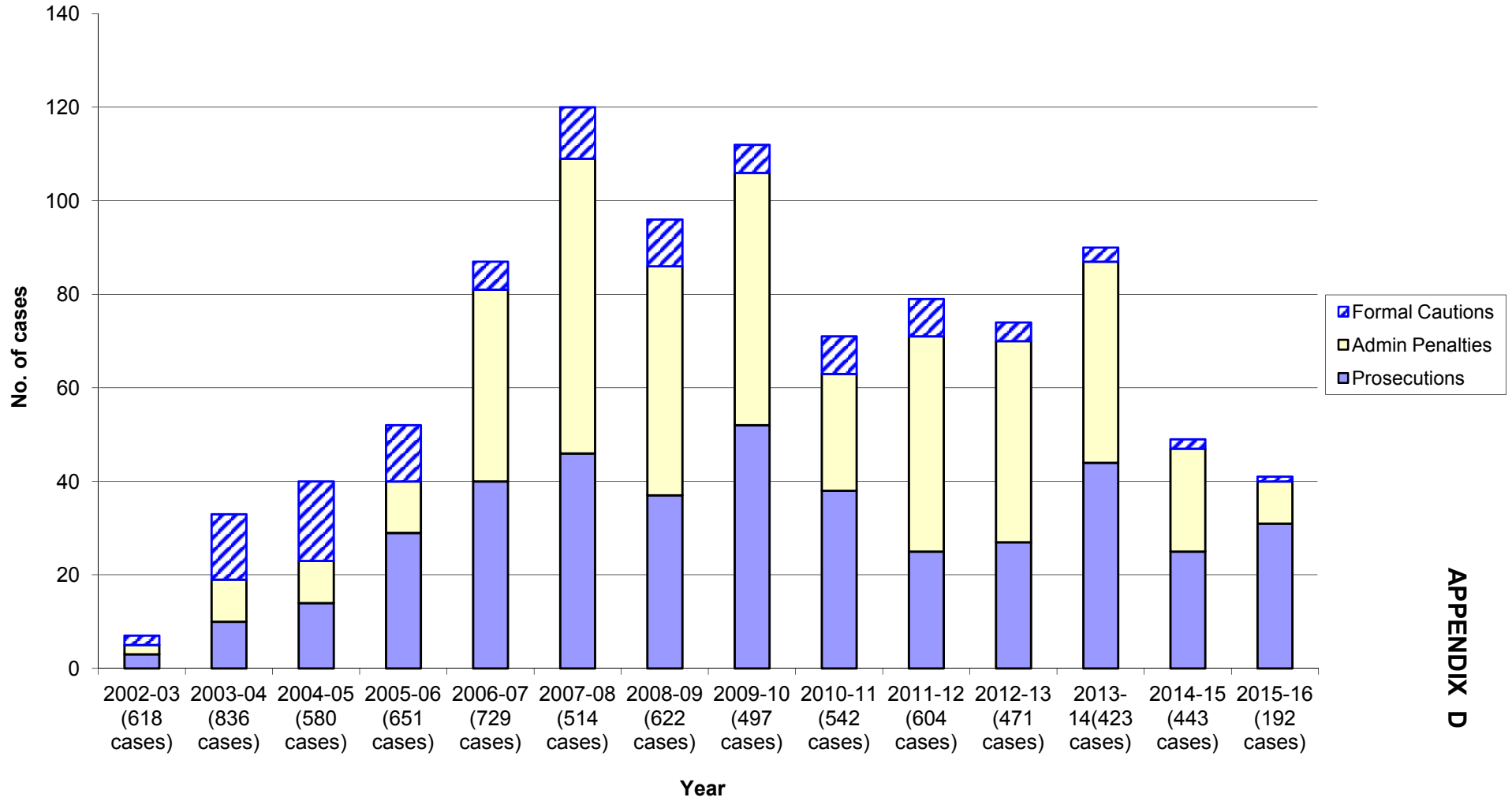
Education, Care and Health Services	Workforce Development	£51,450	£31,450 + 2 yr @£10K			Bespoke training workshops which takes three years to fulli implement the principles and structure of Signs of Safety into the service area	12/06/15	31/03/18	Assistant Directors Children's Social Care and Commissioning, Director of Corporate Services and Director of Finance
Education, Care and Health Services	Fostering and Adoption	£157,834	£32,000	2	£93,834	Adoption medicals	20/04/15	31/03/17	Assistant Directors Children's Social Care and Commissioning, Director of Corporate Services
Education, Care and Health Services	Youth Services	£126,390	£42,130			Post 16 learner participation tracking services	01/04/15	31/03/18	Education PDS 08/07/15
Environment and Community Services	Highways	£1,158,000	£90,000 (6 mth only)			Engineering consultancy framework contract, as the basis of a negotiated process to support in house and partnership working	01/04/15	31/10/15	Assistant Director ECS, Executive Director ECS, Director of Corporate Services, Director of Finance
Environment and Community Services	Traffic and Road Safety	£55,900	£55,900			Tidal flow simulation	one off service		Assistant Director ECS, Executive Director ECS
Environment and Community Services	Town Centre Management and Business Support	£100,000	£50,000			Delivery of Orpington new homes bonus business support programme	01/05/15	31/03/17	Assistant Director ECS, Executive Director ECS, Director of Corporate Services, Director of Finance
Financial Services	Technical and Control	£85,024	£85,024			Insurance policies for minibuses,engineering, shops blanket and mortgaged propertues	01/04/15	30/04/16	Director of Finance and Director of Resources
Chief Executives	Information Systems	£78,500	£10,500			Licence to use and support of NDL AWI software	01/10/15	30/09/22	Assistant Director Chief Executive, Director Chief Executives/Director of Resources and Director of Finance
Financial Services	Technical and Control	£80,000	£16,000			Specialist pension fund advice	01/11/15	31/10/18	Director of Finance and Director of Resources

LBB ANALYSIS OF IAAF MONTHLY MONTITORS 2002 through to 2015/16

2002/2003	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	200	28	21	73	24	26	36	112	15	11	31	41	618
Confidential Hotline	18	5	4	6	1	1		4	1	4	10	7	61
Interviews	8	8	14	17	7	7	9	9	14	6	9	6	114
Claimant visits	19	12	26	36	33	17	20	20	10	16	6	15	230
Prosecutions										1	1	1	3
Court Summonses							1			2	2		5
Admin Penalties							1		1				2
Formal Cautions					1				1				2
2003/2004	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	39	36	39	31	82	111	182	50	73	45	37	111	836
Confidential Hotline	8	4	8	10	5	4	9	5	3	8	10	10	84
Interviews	12	9	8	21	10	11	8	17	15	20	18	44	193
Claimant visits	7	14	11	27	33	26	38	26	44	18	29	29	302
Prosecutions		1		1	1	2	3			1	1		10
Court Summonses	2	4	1	4	3	2			1	1			18
Admin Penalties	3		1		1			1	1	2			9
Formal Cautions	4	1	1			1	2	1		2	1	1	14
2004/2005	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	27	70	61	69	35	49	57	55	14	32	44	67	580
Confidential Hotline	10	7	8	12	12	7	11	9	3	4	10	11	104
Interviews	8	8	11	13	21	35	24	27	17	25	16	26	231
Claimant visits	20	18	19	12	12	23	17	21	8	18	1	7	176
Prosecutions	3			3	3	1	1		1	1	1		14
Court Summonses	2	4			6	2	1			9	2	4	30
Admin Penalties	2		2	1		3				1			9
Formal Cautions		4	2		1	2	1	3	1		2	1	17
2005/2006	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	94	55	56	65	28	64	55	46	9	85	46	48	651
Confidential Hotline	6	5	19	6	6	10	10	10	7	8	6	15	108
Interviews	21	27	33	30	17	48	45	39	19	24	39	70	412
Claimant visits	8	7	10	4	10	12	13	21	7	5	14	7	118
Prosecutions	3	2	5	2	1	1	1	3	3	6	2		29
Court Summonses	6	3	4	1	3	4	7	5	2	5	6	4	50
Admin Penalties	1	2					2		3	1	1	1	11
Formal Cautions	2	2	1	2		2	1			1	1		12
2006/2007	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	42	68	70	55	45	38	55	56	41	85	97	77	729
Confidential Hotline	15	16	13	7	4	1	3	7		5	5	9	85
Interviews	32	42	42	51	45	49	38	32	36	42	56	56	521
Claimant Visits		25	11	10	10	2	2	11		12	1	2	86
Prosecutions	9	1	3		3	2	4	4	6	4	3	2	41
Court Summonses	4	1	4	4	1	7	6	1	5	4	5		42
Admin Penalties	5	4	3	2	2	1	2	4	2	3	15		43
Formal Cautions		1	2							1	2		6
2007/2008	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	44	60	68	33	44	49	44	40	21	33	39	39	514
Confidential Hotline	7	12	4	10	3	10	8	10	9	21	13	10	117
Interviews	41	38	38	40	33	32	53	46	31	48	29	23	452
Claimant Visits	16	7	6	26	2	4	11	17	12	7	14	16	138
Prosecutions	8	3	7	4	2	7	2	4	3	5	1	0	46
Court Summonses	3	3	2	8		2		3	1	2	3	1	28
Admin Penalties	14	16	1	8	4	1	4	5	8	1	1		63
Formal Cautions	3	2		1				1	1	3			11
2008/2009	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	27	55	41	69	52	57	67	78	39	36	25	76	622
Confidential Hotline	11	8	9	3	13	19	10	13	7	12	10	9	124
Interviews	36	29	51	42	22	28	38	40	34	43	42	53	458
Claimant Visits	16	11	20	17	16	8	19	19	2	25	15	10	178
Prosecutions	6	2	3	8	6	3	2				3		37
Court Summonses	1		1	6		1	1	3	3	3	1	5	25

Admin Penalties	10	1	2	3	2	4	2	6	5	10	4		49
Formal Cautions	3	1		1		1	1		1	1	1		10
2009/2010	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	38	51	61	51	43	57	28	46	16	44	24	38	497
Confidential Hotline	11	18	12	3	13	18	5	11	5	11	4	10	121
Interviews	22	22	30	35	31	28	28	27	14	22	20	18	297
Claimant Visits	5	1	19	22	7	11	12		1	4	11	19	112
Prosecutions	8	2	9	1	5	8	5	1	5	2	6		52
Court Summonses	6	1	2	1		4	3	5			8	1	31
Admin Penalties	7	3	8	8	6	4	2	6	8	1	1		54
Formal Cautions	1			1			2		1	1			6
2010/2011	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	21	44	44	39	47	51	41	39	25	56	59	76	542
Confidential Hotline	5	10	9	9	13	15	15	10	7	7	9	17	126
Interviews	12	11	5	14	8	27	16	19	9	31	20	30	202
Claimant Visits	1	5	4		4	9	4	7		4	7	9	54
Prosecutions	6	3	3	3	6	4	3	1	5	1	3		38
Court Summonses	1	3	3		2	2	1	2		3	3	1	21
Admin Penalties	8	1	2	3		3	1			3	2	2	25
Formal Cautions	2			1	1	1			1		1	1	8
2011/12	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	52	60	56	57	30	64	58	68	31	46	43	39	604
Confidential Hotline	23	11	11	10	4	13	15	11	8	6	5	8	125
Interviews	18	28	24	21	19	10	16	18	17	18	25	21	235
Claimant Visits	10	10	4	3			1	6	6	4	7	7	58
Prosecutions	4	1	2		1	3	2	3		4	5		25
Court Summonses		3	1	5	4	1	7	3	1	1		2	28
Admin Penalties	6	10	4	5	8	3	4	2	2	1	1		46
Formal Cautions	1		1	1	1	1			1	2			8
2012/13	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	37	41	13	40	26	36	40	36	19	36	85	62	471
Confidential Hotline	8	10	5	10	8	8	9	15	6	10	5	10	104
Interviews	2	16	18	13	16	6	9	22	8	8	8	14	140
Claimant Visits	1		5	5	5	9	5	7	8	2	3	2	52
Prosecutions	4	5	1		4	3	4	5	1		1		28
Court Summonses	2	3		3	7		3	2	2	1	4		27
Admin Penalties	16	5	5	2	2	5	5	1	2				43
Formal Cautions		1					1		1			1	4
2013/14	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	47	45	31	26	34	23	43	27	27	40	32	48	423
Confidential Hotline	16	9	6	4	9	8	3	9	12	4	10	10	100
Interviews	24	31	20	19	15	7	17	6	5	9	12	13	178
Claimant Visits	4			6	7	1	1	5	13	7	6	4	54
Prosecutions	12	3	1	8		7	4	1	3	4	1		44
Court Summonses	2		7	4	3	2					1		19
Admin Penalties	2	2	6	4	12	6	1	5	3		1	1	43
Formal Cautions							1			1	1		3
2014/15	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	21	36	42	34	17	52	47	46	27	48	39	34	443
Confidential Hotline	4	8	8	11	4	6	6	3	3	2	1	7	63
Interviews	4	12	6	11	8	19	15	12	5	17	13	9	131
Claimant Visits	4	4	1	5	1	1	5	4	1	2	5	1	34
Prosecutions	1	2	2	2	3	2	3	3		2	6	1	27
Court Summonses	1	6	8		1	2	1	5	2	1	9	2	38
Admin Penalties	3	2	3	2		3	2	2		2	3		22
Formal Cautions				1							1		2
2015/16	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	TOTAL
Number of Cases	30	33	31	30	13	33	22						192
Confidential Hotline	4	3	3	4	3	7	1						25
Interviews	9	9	7	3	6	5	1						40
Claimant Visits					2	2							4
Prosecutions	5	3	7	7	1	6	2						31
Court Summonses	6	9	7	3									25
Admin Penalties	1	2	5		1								9
Formal Cautions	1												1

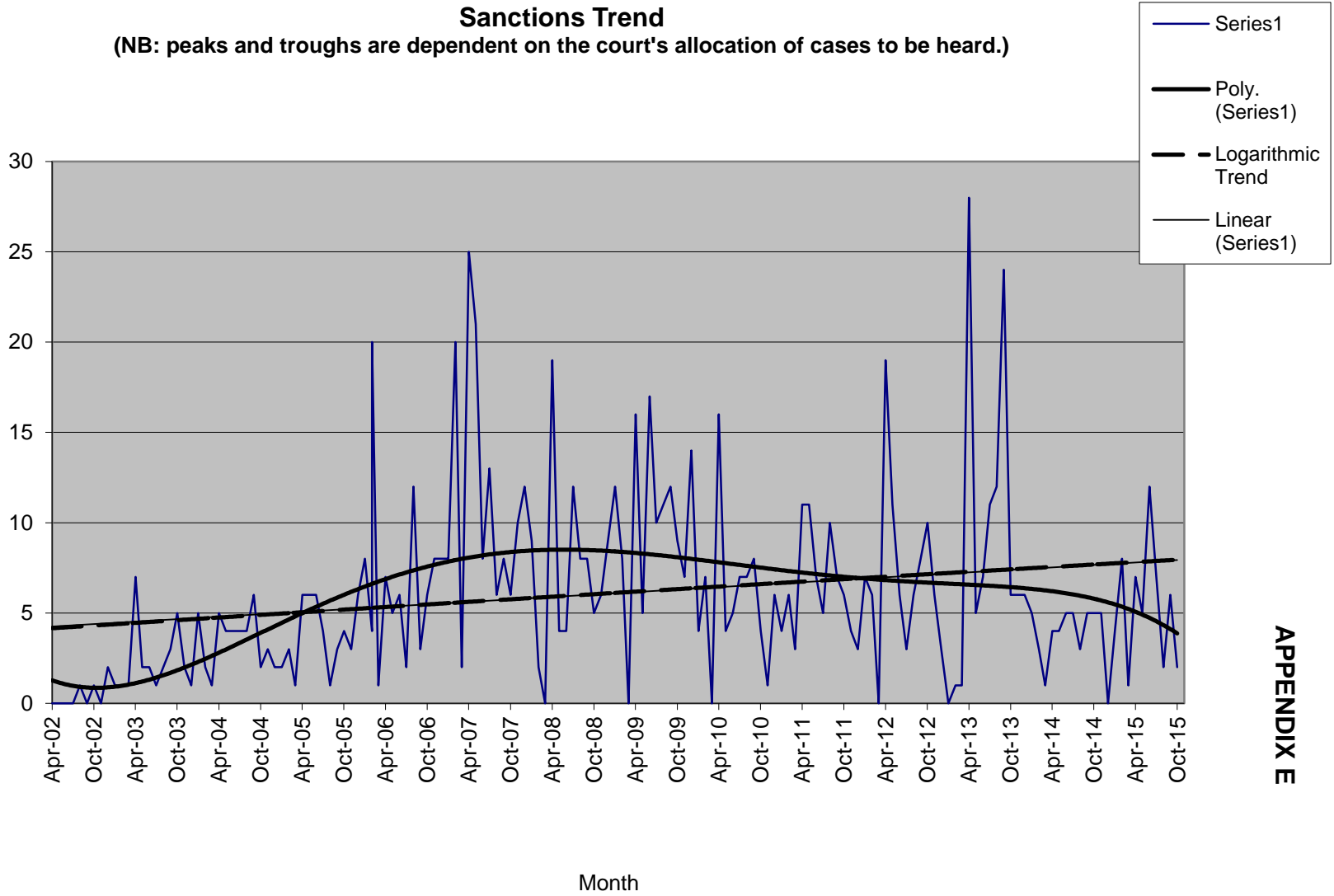
HB Sanctions - Annual Comparison



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No. of sanctions

Sanctions Trend
(NB: peaks and troughs are dependent on the court's allocation of cases to be heard.)



APPENDIX E

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ANTI-FRAUD AND CORRUPTION STRATEGY

1. INTRODUCTION

- 1.1 The Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective Anti-Fraud and Corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.
- 1.2 This strategy defines the Council's approach to managing the risk of fraud and corruption ensuring best practice is embedded across all services, projects and partnerships. Any fraudulent or corrupt act committed against the Council effectively constitutes theft of taxpayers' money. It is unlawful and deprives the Council of resources which should be available to provide public services.
- 1.3 The threat from fraud and corruption is both internal and external. The Council's expectation is that Councillors and employees at all levels will lead by example to ensure the highest standards of probity and accountability are established and strictly adhered to, and that personal conduct is above reproach at all times.
- 1.4 The on-going development of the strategy will be based upon comprehensive on-going risk assessments in all areas of Council activity to reduce losses from fraud and corruption to an absolute minimum, through:-
- Reinforcing an organisational culture of zero tolerance to fraud and corruption
 - Encouraging prevention
 - Pro-actively detecting fraud and corruption
 - The instigation of legal, disciplinary and recovery action against any individual found to have acted fraudulently or corruptly in their relationship and dealings with the Council.

2. DEFINITIONS

2.1 **FRAUD:** Is defined by The Fraud Act 2006 as follows:

A person is guilty of fraud if he is in breach of any of the following:

Fraud by false representation; that is if a person:

(a) dishonestly makes a false representation, and

(b) intends, by making the representation:

(i) to make a gain for himself or another, or

(ii) to cause loss to another or to expose another to a risk of loss.

Fraud by failing to disclose information; that is if a person:

(a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and

(b) intends, by failing to disclose the information:

(i) to make a gain for himself or another, or

(ii) to cause loss to another or to expose another to a risk of loss.

Fraud by abuse of position; that is if a person:

(a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,

(b) dishonestly abuses that position, and

(c) intends, by means of the abuse of that position:

(i) to make a gain for himself or another, or

(ii) to cause loss to another or to expose another to a risk of loss.

The Fraud Act 2006 repeals certain offences that are detailed in the Theft Acts of 1968 and 1978. The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information. In legal terms, all of these activities are the same crime, theft, examples of which include deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

2.2 CORRUPTION: Is the deliberate use of one’s position for direct or indirect personal gain. “Corruption” covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

2.3 THEFT: Is the physical misappropriation of cash or other tangible assets. A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

2.4 MONEY LAUNDERING: Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origins and ownership and which leaves them with money that cannot be traced back.

All employees are instructed be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council’s Money Laundering Policy.

2.5 BRIBERY: The Bribery Act 2010 introduces four main offences, simplified as the following:

- Bribing another person: a person is guilty of an offence if he/she offers, promises or gives a financial or other advantage to another person.
- Offences relating to being bribed: a person is guilty of an offence if he/she requests, agrees to receive, or accepts a financial or other advantage. It does

not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not.

- Bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official.
- Failure of commercial organisations to prevent bribery: organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

Note: A 'financial' or 'other advantage' may include money, assets, gifts or services.

2.6 For more information on exactly what constitutes bribery and the Council's policy towards it, please refer to the Anti-Bribery Policy and procedure (Appendix 2).

2.7 Prior to entering into any business arrangements, all Council officers and/or business units should ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

3. SCOPE

3.1 This document applies to:

- All Bromley Council Employees (including Agents and Agency Staff) and Councillors.
- Staff and Committee Members of Council funded voluntary organisations.
- Partner organisations.
- Schools.
- Council Suppliers, Contractors and Consultants.
- General Public.

4. AIMS AND OBJECTIVES

4.1 The aims and objectives of the Anti-Fraud and Corruption Strategy are to:

- Ensure that the Council is protected against fraud and loss
- Protect the Council's valuable resources by ensuring they are not lost through fraud but are used for improved services to Bromley residents.
- Create an "anti-fraud" culture which highlights the Council's zero tolerance of fraud, corruption and theft, which defines roles and responsibilities and actively engages everyone (the public, Councillors, staff, managers and policy makers).
- To provide a best practice "counter-fraud" service which:
 - Proactively deters, prevents and detects fraud, corruption and theft.
 - Investigates suspected or detected fraud, corruption and theft.
 - Enables the Council to apply appropriate sanctions and recovery of losses.

- Provides recommendations to inform policy, system and control improvements, thereby reducing the Council's exposure to fraudulent activity.

5. PRINCIPLES

5.1 The Council will not tolerate abuse of its services or resources and has high expectations of propriety, integrity and accountability from all parties identified within this strategy.

5.2 All fraudulent activity is unacceptable, and will result in consideration of legal action being taken against the individual(s) concerned. The Council will also pursue the repayment of any financial gain from individuals involved in malpractice and wrongdoing. The Council will ensure consistency, fairness and objectivity in all its "counter-fraud" work and that everyone is treated equally.

5.3 This strategy encourages those detailed in section 3.1 to report any genuine suspicions of fraudulent activity. However, malicious allegations or those motivated by personal gain will not be tolerated and, if proven, disciplinary or legal action may be taken. Section 8 details the reporting arrangements in relation to incidents of fraud or irregularity.

5.4 The Council will work with its partners (such as the Police, other Councils and other investigative bodies) to strengthen and continuously improve its arrangements to prevent fraud and corruption.

6. RESPONSIBILITIES

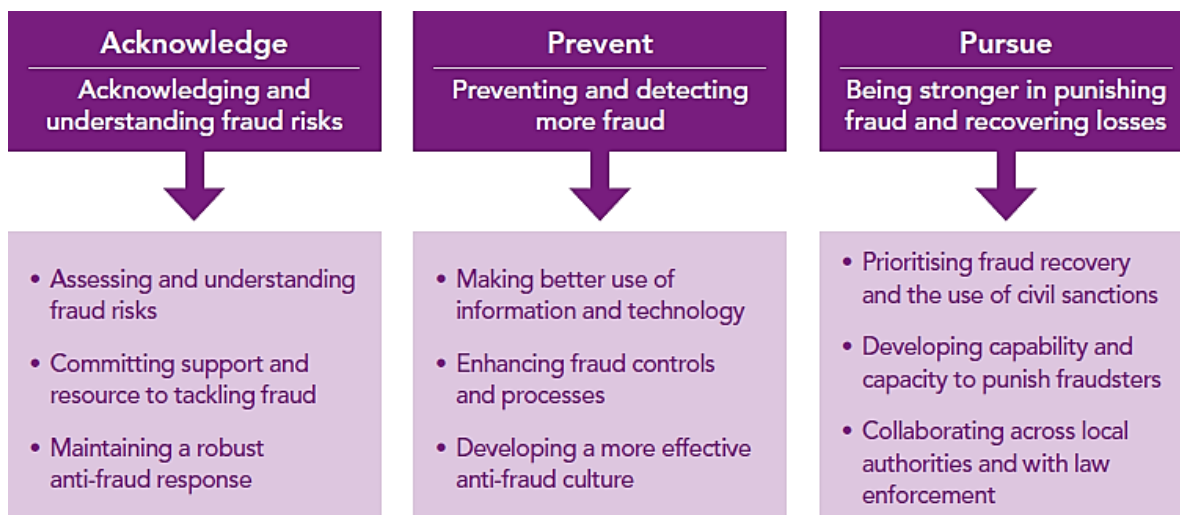
STAKEHOLDER	SPECIFIC RESPONSIBILITIES
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.
Director of Finance (Section 151 Officer)	To ensure the Council has adopted an appropriate anti-fraud strategy, there is an effective internal control environment in place and there is an adequately resourced and effective Internal Audit service to deliver "counter-fraud" work.
Director of Corporate Services	To advise Councillors and Officers on ethical issues, standards and powers to ensure that the Council operates within the law and statutory Codes of Practice.
Audit Committee	To monitor the Council's strategies and policies and consider the effectiveness of the arrangements for Whistle-blowing and Anti-Fraud and Corruption Procedures.
Councillors	To comply with the Code of Conduct and related Council policies and procedures, to be aware of the possibility of fraud,

	corruption and theft, and to report any genuine concerns accordingly.
External Audit	Statutory duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption and theft.
Internal Audit	Responsible for developing and implementing the Anti-Fraud and Corruption Strategy and monitoring the investigation of any reported issues. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this strategy and that action is identified to improve controls and reduce the risk of recurrence.
Directors, Assistant Directors, Heads of Service and Service Managers	To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing strong internal controls.
Staff	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to management, Internal Audit or via the Whistleblowing Procedures.
Public, Partners, Suppliers, Contractors, Consultants, School Governors and staff	To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions.

7. APPROACH TO COUNTERING FRAUD

CIPFA's new code of practice on managing risk of fraud and corruption was published in 2014 to provide support to organisations seeking to ensure they have the right governance and operational arrangements in place to counter fraud and corruption. It is a voluntary code that can be applied in any public service organisation. The Council will continue to review its counter fraud arrangements and align its approach to the best practice advice in the code.

The Council aims to reduce fraud and corruption to an absolute minimum through a strategic approach consistent with that outlined in the Local Government Fraud Strategy 'Fighting Fraud Locally'. The three key themes of this approach are Acknowledge, Prevent and Pursue:-



7.1 How will we **Acknowledge** and **Recognise** fraud and corruption/the risk of fraud and corruption?

7.1.1 Accessing and understanding the fraud risks –

The ongoing development of this strategy will be informed through gaining a clear understanding of the threat, emerging risks, trends and the savings that can be achieved by investing in countering fraud and corruption. This will focus on greater use of technology and interrogation of data to assess vulnerability and proactively target higher risk areas. We will also be focusing on raising staffs awareness of the risks of fraud and corruption and what they can do to prevent or identify it.

7.1.2 Committing support to tackling fraud and corruption -

We will continue to work in partnership with the Royal Borough of Greenwich to investigate allegations of fraud and corruption.

7.1.3 Maintaining a robust Anti-fraud response -

Whistle blowing remains the most common way that fraud and corruption is detected in large organisations. The Council will raise awareness and continually promote its whistle blowing policy: - http://onebromley/BA/Pub_LandDS/Pub_LSD/Pages/RaisingConcerns.aspx and other associated policies and procedures ensuring all reports of suspected fraud or corruption are treated seriously and acted upon. Thereby developing a robust and proportionate response to counter any threats

7.2 How will we prevent fraud and corruption?

7.2.1 Enhancing fraud and corruption controls and processes –

The best way to fight fraud and corruption is to prevent it happening in the first place. The Council will continually work towards realigning counter fraud resources away from enforcement towards prevention; ultimately, aiming to deter all would be offenders.

An effective internal control framework covering all the Council's systems both financial and non-financial is essential in the fight against fraud and corruption. The governance and risk management arrangements form an integral part of this arrangement.

Preventative measures will be supported by the ongoing assessment of those areas most vulnerable to the risk of fraud and corruption, in conjunction with risk management arrangements and risk based audit reviews. The annual publication 'Protecting the Public Purse' provides details of the key fraud risks faced by local government. The Council will undertake a review of the high risk areas identified in the publication.

7.2.2 Making better use of technology

A key feature in the drive towards preventing fraud and corruption at the outset will be the ongoing use and development of information sharing as well as better use of data to verify and validate transactions.

The sheer diversity of the services the Council and its partners provide and the multiplicity of systems used to manage them generate huge volumes of records and data. The Council will reengineer its fraud detection processes by comparing data from a variety of its systems, as well as, partners systems to identify anomalies, improve information sharing across services and inform the risk management process.

We will continue to participate in the bi-annual National Fraud Initiative data matching exercise and are also take up the flexible data matching offered by the Cabinet. We will also carry out proactive exercises in key areas susceptible to fraud.

7.2.3 Anti-fraud culture

The Council is resolute that the culture and tone of the authority is one of honesty with zero tolerance towards fraud and corruption, this is already demonstrated through its codes of conduct for employees and members. The right organisational culture will be continually reinforced by:-

- Raising awareness of fraud with new and existing employees with the online interactive fraud training module which all staff are required to complete.
- Publicising the results of all proactive work, sanctions and recovery of losses due to fraud and corruption increase and maintain the general public awareness of the facilities available to report concerns about fraud and corruption.

7.3 How will we pursue fraud and corruption?

7.3.1 Prioritising fraud recovery and the use of civil sanctions

Fraud must not pay, where fraud or corruption is discovered the full range of sanctions will be deployed, including civil, disciplinary and criminal action. Every effort will be made to recoup losses and confiscate assets gained as a result of criminal activity.

7.3.2 Developing capability to punish fraudsters

Criminal prosecutions deter offenders and reinforce a culture of zero tolerance towards fraud. Successful prosecutions require cases to be professionally investigated ensuring all evidence is collected within the law. Investigative staff must be adequately trained with the appropriate skills and access to specialist resources to secure effective prosecutions.

7.3.3 Collaborating across local authorities, other organisations and with law enforcement

Organised fraud has no respect for boundaries and can cross a range of organisations and services. Effective cooperation and joint working between local authorities and with other agencies including the Police will be essential in the ongoing development of the Council's strategic response.

8. REPORTING, ADVICE AND SUPPORT

8.1 The Council's expectation is that Councillors and managers will lead by example and that employees at all levels will comply with the Council Policies, Financial Regulations, Contract Procedure Rules and departmental Procedures.

8.2 The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. It is essential that employees of the Council report any irregularities, or suspected irregularities to their line manager and if this is not appropriate then to the Head of Service or Service Manager. The Council will provide all reasonable protection for those who raise genuine concerns in good faith, in accordance with Grievances and Whistle-blowing policies.

8.3 The line manager, Service Manager or Assistant Director/Head of Service who receives the allegation (whether from a Councillor or a Council employee) must refer the matter to the following people, to determine how the potential irregularity will be investigated:

- Chief Executive & Director of Finance (Section 151 Officer).
- Relevant Director.
- Head of Audit
- Head of Human Resources.
- Operational HR Manager.

8.4 Where appropriate, the Monitoring Officer should inform the Leader and relevant portfolio holder where the irregularity is material and/or could affect the reputation of the Council.

8.5 The investigating officer will follow the Guidelines in Fraud Protocol for investigating irregularities (Appendix A), which includes the need to:

- Deal promptly with the matter.
- Record all evidence received.
- Ensure that evidence is sound and adequately supported
- Ensure security of all evidence collected.
- Contact other agencies if necessary e.g. Police.
- Notify the Council's insurers.
- Implement Council disciplinary procedures where appropriate.

8.6 All reported fraud and outcome of investigations is reported at every meeting of Audit Sub Committee.

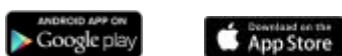
8.7 The Council will also work in co-operation with the following bodies that will assist in scrutinising our systems and defences against fraud and corruption:

- Local Government Ombudsman
- External Audit
- Cabinet Office for the National Fraud Initiative
- HM Revenue and Customs
- UK Border Agency
- Department for Work and Pensions
- Police

8.8 The Department for Communities and Local Government (DCLG) published a revised Transparency Code in February 2015. The Code sets out key principles for local authorities in creating greater transparency through the publication of public data. The Government believes that local people are interested in how their authority tackles fraud and have introduced a mandatory requirement in respect of fraud data. Information on London Borough of Bromley counter fraud work is published on Councils website annually to meet the Local Government Transparency Code 2015 requirements. The requirements for Transparency are covered in the Financial Regulations 2015.

8.9 We rely on the local community to help us detect fraud. All information is treated in the strictest confidence. We have developed a new counter fraud App for Apple and Android mobile devices called 'Bromley Fraud Reporter' which can be used to quickly and efficiently report fraud. The App is available on App Store and Google play for free download.

Download the App 'Bromley Fraud Reporter' on Apple and Android mobile devices from;



In addition to the fraud app, fraud can be reported by calling the fraud hotline 0800 169 6975, [report fraud online](#), or email audit@bromley.gov.uk.

8.10 We work in partnership with the Royal Borough of Greenwich to investigate allegations of fraud relating to:

- Housing (except housing benefit fraud. This is now the responsibility of the DWP)
- Council tax
- Business rates
- Disabled Parking / Blue Badge
- Grant claims
- Help with social care costs
- Fraud or corruption by employees, Councillors, suppliers, contractors
- Other types of fraud

9. FURTHER INFORMATION

9.1 Further information on Council policy can be found in the following documents:

- Codes of Conduct (Councillors and Officers).
- Whistle-Blowing Policy.
- Bribery Act Policy
- Gifts and Hospitality Policy.
- Policy on Declaring and Registering Interests.
- Financial Regulations.
- Contract Procedure Rules and the Contract Procedure Rules - Exemption Procedure.
- Money Laundering Policy.
- Regulation of Investigatory Powers Act (RIPA).

10. STRATEGY REVIEW

10.1 The Audit Committee will continue to review and amend this strategy as necessary to ensure that it continues to remain compliant and meets the requirements of the Council.

Responsible Officer: Head of Audit

Date: 10/11/2015

Review Date: 10/11/2018

Appendix A - Fraud Protocol

Introduction

This protocol specifies how the Director of Finance and other Chief Officers should manage alleged cases of fraud or corruption. It clarifies responsibilities for carrying out investigations and advises on action to be taken.

All employees have a responsibility for the security of both the Council's assets and clients' assets where Council employees may have some involvement. Any employee who suspects any irregularity should immediately inform their Chief Officer, normally through their line manager. If for any reason an employee feels unable to raise their concern through line management, then they should go through a nominated officer under the Council's Whistleblowing Procedure. The Chief Officer may, if he then considers it appropriate, conduct an independent investigation.

The Council will take legal and/or disciplinary action in all cases of fraud or irregularity where it is considered appropriate.

Initial Allegation or Suspicion

Internal Audit and the appropriate Chief Officer should be promptly informed of any allegations or suspicions of fraud or irregularity. To facilitate a speedy and appropriate response to any concerns expressed, initial information provided should, where possible, outline the following:

- The nature of the potential or actual loss to the Council, or Council's client.
- When and how the matter came to light
- Officers and /or other parties alleged to be implicated (names and designations where appropriate). Organisation structure showing the position and responsibility of the person(s) allegedly involved
- Identify those who are aware of the potential fraud/irregularity.

Care needs to be taken to ensure that officers or members who may be involved in the suspected irregularity do not become aware of the situation. Staff should not carry out their own investigation prior to notifying Internal Audit as this can affect any subsequent investigation.

Internal Audit will advise if the circumstances demand immediate action to safeguard evidence or to avoid further loss to the Authority. This may include removing documentation from the site and /or the suspension of employees.

Internal Audit will also advise on whether, and if so when, the Police should be informed. The Council has nominated contacts in the Metropolitan Police who can provide advice and, where appropriate, carry out their own investigations. Initial contact with them should be made by Internal Audit.

As a general rule the Council can carry out its own investigations regardless of any police involvement. (Note: there may be instances where it is not possible to contact

Internal Audit promptly e.g. weekends or evenings. At such times, for cases of identified theft rather than suspected fraud or irregularity, it is more appropriate for the matter to be reported immediately to the local police station and a crime reference obtained. In these instances Internal Audit, line management and the Insurance Manager should be informed of the details the next working day.)

Investigation

Responsibility for carrying out independent investigations lies with Internal Audit. In some cases, however, it may be more appropriate for staff in the relevant Department to carry out the investigation with Internal Audit acting in an advisory capacity. In such cases, staff undertaking the investigation will liaise with Internal Audit at intervals agreed at the point of referral, to ensure that evidential requirements continue to be met and that the Local Authority is kept fully informed at all stages. The most appropriate approach will be decided by Internal Audit following the initial contact and may be revised during the investigation.

Any investigation should be carried out promptly and thoroughly. To do this staff may need to be interviewed and documentation reviewed. All stages of the investigation should be thoroughly documented. The investigation should involve, as a minimum, the following:

- A clear understanding of the allegation/suspicion
- A review of all relevant documentation. Note that documents may need to be retained during the investigation
- Identification and interviews with all appropriate staff/individuals to determine such things as relevant procedures and practices
- Consideration of alternative explanations for the situation
- An evaluation of all the evidence
- A conclusion based on the findings

The findings of the investigation could be used during disciplinary or legal action. Consequently care needs to be taken to ensure that evidence is safeguarded and that the investigation is thorough and the conclusions reached are valid. The findings of the investigation should be treated as confidential.

During the investigation it may be necessary for individuals to be interviewed under caution. In such instances the rules laid down in the Police and Criminal Evidence Act and Criminal Justice and Public Order Act 1994 must be adhered to. Advice on this is available from Internal Audit.

There will be instances where documentation is taken away by Internal Audit or the investigating officer for safeguarding during the investigation. The originals should be removed rather than copies. These should be kept secure and a statement prepared stating how, when and who removed the documents and where they will be stored. A decision on the removal of documents needs to be made early on in the investigation to avoid the risk of removal or tampering.

The appropriate Chief Officer and Head of Audit should be kept informed of progress during the investigation. This can be done verbally and/or by preparing written progress reports. At the end of the investigation a report should be prepared for the appropriate Chief Officer and Head of Audit. This should include all the issues listed

above together with any other relevant information. This should form the basis of a decision for any further action to be taken.

Action

It is for the appropriate Chief Officer to take appropriate action where there is evidence to support instances of fraud or irregularity. The Head of Audit should be kept informed of action taken and relevant outcomes. These could include referral to the police, disciplinary action and/or recovery of any amounts involved. The Chief Officer is also responsible for ensuring that any system weaknesses identified during the investigation are addressed.

Appendix B – Raising concerns (Whistleblowing Policy)

INTRODUCTION

1. Employees are often the first to realise that there may be something wrong within the Council. Usually these concerns are easily resolved. However, when the concern feels serious because it is about a possible fraud, corruption or misuse of position that might affect others or the Council itself, it can be difficult to know what to do.
2. You may be worried about raising such a concern and may think it best to keep it to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
3. The Public Interest Disclosure Act provides workers with protection from dismissal or other damage as a result of making a disclosure of information in the public interest about wrongdoing at work. The Chief Executive, Chief Officers and Members are committed to adhering to the Public Interest Disclosure Act and to provisions contained therein. Provided you are acting honestly and reasonably believe it to be in the public interest, it does not matter if you are mistaken.
4. The Council is committed to running the organisation in the best way possible and to do so we need your help. We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have about malpractice at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern.
5. This Raising Concerns Policy is intended to encourage and enable employees and members to raise serious concerns. This policy applies to all those who work for us; whether full-time or part-time, employed through an agency, contractors or as a volunteer. If you have a concern, please let us know.
6. These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments. If, however, you wish to make a complaint about your employment or how you have been treated, please use the grievance procedure - which you can get from One Bromley or HR officer. This Raising Concerns Policy is primarily for concerns where the interests of others or of the organisation itself are at risk. These include:
 - conduct which is an offence or a breach of law
 - disclosures related to miscarriages of justice
 - health and safety risks, including risks to the public as well as other employees
 - the unauthorised use of public funds
 - possible fraud and corruption

- sexual, physical, verbal or financial abuse of clients

If in doubt - raise it!

OUR ASSURANCES TO YOU

7. The Chief Executive, Chief Officers and Members are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. We will not tolerate the harassment or victimisation of anyone raising a genuine concern. Provided you are acting honestly and reasonably believe it to be in the public interest, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.
8. With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.
9. Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.
10. If you are unsure about raising a concern you can get independent advice from Public Concern at Work which is an independent charity on 020 7404 6609 or by email at helpline@pcaw.org.uk. Their lawyers can talk you through your options and help you raise a concern about malpractice at work.

HOW TO RAISE A CONCERN INTERNALLY

11. As a first step, you should normally raise concerns with your immediate manager or team leader. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.
12. If you are unable to raise the matter with your manager, for whatever reason, please raise the matter with:

Mark Bowen

Director of Corporate Services
 Bromley Civic Centre,
 Stockwell Close,
 Bromley, Kent.
 T: 020 8313 4355
 F: 020 8290 0608

OR

Luis Remedios

Head of Audit
 Bromley Civic Centre,
 Stockwell Close,
 Bromley, Kent.
 T: 020 8313 4886
 F: 020 8313 4897

mark.bowen@bromley.gov.uk

luis.remedios@bromley.gov.uk

13. If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact

Doug Patterson

Chief Executive
Bromley Civic Centre,
Stockwell Close,
Bromley, Kent.
T: 020 8313 4354 F: 020 8313 4444
doug.patterson@bromley.gov.uk

Neil Reddin -Chairman,
Audit Sub- Committee
c/o Members' Room,
Bromley Civic Centre,
Stockwell Close,
Bromley, Kent.
BR1 3UH
T: 07850 921767
neil.reddin@bromley.gov.uk

OR

Alan Collins-Vice Chairman,
Audit Sub- Committee
c/o Members' Room,
Bromley Civic Centre,
Stockwell Close
Bromley, Kent.
BR1 3UH
T: 07548 097494
alan.collins@bromley.gov.uk

14. The concern could be raised verbally or in writing. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

HOW THE COUNCIL WILL RESPOND

15. Once you have told us of your concern, we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you.
16. If you ask, we will write to you summarising your concern and setting out how we propose to handle it and provide a timetable for feedback. If we have misunderstood the concern or there is any information missing please let us know.
17. When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance, bullying and harassment or other relevant procedure, we will let you know.
18. Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.

MONITORING / OVERSIGHT

19. The Monitoring Officer (who is the Director of Corporate Services) has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

HOW THE MATTER CAN BE TAKEN FURTHER

20. While we hope this policy gives you the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police. Public Concern at Work (see paragraph 10) or your union will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Appendix C

ANTI BRIBERY POLICY AND PROCEDURES

Objective of this policy

This policy provides a coherent and consistent framework to enable the Bromley's employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

Scope of this policy

This policy applies to all of Bromley's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within Bromley the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, Members, volunteers and consultants.

The Bribery Act

The Bribery Act 2010 came into force on the 1st July 2011 taking a tougher stance on bribery and corruption.

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7)

The Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents> makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation (and which the Council is considered to be for the purpose of the Act) to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence

to this corporate offence if it can show that it had in place **adequate procedures** designed to prevent bribery by or of persons associated with the organisation.

Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

Policy Statement – Anti Bribery

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance throughout the Council.

Allegations of bribery involving Council employees will be dealt with under the Disciplinary Procedure as “gross misconduct”; employees found guilty of such gross misconduct will usually be dismissed without notice.

Bribery is not tolerated

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return

- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- Engage in activity in breach of this policy.

Bromley's commitment to action

We commit to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others (Fraud Toolkit)
- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to all employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery.

What are “adequate procedures”?

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six guiding principles below. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

The guiding principles

Proportionate procedures

Bromley's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced.

Top level commitment

The top-level management including Chief Officers and Members are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

Risk Assessment

Bromley assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

Due diligence

Bromley applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

Communication (including training)

Bromley seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Monitoring and review

Bromley monitors and reviews procedures designed to prevent bribery by persons associated with it and make improvements where necessary.

Bromley is committed to proportional implementation of these principles.

Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015, mandatory exclusion applies from competing for public contracts where a company is convicted of a corruption offence, including bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. Bromley has the discretion to exclude organisations convicted of this offence.

Staff responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All staff are required to avoid activity that breaches this policy.

We require that all personnel, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the organisation's resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the organisation operates, in respect of the lawful and responsible conduct of activities

You must:

1. Ensure that you read, understand and comply with this policy
2. Raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

If you have any questions about these procedures, please contact the Director of Corporate Services on 020 8313 4461 the Head of Audit on 020 8313 4886.

Appendix D

MONEY LAUNDERING PROTOCOL

ANTI - MONEY LAUNDERING POLICY

1.1 INTRODUCTION

1.2 It is important that all Officers are aware of the regulatory requirements relating to Money Laundering and the legal requirements specified within the Proceeds of Crime Act 2002. There have been significant changes to the legislation concerning money laundering namely the Money Laundering Regulations 2007 which came into force on 15 December 2007 which supersede the 2003 regulations. The Money Laundering Regulations have broadened the definition of money laundering and increased the range of activities captured by the statutory framework. As a result, the new obligations now impact on both the local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

2.1 SCOPE OF THE POLICY

2.2 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the requirements which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

2.3 The most important changes to the Regulations are that the Authority is required to form a view on the level of risk in relation to money laundering. The regulations provide for various steps to be taken to detect and prevent money laundering and terrorist financing. This is expanded upon further within the Customer Due Diligence Section below in 5.0.

3.1 WHAT IS MONEY LAUNDERING?

3.2 Money laundering can be defined as any arrangement that involves the proceeds of crime. It is the process by which the proceeds of crime, as well as the ownership of the proceeds, is changed so that the proceeds appear to originate from legitimate sources. Activities include:

- concealing, disguising, converting, transferring criminal property or removing it from the UK ;
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- acquiring, using or possessing criminal property;

4.1 AIMS AND REQUIREMENTS OF THE MONEY LAUNDERING LEGISLATION

4.2 The Regulations have two aims:-

- To enable suspect transactions to be recognised and reported to the relevant agencies
- To ensure that if a business client comes under such investigation in the future that an audit trail can be provided.

4.3 The Regulations require that there are;-

- Identification Procedures (See Customer Due Diligence)
- Record Keeping Procedures, records should be maintained for 5 years
- Internal Reporting Procedures – Disclosures should be made through a nominated officer
- Procedures to prevent money laundering – these should be proportionate to the perceived risks
- Training of employees- specific to the related procedures and the specific legislation applicable.

5.1 **CUSTOMER DUE DILIGENCE**

Where the Authority is carrying out certain regulated activities then extra care needs to be taken to check the identity of the customer or client- this is what is known as customer due diligence. These regulated activities are defined within Regulation 3 as:-

- Accounting Services
- Legal Services
- Audit Services
- Estate Agency
- Treasury Management, Investment or other Financial Services
- Advice concerning Tax Affairs
- Services involving the formation, operation or arrangement of a company or trust
- Dealing in goods wherever a transaction involves a cash payment of £10,000 or more.

- 5.2 The requirement for customer due diligence applies immediately for all new customers and should be applied on a risk sensitive basis for known existing customers. Ongoing customer due diligence should be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

The Council is responsible to ensure that those of its staff who may be exposed to money laundering are fully aware and of the legislation and where necessary are suitably trained:

- appoint a Money Laundering Reporting Officer ("MLRO") to receive disclosures from employees of money laundering activity (their own or anyone else's);
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

Not all of the Council's business is "relevant" for the purposes of the legislation: It

is mainly the accountancy and audit services carried out by Finance and the financial, company and property transactions undertaken by Legal Services. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure set out in section 6 below.

WHAT IS THE COUNCIL'S POLICY ON MONEY LAUNDERING

Our policy is that we should do all that we can to prevent wherever possible the Authority and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. The Head of Audit coordinates anti-money laundering measures within the Council. Telephone 020 8313 4886 and his email address: luis.remedios@bromley.gov.uk

6.1 WHAT SHOULD I DO IF I SUSPECT A CASE OF MONEY LAUNDERING?

Reporting to the Head of Audit:

- 6.2 Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may

amount to a prohibited act under the regulations, you must disclose this as soon as practicable to the Head of Audit. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION.**

6.3 Your disclosure should be made to the Head of Audit using the proforma report attached at on the accompanied procedure (Appendix 1).- The report must include as much detail as possible, for example:

- Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
- Full details of the nature of their/your involvement
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under these regulations, then your report must include all relevant details, as you will need consent from the National Criminal Agency (“NCA”), via the Head of Audit, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given
 - You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

Along with any other available information to enable the Head of Audit to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the NCA, where appropriate. You should also enclose copies of any relevant supporting documentation

6.4 Once you have reported the matter to the Head of Audit you must follow any directions he or she may give you. **You must not make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the Head of Audit who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the Head of Audit and the authorities during any subsequent money laundering investigation.

6.5 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the Head of Audit; otherwise you may commit a criminal offence of “tipping off” which carries a maximum penalty of 5 years imprisonment.

6.6 Do not, therefore, make any reference on a client file to a report having been made to the Head of Audit – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The Head of Audit will keep the appropriate records in a confidential manner.

Consideration of the disclosure

6.7 Upon receipt of a disclosure report, the Head of Audit must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

6.8 The Head of Audit will consider the report and any other available internal information he thinks relevant e.g.:

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held;

and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The Head of Audit may also need to discuss the report with you.

6.9 Once the Head of Audit has evaluated the disclosure report and any other relevant information, he or she must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he or she needs to seek consent from the NCA for a particular transaction to proceed.

6.10 Where the Head of Audit does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he or she has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

6.9.1 Where the Head of Audit suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he or she can then immediately give their consent for any ongoing or imminent transactions to proceed.

- 6.9.2 In cases where legal professional privilege may apply, the Head of Audit must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 6.9.3 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 6.10 Where the Head of Audit concludes that there are no reasonable grounds to suspect money laundering then he or she shall mark the report accordingly and give his or her consent for any ongoing or imminent transaction(s) to proceed.
- 6.11 All disclosure reports referred to the Head of Audit and reports made by him or her to the NCA must be retained by the Head of Audit in a confidential file kept for that purpose, for a minimum of five years.
- 6.12 The Head of Audit commits a criminal offence if he or she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him or her, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

7.1 RECORD KEEPING PROCEDURES

- 7.2 Each unit of the Council conducting relevant business must maintain records of:
- client identification evidence obtained; and
 - details of all relevant business transactions carried out for clients

for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

- 7.3 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

8.1 CONCLUSION

- 8.2 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the very low risk to the Council of contravening the legislation.

8.3 Should you have any concerns whatsoever regarding any transactions then you should contact the Head of Audit. Tel – 020 8313 4886 or by e-mail: luis.remedios@bromley.gov.uk

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Transparency Code

The Department for Communities and Local Government (DCLG) published a revised Transparency Code in February 2015. The Code sets out key principles for local authorities in creating greater transparency through the publication of public data. The Government believes that local people are interested in how their authority tackles fraud and have introduced a mandatory requirement in respect of fraud data.

This dataset provides information on London Borough of Bromley counter fraud work. Details are provided to meet the Local Government Transparency Code 2015 requirements.

The table below shows activity in respect of the required data for 2014/15.

Information	Figures for 2014-15
Number of occasions they use powers under the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 201432, or similar powers	Social Security Fraud Act 2001- 51 and Fraud Act- 1
Total number (absolute and full time equivalent) of employees undertaking investigations and prosecutions of fraud	3 full time equivalent
Total number (absolute and full time equivalent) of professionally accredited counter fraud specialists	3 full time equivalent
Total amount spent by the authority on the investigation and prosecution of fraud	£302K
Total number of fraud cases investigated	6498
Total number of cases of irregularity investigated	6498
Total number of occasions on which a) fraud and b) irregularity was identified	1405
Total monetary value of a) the fraud and b) the irregularity that was detected	£595,858
Total monetary value of a) the fraud and b) the irregularity that was recovered	£317,525

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Financial Services

Civic Centre, Stockwell Close, Bromley BR1 3UH

Telephone: 0208 464 3333

Direct Line: 0208 313 4338

Email: peter.turner@bromley.gov.uk

Fax: 020 8313 4335

Internet: www.bromley.gov.uk

PricewaterhouseCoopers LLP

1 Embankment Place
London
WC2N 6NN

17th September 2015

Dear Sirs

Representation letter – audit of the London Borough of Bromley’s (“the Authority”) Statement of Accounts for the year ended 31 March 2015

Your audit is conducted for the purpose of expressing an opinion as to whether the Statement of Accounts of the Authority give a true and fair view of the affairs of the Authority as at 31 March 2015 and of its surplus and cash flows for the year then ended and have been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2014/15 supported by the Service Reporting Code of Practice 2014/15.

I acknowledge my responsibilities as Director of Finance for preparing the Statement of Accounts as set out in the Statement of Responsibilities for the Statement of Accounts. I also acknowledge my responsibility for the administration of the financial affairs of the Authority and that I am responsible for making accurate representations to you.

I confirm that the following representations are made on the basis of enquiries of other chief officers and members of the Authority with relevant knowledge and experience and, where appropriate, of inspection of supporting documentation sufficient to satisfy myself that I can properly make each of the following representations to you.

I confirm, to the best of my knowledge and belief, and having made the appropriate enquiries, the following representations:

Statement of Accounts

- I have fulfilled my responsibilities for the preparation of the Statement of Accounts in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2014/15 supported by the Service Reporting Code of Practice 2014/15; in particular the Statement of Accounts give a true and fair view in accordance therewith.
- All transactions have been recorded in the accounting records and are reflected in the Statement of Accounts.
- Significant assumptions used by the Authority in making accounting estimates, including those surrounding measurement at fair value, are reasonable.
- All events subsequent to the date of the Statement of Accounts for which the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2014/15 requires adjustment or disclosure have been adjusted or disclosed.
- The effects of uncorrected misstatements are immaterial, both individually and in the aggregate, to the Statement of Accounts as a whole. A list of the uncorrected misstatements, grouped by category, is detailed below:

Disclosures:

- Disclosure of benefits payable analysed between the administering authority (London Borough of Bromley), scheduled bodies and admitted bodies.
- Disclosures to enable users to quantify the fund's exposure to credit risk and market risk. Specifically, information about the credit quality of financial assets held which are neither past due or impaired, and, for each of currency risk, interest rate risk and other price risk, a

sensitivity analysis to demonstrate the impact on the Fund Account and Net Asset Statement of changes in the relevant risk variable that were considered reasonably possible at the 31 March 2015.

Information Provided

- I have taken all the steps that I ought to have taken in order to make myself aware of any relevant audit information and to establish that you, the Authority's auditors, are aware of that information.
- I have provided you with:
 - access to all information of which I am aware that is relevant to the preparation of the Statement of Accounts such as records, documentation and other matters, including minutes of the Authority and its committees, and relevant management meetings;
 - additional information that you have requested from us for the purpose of the audit; and
 - unrestricted access to persons within the Authority from whom you determined it necessary to obtain audit evidence.
- So far as I am aware, there is no relevant audit information of which you are unaware.

Accounting policies

I confirm that I have reviewed the Authority's accounting policies and estimation techniques and, having regard to the possible alternative policies and techniques, the accounting policies and estimation techniques selected for use in the preparation of Statement of Accounts are appropriate to give a true and fair view for the Authority's particular circumstances.

Fraud and non-compliance with laws and regulations

I acknowledge responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud.

I have disclosed to you:

- the results of our assessment of the risk that the Statement of Accounts may be materially misstated as a result of fraud.
- all information in relation to fraud or suspected fraud that we are aware of and that affects the Authority and involves:
 - management;
 - employees who have significant roles in internal control; or
 - others where the fraud could have a material effect on the Statement of Accounts.
- all information in relation to allegations of fraud, or suspected fraud, affecting the Authority's Statement of Accounts communicated by employees, former employees, analysts, regulators or others.
- all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing the Statement of Accounts.

I am not aware of any instances of actual or potential breaches of or non-compliance with laws and regulations which provide a legal framework within which the Authority conducts its business and which are central to the Authority's ability to conduct its business or that could have a material effect on the Statement of Accounts.

I am not aware of any irregularities, or allegations of irregularities including fraud, involving members, management or employees who have a significant role in the accounting and internal control systems, or that could have a material effect on the Statement of Accounts.

The Authority pension fund has not made any reports to the Pensions Regulator nor am I aware of any such reports having been made by any of our advisors. I confirm that I am not aware of any late contributions or breaches of the schedule of contributions that have arisen which I considered were not required to be reported to the Pensions Regulator. I also confirm that I am not aware of any other matters which have arisen that would require a report to the Pensions Regulator.

There have been no other communications with the Pensions Regulator or other regulatory bodies during the year or subsequently concerning matters of non-compliance with any legal duty.

Related party transactions

I confirm that the attached appendix to this letter is a complete list of the Authority's related parties. All material transfer of resources, services or obligations between the Authority and these parties have been

disclosed to you, regardless of whether a price is charged. We are unaware of any other related parties, or transactions between disclosed related parties.

Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of Section 3.9 of the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2014/15.

We confirm that we have identified to you all senior officers, as defined by the Accounts and Audit Regulations 2011, and included their remuneration in the disclosures of senior officer remuneration.

Employee Benefits

I confirm that we have made you aware of all employee benefit schemes in which employees of the Authority participate.

Contractual arrangements/agreements

All contractual arrangements (including side-letters to agreements) entered into by the Authority have been properly reflected in the accounting records or, where material (or potentially material) to the statement of accounts, have been disclosed to you.

Litigation and claims

I have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the statement of accounts and such matters have been appropriately accounted for and disclosed in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2014/15.

Taxation

I have complied with UK taxation requirements and have brought to account all liabilities for taxation due to the relevant tax authorities whether in respect of any direct tax or any indirect taxes. I am not aware of any non-compliance that would give rise to additional liabilities by way of penalty or interest and I have made full disclosure regarding any Revenue Authority queries or investigations that we are aware of or that are ongoing.

In particular:

- In connection with any tax accounting requirements, I am satisfied that our systems are capable of identifying all material tax liabilities and transactions subject to tax and have maintained all documents and records required to be kept by the relevant tax authorities in accordance with UK law or in accordance with any agreement reached with such authorities.
- I have submitted all returns and made all payments that were required to be made (within the relevant time limits) to the relevant tax authorities including any return requiring us to disclose any tax planning transactions that have been undertaken for the Authority's benefit or any other party's benefit.
- I am not aware of any taxation, penalties or interest that are yet to be assessed relating to either the Authority or any associated company for whose taxation liabilities the Authority may be responsible.

Using the work of experts

I agree with the findings of Wilks, Head & Eve LLP ("WH&E"), experts in evaluating the valuation of investment property and property, plant and equipment, Mercers LLP, experts in evaluating the net pensions liability and Inform CPI Ltd, experts in evaluating the outcomes of National Non-domestic Rates appeals. I have adequately considered the competence and capabilities of the experts in determining the amounts and disclosures used in the preparation of the Statement of Accounts and underlying accounting records. The Authority did not give or cause any instructions to be given to experts with respect to the values or amounts derived in an attempt to bias their work, and I am not otherwise aware of any matters that have had an impact on the objectivity of the experts.

Pension fund assets and liabilities

All known assets and liabilities including contingent liabilities, as at the 31 March 2015, have been taken into account or referred to in the Statement of Accounts.

Details of all financial instruments, including derivatives, entered into during the year have been made available to you. Any such instruments open at the 31 March 2015 have been properly valued and that valuation incorporated into the Statement of Accounts.

The pension fund has satisfactory title to all assets and there are no liens or encumbrances on the pension fund's assets.

The value at which assets and liabilities are recorded in the net assets statement is, in the opinion of the Authority, the market value. We are responsible for the reasonableness of any significant assumptions underlying the valuation, including consideration of whether they appropriately reflect our intent and ability to carry out specific courses of action on behalf of the pension fund. Any significant changes in those values since the date of the Statement of Accounts have been disclosed to you.

Pension fund registered status

I confirm that the London Borough of Bromley Pension Fund is a Registered Pension Scheme. We are not aware of any reason why the tax status of the scheme should change.

Bank accounts

I confirm that I have disclosed all bank accounts to you including those that are maintained in respect of the pension fund.

Subsequent events

Other than as described in the Statement of Accounts, there have been no circumstances or events subsequent to the period end which require adjustment of or disclosure in the statement of accounts or in the notes thereto.

Retirement benefits

- All significant retirement benefits that the Authority is committed to providing, including any arrangements that are statutory, contractual or implicit in the Authority's actions, wherever they arise, whether funded or unfunded, approved or unapproved, have been identified and properly accounted for and/or disclosed.
- All settlements and curtailments in respect of retirement benefit schemes have been identified and properly accounted for.
- The Authority participates in the Teachers' Pension Scheme that is a defined benefit scheme. I confirm that the Authority's share of the underlying assets and liabilities of this scheme cannot be identified and as a consequence the scheme has been accounted for as a defined contribution scheme.

Provisions

- Provisions for depreciation and diminution in value including obsolescence have been made against property, plant and equipment on the bases described in the statement of accounts and at rates calculated to reduce the net book amount of each asset to its estimated residual value by the end of its probable useful life in the Authority's business. In this respect I am satisfied that the probable useful lives have been realistically estimated and that the residual values are expressed in current terms.
- Full provision has been made for all liabilities at the balance sheet date including guarantees, commitments (in particular in relation to redundancy plans) and contingencies where the items are expected to result in significant loss. Other such items, where in my opinion provision is unnecessary, have been appropriately disclosed in the Statement of Accounts.

Assets and liabilities

- The Authority has no plans or intentions that may materially alter the carrying value and where relevant the fair value measurements or classification of assets and liabilities reflected in the Statement of Accounts.
- In my opinion, on realisation in the ordinary course of the business the current assets in the balance sheet are expected to produce no less than the net book amounts at which they are stated.
- The Authority has no plans or intentions that will result in any excess or obsolete inventory, and no inventory is stated at an amount in excess of net realisable value.
- I confirm our intention to dispose of assets disclosed as assets held for sale within the next 12 months.
- The Authority has satisfactory title to all assets and there are no liens or encumbrances on the Authority's assets, except for those that are disclosed in the Statement of Accounts.

Central government has significant influence over the general operations of the Council - it is responsible for providing the statutory framework within which the Council operates, provides the majority of its funding in the form of grants and prescribes the terms of many of the transactions that the Council has with other parties (e.g. council tax bills, housing benefits). Grants received from UK government departments are set out in the subjective analysis in note 30 on reporting for resource allocation decisions. Grant receipts outstanding at 31st March 2015 are shown in Note 37.

Members

Members of the Council have direct control over the Council's financial and operating policies. The total of Members' allowances paid in 2014/15 is shown in Note 32. During 2014/15, there are no declarable related party transactions with the exception of the following:-

- a) Councillor W. Huntington-Thresher and Councillor P. Fortune are appointed board members of Broomleigh Housing Association (Affinity Homes Group) to which the Council paid £175k in 2014/15.
- b) Councillor K. Lymer is a Trustee of Bromley Youth Music Trust to which the Council paid £291k in 2014/15.
- c) Councillor M. Turner is a Trustee of Bromley & Downham Youth Club to which the Council paid £10k in 2014/15.
- d) Councillor D. Smith is a Council appointed board member of Bromley Healthcare Community Interest Company to which the Council paid £3.5m in 2014/15.
- e) Councillor P. Fookes is a Trustee of Age Concern, Penge and Anerley to which the Council paid £146k in 2014/15.
- f) Councillor Mrs E. Harmer is a Trustee of CarePlus, Bromley to which the Council paid £2.5k in 2014/15.

Officers

During 2014/15 £9.2m was paid to Liberata in payment for services in relation to the Council's exchequer contract. Liberata employs two family members of the Director of Finance, neither in a role that is specifically related to the Bromley contract.

Other Public Bodies

The Authority has a pooled budget arrangement with Bromley Clinical Commissioning Group for the provision of Integrated Stores. There is a further pooled budget arrangement with Oxleas NHS Foundation Trust for the provision of mental health functions. Transactions relating to these arrangements are detailed in Note 31.

Pension Fund

During the financial year, the average monthly cash balance of the Pension Fund was slightly positive and, as a result, interest of £6,862 was paid to the Fund (nil was paid in 2013/14). In 2014/15, £533k was charged to the Fund for expenses incurred in administering the Fund (£418k in 2013/14).

London Borough of Bromley Pension Fund

In addition, the following organisations are part of the London Borough of Bromley Pension Fund (as well as the London Borough of Bromley):

Primary School Academies

Alexandra Infants	Leesons Primary
Alexandra Junior	Manor Oak Primary
Balgowan Primary	Midfield Primary
Biggin Hill Primary	Parish Primary
Bromley Trust	Perry Hall Primary
Castlecombe Primary	Pickhurst Infants
Chislehurst CE Primary	Pickhurst Junior
Crofton Infants	Princes Plain Primary
Crofton Junior	Raglan Primary
Darrick Wood Infants	Scotts Park Primary
Farnborough Primary	Stewart Fleming Primary
Grays Farm Primary	St. James RC Primary
Green Street Green Primary	St John's CE Primary
Harris Aspire	St Joseph's RC Primary
Harris Crystal Palace	St Mark's CE Primary
Harris Kent House	St Mary Cray Primary
Harris Shortlands	St Mary's RC Primary
Hayes Primary	St Peter & St Paul Primary
Highfield Infants	St Philomena's RC Primary
Highfield Junior	St Vincent's RC Primary
Hillside Primary	Tubbenden Primary
Keston CE Primary	Valley Primary
La Fontaine	Warren Road Primary

Foundation Schools

Holy Innocents RC Primary	The Glebe
St Olave's & St Saviour's	

Secondary School Academies

Beaverwood	Hayes
Bishop Justus CE	Kemnal
Bullers Wood	Langley Park Boys
Charles Darwin	Langley Park Girls
Coopers	Newstead Wood
Darrick Wood	Ravens Wood
Harris Beckenham	The Priory
Harris Bromley	The Ravensbourne

Scheduled Bodies – Other

Bromley & Orpington Colleges	Ravensbourne College
------------------------------	----------------------

Admitted Bodies

Affinity Sutton	Bromley Mytime
Bromley & Lewisham MIND	Liberata UK

- I confirm that we have carried out impairment reviews appropriately, including an assessment of when such reviews are required, where they are not mandatory. I confirm that we have used the appropriate assumptions with those reviews.

Disclosures

- Where appropriate, the following have been properly recorded and adequately disclosed in the Statement of Accounts:
 - The identity of, and balances and transactions with, related parties.
 - Losses arising from sale and purchase commitments.
 - Agreements and options to buy back assets previously sold.
 - Assets pledged as collateral.
- I confirm that the Authority has recorded or disclosed, as appropriate, all formal or informal arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances and line of credit or similar arrangements.
- I confirm that the Authority has recorded or disclosed, as appropriate, all liabilities, both actual and contingent, and has disclosed in the statement of accounts all guarantees that we have given to third parties, including oral guarantees made by the Authority on behalf of an affiliate, member, officer or any other third party.

Items specific to Local Government

I confirm that the Authority does not have plans to implement any redundancy/early retirement programmes for which we should have made provision in the Statement of Accounts.

I confirm that the Authority has determined a prudent amount of revenue provision for the year under the Prudential Framework.

I confirm that the Authority has determined a proper application of the statutory provisions for the deferral of the impact of impairment losses in relation to investments held in Icelandic Banks on the General Fund balance.

I confirm that the Authority has determined a proper application of the statutory provisions for the treatment of leases that have changed status on transition to IFRS.

I confirm that the Authority has determined a proper application of the statutory provisions for the neutralisation of the impact of accumulating compensated absences on the General Fund balance.

As minuted by the General Purposes and Licensing Committee at its meeting on 17 September 2015.

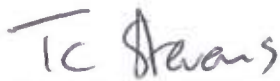


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Director of Finance

17/09/15
.....

Date



.....

Chairman of the General Purposes and Licensing Committee

17/9/2015
.....

Date

Appendix 1 – Related parties and related party transactions

The following related parties were identified during the audit. They are split by those that relate to the London Borough of Bromley and the London Borough of Bromley Pension Fund.

London Borough of Bromley

Related parties

Age Concern, Penge and Anerley	Hillside School
Alexandra Junior School	Kent Refurbishment Ltd
Association of the British Pharmaceutical Industry Regulatory Committee	Liberata
Bank on Business Export Biggin Hill Airport	London Oil & Gas Limited
Beckenham Conservative Association	Morgans Chartered Surveyors of London and Bromley
Bromley and Chislehurst Conservative Association	Old Dunstonian Association
Bromley and Downham Youth Club	Operational Assurance Ltd
Bromley and Sheppard's Colleges	Orpington Conservative Association
Bromley Arts Council	P.D. Cicoria Limited
Bromley College of Further and Higher Education	Parkmore Management Company Limited
Bromley Community Fund	Penge Churches Housing Association
Bromley Healthcare Community Interest Company	Phillips and Lubbock Foundations
Bromley Town Team	Princes Plain Primary School
Bromley Youth Music Trust	Quality Mind Limited
Bromley Youth Trust	Reddin Associates Limited
Broomleigh Housing Association (Affinity Homes Group)	Russell Mellor & Co. Ltd
Business Expo Ltd	Sanderson Hall
CarePlus	Shortlands Ward Conservative Committee
Cartwright Brothers Vintners Limited	Sports & Fitness (UK) Limited
Castlecombe Primary School	Sports & Fitness Insurance Services (UK) Limited
Catholic Union	St Mark's C.E. Primary School
Charles Darwin Academy trust	St Mary's Shortlands Parish Church Council
Chislehurst Golf Club	Talismard Properties Limited
Darrick Wood Infant School	The Alexius Press Limited
Dkc Technologies Limited	The East India Devonshire Sports and Public Schools Club Limited
Drunken Dairy	The London Mayors' Association
EISAI Europe Ltd	Thomas Stringer Charity
European Federation of Pharmaceutical Industries and Associations	Transport for London
Friends of St Mary's Church, Downe	Typing Overload Ltd
GL Hearn	Valley Primary School
Good Governance Foundation Cic	Zip Mail Limited
Greater London South East Scout Council	Zip Post Limited
Green Street Green Primary School	

Other (as per Note 38 to the Main Authority financial statements)

Other (as per Note 14 to the Pension Fund financial statements)

Four members of the Pensions Investment Sub-Committee during the year were active members of the scheme (prior to the local elections in May 2014) and two were in receipt of a pension during the year. A special responsibility allowance of £1,971 was paid to the Chairman of the Sub-Committee in both 2013/14 and 2014/15. No other payments were made for meeting attendance. The Council incurred costs of £534k (£418k in 2013/14) in relation to the administration of the fund and was subsequently reimbursed by the fund for these expenses.

Two key management personnel of the Fund (the Director of Corporate Services and the Director of Finance) are active members of the Fund.

NEW RISK MATRIX

APPENDIX I

IMPACT ↑ ↑		RISK RATING				
	Catastrophic 5	Medium 5	Significant 10	High 15	High 20	High 25
	Major 4	Low 4	Medium 8	Significant 12	High 16	High 20
	Moderate 3	Low 3	Medium 6	Medium 9	Significant 12	High 16
	Minor 2	Low 2	Low 4	Medium 6	Medium 8	Significant 10
	Insignificant 1	Low 1	Low 2	Low 3	Low 4	Medium 5
		Remote 1 10 yearly	Unlikely 2 3 yearly	Likely 3 Annually	Highly Likely 4 Quarterly	Almost Certain 5 Monthly
	→ LIKELIHOOD →					

RISK RATING		SCORE
HIGH		15 to 25
SIGNIFICANT		10 to 12
MEDIUM		5 to 9
LOW		1 to 4

Recommended actions (with an overall aim of reducing the net risk rating):

- High:** Review controls and actions every month
- Significant:** Review controls and actions every 3 months
- Medium:** Review controls and actions every 6 months
- Low:** Review controls and actions at least annually

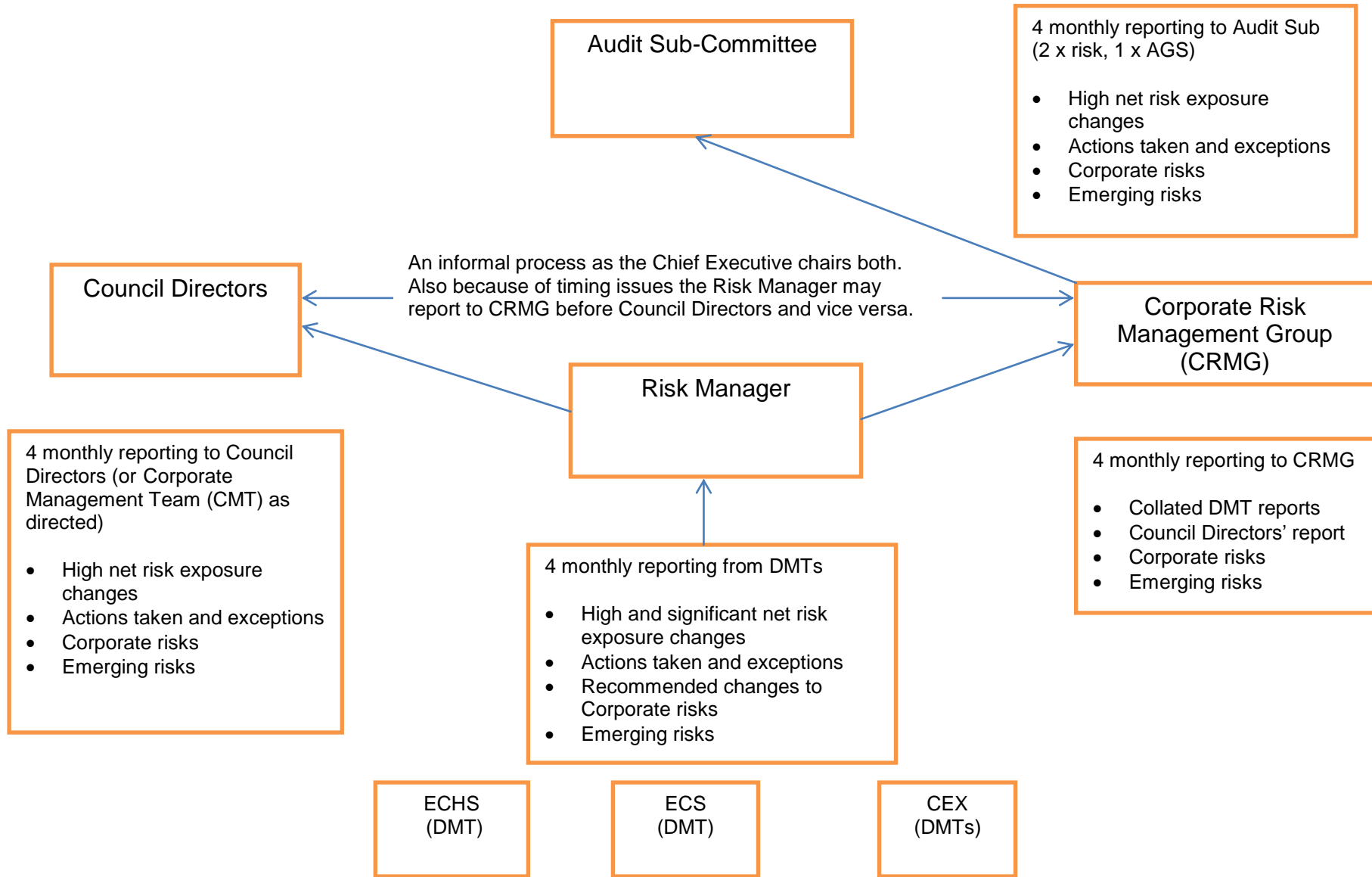
NEW RISK IMPACT GUIDELINES

Score / Risk Examples	Compliance and Regulations	Financial	Service Delivery	Reputation	Health and Safety
Insignificant 1	Minor breach of internal regulations, not reportable	Less than £50,000 (prev. £5k)	Disruption to one service for a period of 1 week or less	Complaints from individuals / small groups of residents Low local coverage	Minor incident resulting in little harm
Minor 2	Minor breach of external regulations, not reportable	Between £50,000 and £100,000 (prev. £5k to £50k)	Disruption to one service for a period of 2 weeks	Complaints from local stakeholders Adverse local media coverage	Minor Injury to Council employee or someone in the Council's care
Moderate 3	Breach of internal regulations leading to disciplinary action Breach of external regulations, reportable	Between £100,000 and £1,000,000 (prev. £50k to £500k)	Loss of one service for between 2-4 weeks	Broader based general dissatisfaction with the running of the council Adverse national media coverage	Serious Injury to Council employee or someone in the Council's care
Major 4	Significant breach of external regulations leading to intervention or sanctions	Between £1,000,000 and £5,000,000 (prev. £500k to £5m)	Loss of one or more services for a period of 1 month or more	Significant adverse national media coverage Resignation of Director(s)	Fatality to Council employee or someone in the Council's care
Catastrophic 5	Major breach leading to suspension or discontinuation of business and services	More than £5,000,000	Permanent cessation of service(s)	Persistent adverse national media coverage Resignation / removal of CEX / elected Member	Multiple fatalities to Council employees or individuals in the Council's care

NEW RISK LIKELIHOOD GUIDELINES

Score	Description	Expected Frequency
1	Remote	10-yearly
2	Unlikely	3-yearly
3	Likely (Prev. Possible)	Annually
4	Highly Likely (prev. Probable)	Quarterly (Prev. Monthly)
5	Almost Certain (Prev. Highly Probable)	Monthly (Prev. Weekly)

New Risk Reporting Structure



BROMLEY RISK REGISTER - CURRENT RISK MATRIX

Showing definitions and number of net risks

IMPACT ↑ ↑		RISK RATING				
	Catastrophic	1	1			
	Major	3	9	8	2	1
	Moderate	9	44	22	4	
	Minor	4	26	8	1	
	Insignificant	2	2			
		Remote 10 yearly	Unlikely 3 yearly	Possible Annually	Probable Monthly	Highly Probable Weekly
	←————→ LIKELIHOOD —————→					

RISK RATING		TOTAL
HIGH		21
MEDIUM		74
LOW		52

BROMLEY RISK REGISTER – NEW RISK MATRIX

Showing new definitions and number of net risks (on a strict read across)

		RISK RATING				
IMPACT ↑	Catastrophic	1	1			
	Major	3	9	8	2	1
	Moderate	9	44	22	4	
	Minor	4	26	8	1	
	Insignificant	2	2			
		Remote 10 yearly	Unlikely 3 yearly	Likely Annually	Highly Likely Quarterly	Almost Certain Monthly
		→ LIKELIHOOD →				

RISK RATING	PREVIOUS	NOW	DIFF.
HIGH	21	3	-18
SIGNIFICANT	-	13	+13
MEDIUM	74	85	+11
LOW	52	46	-6

Report No.
CEO 15013

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **AUDIT SUB-COMMITTEE**

Date: **Tuesday 1 December 2015**

Decision Type: Non-Urgent Non-Executive Key

Title: **FINANCIAL REGULATIONS & CONTRACT PROCEDURE
RULES**

Contact Officer: Luis Remedios, Head of Audit
Tel: 020 8313 4886 E-mail: luis.remedios@bromley.gov.uk

Chief Officer: Chief Executive

Ward: (All Wards);

1. Reason for report

It has been over three years since Members approved the last update to Financial Regulations and the Contract Procedure Rules. It has been necessary to update both documents as a result of legislation changes, government requirements, organisational change and technology.

2. **RECOMMENDATION(S)**

- a) **Members are asked to note and comment on the changes proposed for Financial Regulations before referral to the General Purposes and Licensing Committee and Council.**

- b) **Members are asked to note and comment on the changes proposed for the Contract Procedure Rules before referral to the General Purposes and Licensing Committee and Council.**

Corporate Policy

1. Policy Status: Not Applicable:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Internal Audit
 4. Total current budget for this head: £540K including £174K fraud partnership costs
 5. Source of funding: General fund, Admin subsidy, Admin penalties, Legal cost recoveries
-

Staff

1. Number of staff (current and additional): 6 FTE including 0.5 FTE risk officer post for Internal Audit (Financial Regulations) & 3 FTE for Procurement (Contract Procedure Rules)
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All staff, Members, contractors are required to comply with both documents
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 Financial Regulations

3.2 The last update of Financial Regulations was completed in 2012 and the main proposed changes set out below. The changes in the Financial Regulations 2015 submitted to Members of this Committee are tracked changed for ease of reference but remain largely unchanged. Members are asked to comment on and approve the new changes.

3.3 The Financial Regulations have operated well over the past three years with little adverse comments. However, where changes are necessary these have been incorporated in the current document as described below

3.4 The key changes are:

Title changes following organisational changes;

- Changes in officer responsibility/contact for particular regulations e.g. Insurance
- Proposals to allow electronic signatures to cut down on bureaucracy;
- Clarification on paying for services in advance of delivery;
- Increase in the individual debt write off limit delegated to Chief Officers to cut down on bureaucracy and align LB Bromley to limits operated in some other local authorities;
- New appendix on the transparency requirements as set out in the Local Government Transparency Code that is attached as an appendix to the Financial Regulations.

3.5 Members should refer to the Financial Regulations with track changes for ease of reference which is attached as Appendix A, comment and approve the document.

3.6 Contract Procedure Rules (CPR)

3.7 The Contract procedure Rules have been amended to reflect the requirements of the 2015 Public Contract Regulations, which set out the statutory requirements for Public Sector Procurement with a value of £25,000 and above and the Local Government Transparency Code 2015. Increasingly the Governments agenda on openness and transparency requires that the authorities approach is modified and strengthened to reflect these changes, which are often prescribed within Statutory Regulations (such as the Public Contract Regulation 2015 (PCR2015)– and associated Statutory Guidance, issued by Crown Commercial, which regulate how the bulk of our third party engagement and contracting is required to be conducted.

3.8 A summary of the amendments and guidance is attached as Appendix B. The Contract Procedure Rules with the proposed changes incorporated are attached as Appendix C. Changes made to the CPR are highlighted for ease of reference and is attached as Appendix D.

3.9 Members should refer to the Contract Procedure Rules, comment and approve the document attached as Appendix C.

4. POLICY IMPLICATIONS

The Financial Regulations and Contract Procedure Rules are key documents which the Council requires adherence to as part of the constitution.

5. FINANCIAL IMPLICATIONS

Non adherence to these two key documents could result in value for money issue, losses, poor practice, fraud and malpractice. Compliance will promote strong controls, value for money and consistency adopted across the Authority.

6. LEGAL IMPLICATIONS

Breaches of both the requirements of both documents could lead to legal/statutory requirements not being met and leave the Authority at risk.

7. PERSONNEL IMPLICATIONS

Breaches of Financial Regulations and the Contract Procedure Rules could lead to officers facing disciplinary action.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	Financial Regulations 2012/ Contract Procedure Rules 2012

LONDON BOROUGH OF BROMLEY

FINANCIAL REGULATIONS AND PROCEDURES NOVEMBER 2015

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FINANCIAL REGULATIONS 2012

1. STATUS OF FINANCIAL REGULATIONS

1.1 Financial Regulations provide the framework for managing the London Borough of Bromley's financial affairs and are deemed to be part of its constitution. They apply to every member and officer of the Authority and anyone acting on its behalf.

1.2 The summary Regulations identify the financial responsibilities of the Full Council, Executive and Policy Development and Scrutiny Committee members, the Chief Executive, the Monitoring Officer who is the **Director of Corporate Services**, **Director of Finance** and other Chief Officers. Executive Members and Chief Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Chief Officer in the Regulations should be read as referring to them.

1.3 More detailed responsibilities of the **Director of Finance** and the Chief Officers are included in Financial Procedures. These set out how the Regulations should be implemented and provide further guidance. The procedures contain both Regulations that must be adhered to and more general guidelines as well as examples to facilitate good financial control. All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

1.4 The Regulations shall not override any statutory provisions that apply. However, subject to the above, and with the agreement of the **Director of Corporate Services** and **Director of Finance**, the General Purposes and Licensing Committee may waive compliance with any of these Regulations in a particular case or in any particular class of case where applicable.

- 1.5 Each Chief Officer is responsible for ensuring that these Regulations are strictly adhered to, throughout the department under their control. Except where otherwise stated, all references in these Regulations to “Chief Officer” should be read as meaning heads of department but this includes all officers that are carrying out duties on behalf of a Chief Officer. Such delegation by Chief Officers should be formally approved and documented.
- 1.6 Where applicable consultants or agencies acting for the Council will be bound by these procedures and it should be a condition of their employment or engagement that they do so. The provisions of these procedures shall also apply to services carried out under agency arrangements for any other Authority or Organisation, except where otherwise required by that Authority.
- 1.7 Substantial breaches of Financial Regulations shall be reported to the **Director of Finance** and the Portfolio Holder by the relevant Chief Officer and may be treated as disciplinary offences. Where the **Director of Finance** considers it appropriate he will report to the next meeting of the Audit Sub-Committee any substantial breach of these Regulations that is identified.
The **Director of Finance** shall be responsible for ensuring the Council’s continuing compliance with the Accounts and Audit Regulations 2011 and all relevant Accounting Codes of Practice and Auditing Standards.
- 1.8 As such, no report having financial implications shall be submitted to Members without adequately timed prior consultation with the **Director of Finance**. Any such report that has financial implications shall be drafted in accordance with the “Code of Practice on Drafting Financial Implications in Committee Reports”.
- 1.9 These procedures shall be reviewed regularly by the **Director of Finance** but at least every 3 years. The General Purposes and Licensing Committee should approve all amendments and summaries of changes resulting from reviews of codes of best practice, procedures or explanatory notes. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on an annual basis wherever possible.

- 1.10** As suggested good practice it is recommended that these Regulations be applied to transactions relating to any Amenity or Voluntary Funds handled by staff in the course of their duties.
- 1.11** The **Director of Finance** is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to full Council for approval. The **Director of Finance** is also responsible for reporting, where appropriate, breaches of Financial Regulations to the Council and/or to the Executive.
- 1.12** Chief Officers are responsible for ensuring that all staff in their departments are made aware of the existence and content of the Authority's Financial Regulations and other internal regulatory documents, and that they comply with them. They must also ensure that either hard or electronic copies are available for reference within their departments.
- 1.13** Members, officers and others acting on behalf of the Authority are required to follow Financial Regulations including the Contract Procedure Rules. The **Director of Finance** is responsible for issuing advice and guidance to underpin this and members, officers and others acting on behalf of the Authority must have regard to such advice.

2. STRATEGIC RESPONSIBILITIES

2.1 Financial Management

2.1.1 Section 151 of the Local Government Act 1972 states that each Local Authority “shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”. Full Council approves those arrangements taking into account the views of the General Purposes and Licensing Committee who will also, along with the Audit Sub-Committee, carry a monitoring brief to ensure the arrangements remain effective and are applied appropriately. The said “arrangements” include the Council’s Financial Regulations, Contract Procedure Rules and the Scheme of Delegation (so far as it relates to financial matters). In approving those arrangements, Members are bound by the general principles of administrative law. The Council’s appointed officer under Section 151 is the **Director of Finance. In performing his functions as the appointed officer, he shall seek to ensure that the management of the Council’s financial affairs accord with the arrangements approved by Council subject to his overarching statutory duties including those referred to at paragraphs 2.5.7-10 below. The Section 151 officer can be held accountable by the electorate to whom he owes a fiduciary duty to carry out those duties effectively and these cannot be overridden by the Council.**

2.1.2. Financial management covers all financial accountabilities in relation to the running of the Authority, including the budget and policy framework.

2.2 The Full Council

2.2.1 The full Council is responsible for adopting the Authority's constitution and members' code of conduct and for approving the budget and policy framework within which the Executive operates.

2.3 The Executive

2.3.1 The Executive is responsible for proposing the budget and policy framework to the full council, and for discharging Executive functions in accordance with the policy framework and budget.

2.3.2 Executive decisions can be delegated to a committee of the Executive, an individual Executive member or an officer. Executive members must consult with relevant officers before taking a decision within his or her delegation, the member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

2.4 Committees

2.4.1 Policy Development and Scrutiny Committees: There are six Policy Development and Scrutiny (PDS) Committees who have a major role in policy development and scrutinising the decisions of the Executive. They have no decision making powers but make reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. PDS Committees also monitor the decisions of the Executive and can challenge or 'call-in' a decision that has been made by the Executive.

2.4.2 General Purposes and Licensing Committee: Legislation prevents all the Council's powers being exercised by the Executive so the General Purposes and Licensing Committee deals with Non Executive functions, quasi-legal issues such as licensing and with staffing and audit matters. In particular the Audit Sub Committee deals with Financial Regulations as well as Internal and External Audit.

2.4.3 The Standards Committee promotes and maintains a high standard of conduct by Bromley councillors and co-opted members. It has a membership of seven, four of whom are persons independent of the Council. It is responsible for advising the Council on the adoption and revision of the members' code of conduct, and for monitoring the operation of the code.

2.5 The Statutory Officers

2.5.1 Chief Executive:

The Chief Executive is responsible for the corporate and overall strategic management of the Authority as a whole. He or she must report to and provide information for the Executive, the full Council, the Overview and Scrutiny committees and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the Authority.

2.5.2 The **Director of Corporate** Services as:

The Monitoring Officer

The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively. The Monitoring Officer is responsible for compliance with the Constitution

2.5.3 The Monitoring Officer must ensure that Executive decisions and the reasons for them are made public. He or she must also ensure that members are aware of decisions made by the Executive and of those made by officers who have delegated Executive responsibility.

2.5.4 The Monitoring Officer is responsible for advising all members and officers about who has authority to take a particular decision.

2.5.5 The Monitoring Officer is responsible for advising the Executive and/or full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with, the Authority's budget and policy framework.

2.5.6 The Monitoring Officer, together with the **Director of Finance**, is responsible for advising the Executive or full Council about

whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be contrary to the budget include:

- Initiating a new policy, which has budgetary implications.
- Committing expenditure in future years above the approved budget level.
- Interdepartmental transfers above virement limits.
- Causing total net expenditure to increase beyond the approved budget.

2.5.7 **Director of Finance:**

The statutory duties arise from (inter alia):

- Section 151 of the Local Government Act 1972.
- The Local Government Finance Act 1988.
- The Local Government and Housing Act 1989.
- The Local Government Acts 2000 and 2003.
- The Accounts and Audit Regulations 2011.
- The Local Government Pension Scheme Regulations

2.5.8 The **Director of Finance** is responsible for:

- The proper administration of the Authority's financial affairs.
- Setting and monitoring compliance with financial management standards.
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Providing financial information.
- Preparing the revenue budget and capital programme.
- Treasury management and banking.

2.5.9 Section 114 of the Local Government Finance Act 1988 requires the **Director of Finance** to report to the full Council, Executive and External Audit, if the Authority or one of its officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure.

- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Authority.
- Is about to make an unlawful entry in the Authority's accounts.

2.5.10 Section 114 of the 1988 Act also requires:

- The **Director of Finance** to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- The Authority to provide the **Director of Finance** with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114.

2.6 Chief Officers

2.6.1 Chief Officers are responsible for ensuring that members are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Director of Finance**.

2.6.2 It is the responsibility of Chief Officers to consult with the **Director of Finance** and seek approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.

2.7 Other Financial Accountabilities

2.7.1 Virement:

The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.

2.7.2 Chief Officers are responsible for agreeing in-year virements within delegated limits, in consultation with the **Director of Finance** where required. They must notify the **Director of Finance** of all virements over £50,000. (The Scheme of Virement sets out the rules and the levels of delegation.)

2.7.3 Treatment of year-end balances:

The full Council is responsible for agreeing guidelines for the carrying forward of under and overspendings on budget headings.

2.7.4 Accounting policies:

The **Director of Finance** is responsible for setting accounting policies and ensuring that they are applied consistently.

2.7.5 Accounting records and returns:

The **Director of Finance** is responsible for determining the accounting procedures and records for the Authority.

2.7.6 Annual statement of accounts:

The **Director of Finance** is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A statement of Recommended Practice (CIPFA/LASAAC).

2.7.7 The General Purposes and Licensing Committee is responsible for approving the annual statement of accounts.

2.7.8 Further details are contained in the detailed budget book.

3. FINANCIAL PLANNING

3.1 Introduction

3.1.1 The full Council is responsible for approving the Authority's budget and policy framework proposed by the Executive. In terms of financial planning, the key elements are:

Corporate plans

The budget

Capital programme.

3.2 Policy Framework

3.2.1 The full Council is responsible for approving the budget and policy framework. The policy framework comprises the plans and strategies set out in Article 4 of Para 4.02 of the constitution.

3.2.2 The full Council is responsible for setting the level at which the Executive may reallocate budget funds from one service to another. The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

3.2.3 Preparation of Corporate Plans:

The Chief Executive is responsible for proposing corporate plans to the Executive for consideration before their submission to the full Council for approval.

3.2.4 Preparation of the Council's Performance Plan:

The Chief Executive is responsible for proposing the overall performance plan to the Executive for consideration before its submission to the full council for approval.

3.3 Revenue and Capital Budgeting

3.3.1 Budget Format:

The general format of the budget will be approved by the full Council and proposed by the Executive on the advice of the **Director of Corporate Services. The draft budget should include**

allocation to different services and projects, proposed taxation levels and contingency funds.

3.3.2 Budget Preparation:

The **Director of Finance** is responsible for ensuring that a revenue budget is prepared on an annual basis and a financial forecast on a four yearly basis for consideration by the Executive, before submission to the full Council. The full Council may amend the budget or ask the Executive to reconsider it before approving it.

3.3.3 The Executive is responsible for issuing guidance on the general content of the budget in consultation with the **Director of Finance** as soon as possible following approval by the full Council.

3.3.4 It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive and the **Director of Finance**.

3.3.5 Budget Monitoring and Control:

The **Director of Finance** is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control overall expenditure and income against budget allocations and report to the Executive on the Council's overall position on a regular basis.

3.3.6 It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the **Director of Finance**. They should report on variances within their own areas and take necessary action to avoid exceeding their budget allocation and alert the **Director of Finance** to any problems.

3.3.7 Resource Allocation:

The **Director of Finance** is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

3.3.8 Preparation of the Capital Programme

The **Director of Finance** is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Executive before submission to the full Council.

3.3.9 Guidelines

Guidelines on budget preparation are issued to members and Chief Officers by the Executive following agreement with the **Director of Finance**. The guidelines will take account of:

- Legal requirements
- Medium-term planning prospects
- Corporate plans
- Available resources
- Spending pressures
- Best value and other relevant government guidelines
- Other internal policy documents
- Cross-cutting issues (where relevant).

3.3.10 Maintenance of Reserves:

It is the responsibility of the **Director of Finance** to advise the Executive and/or the full Council on prudent levels of reserves for the Authority.

4 RISK MANAGEMENT AND CONTROL OF RESOURCES

4.1 Introduction

4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. This should include the proactive participation of all those associated with planning and delivering services.

4.2 Risk Management

4.2.1 The Executive is responsible for approving the Authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Executive is responsible for ensuring that proper insurance exists where appropriate.

4.2.2 The **Director of Corporate Services is responsible for preparing the Authority's risk management policy statement, for promoting it throughout the Authority and for advising the Executive on proper insurance cover where appropriate.**

4.3 Internal Control

4.3.1 Internal control refers to the systems of control devised by management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.

4.3.2 The **Director of Finance is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and Regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other provisions that govern their use.**

4.3.3 It is the responsibility of Chief Officers to establish sound arrangement, for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement,

economy, efficiency and effectiveness and for achieving their financial performance targets.

4.4 Audit Requirements

4.4.1 The Accounts and Audit Regulations 2011 require every local Authority to maintain an adequate and effective Internal Audit.

4.4.2 The responsible body, currently the **Public Sector Audit Appointments Limited is responsible for appointing External Auditors to each local Authority. The basic duties of the External Auditor are governed by **section 20** of the **Local Audit and Accountability Act 2014**.**

4.4.3 The Authority may, from time to time, be subject to audit, inspection or investigation by other external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

4.5 Preventing Fraud and Corruption

4.5.1 The Head of Audit is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

4.6 Assets

4.6.1 Chief Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

4.7 Treasury Management and Banking

4.7.1 The Authority has adopted CIPFA's Code of Practice for Treasury Management in the Public Services.

4.7.2 The full Council is responsible for approving the Treasury Management Policy Statement. The Executive proposes the policy statement to the full Council. The **Director of Finance has delegated responsibility for implementing and monitoring the policy statement.**

4.7.3 All money in the hands of the Authority is controlled by the officer designated for the purposes of section 151 of the Local

Government Act 1972, referred to in the code as the **Director of Finance**.

4.7.4 The **Director of Finance** is responsible for reporting to the Executive a proposed treasury management strategy for the coming financial year at or before the start of each financial year.

4.7.5 All Executive decisions on borrowing, investment or financing shall be delegated to the **Director of Finance**, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services.

4.7.6 The **Director of Finance** is responsible for reporting to the Executive not less than four times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

4.8 Staffing

4.8.1 The full Council is responsible for determining how officer support for Executive and Non-Executive roles within the Authority will be organised.

4.8.2 The Chief Executive is responsible for providing overall management to staff. He or she will also be responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

4.8.3 Chief Officers are responsible for controlling total staff numbers by:

- Advising the Executive on the budget necessary in any given year to cover estimated staffing levels.
- Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs.

5 SYSTEMS AND PROCEDURES

5.1 Introduction

5.1.1 Sound systems and procedures are essential to an effective framework of financial accountability and control.

5.2 General

5.2.1 The **Director of Finance is responsible for the operation of the Authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved by the **Director of Finance**. However, Chief Officers are responsible for the proper operation of financial processes in their own departments.**

5.2.2 Any changes to agreed procedures made by Chief Officers to meet their own specific service needs should be agreed with the **Director of Finance in advance.**

5.2.3 Chief Officers should ensure that their staff receive relevant financial training.

5.2.4 Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Chief Officers must ensure that staff are aware of their responsibilities under freedom of information legislation.

5.3 Income and Expenditure / Scheme of Delegation

5.3.1 It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. The Executive is responsible for approving procedures for writing-off debts as part of the overall control framework of accountability and control.

5.4 Payments to Employees and Members

5.4.1 The **Director of Finance** is responsible for the payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members. - see Salaries, Wages and Pensions.

5.5 Taxation

5.5.1 The **Director of Finance** is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.

5.5.2 The **Director of Finance** is responsible for maintaining the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

5.6 Trading Accounts/Business Units

5.6.1 It is the responsibility of the **Director of Finance** to advise on the establishment and operation of trading accounts and business units.

6 EXTERNAL ARRANGEMENTS

6.1 Introduction

6.1.1 The **Director of Finance** provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well being of its area.

6.2 Partnerships

6.2.1 The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

6.2.2 The Executive can delegate functions, including those relating to partnerships, to Chief Officers. These are set out in the scheme of delegation that forms part of the Authority's constitution. Where functions are delegated, the Executive remains accountable for them to the full Council.

6.2.3 Representation of the Authority on partnership and external bodies will be decided in accordance with the scheme of delegation.

6.2.4 The **Director of Finance** must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she in conjunction with the appropriate Chief Officer must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

6.2.5 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

6.3 External funding

6.3.1 The Director of Finance is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

6.4 Work for third parties

6.4.1 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies unless this is delegated to Chief Officers.

SCHEME OF VIREMENT

(Not applicable to schools and colleges, who have separate Regulations)

1. The scheme of virement is intended to enable the Executive, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall budget and policy framework determined by the full Council, and therefore to optimise the use of resources.
2. The overall revenue budget is drawn up by the Executive and approved by the full Council. Chief Officers and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved heads of expenditure. For the purpose of this scheme, a budget head is considered to be a cost centre and a division of service is a mandatory division of service as defined by CIPFA's Best Value Accounting Code of Practice service expenditure analysis.
3. Virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring expenditure from one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets.

4. Definition of Terms

“Main Account” - refers to the total budget for employees, running expenses, individual special schemes, financing charges, recharges or income within a single service heading (main code).

“Contingent Budget” - refers to those provisions designated by the **Director of Finance** which are mainly outside the direct control of the Authority.

5. Virement Arrangements

- a) No virement is allowed from or to any of the following budgets without approval of the Executive**

Financing charges

Rates and other taxes

Recharges

Insurances

Contingent budgets (as determined by the **Director of Finance in consultation with the appropriate Chief Officer).**

- b) Portfolio Holder agreement will be required for proposals which:**

- transfer funds for the creation of new staff posts**

- c) Executive approval will be required for proposals which:**

would cause the total budget head to be exceeded in the current year or increase the commitment in future years are to be financed from savings arising from competitive tendering.

- d) Virement will be allowed within one year between other main accounts as follows:**

I. on the approval of the appropriate Chief Officer for sums up to £50,000

II. on the approval of the appropriate Portfolio Holder for sums in excess of £50,000 and up to £250,000

III. on the approval of the full Executive for sums in excess of £250,000 and up to £1,000,000

IV. on the approval of the full Council for sums above £1,000,000.

- e) **Virements actioned by a Chief Officer shall be included on the next quarterly monitoring report to the appropriate Executive meeting and notified to the **Director of Finance**.**

6. Maintenance of Buildings

Building Maintenance funding is now split between “landlord and tenant” responsibilities.

7. Notification to **Director of Finance**

Please ensure that your Head of Finance is informed of all virement approvals granted.

Supplementary Estimates

The Executive can agree a supplementary estimate for an individual item up to £1m as long as the full year effect does not exceed £1m. All larger items are to be approved by Full Council. The Executive cannot agree a supplementary estimate if this has the effect of reducing General Fund “Not Earmarked” Reserves below £10m (based upon the latest projections of expenditure).

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1. GENERAL

Contact: Internal Audit

- 1.1 These procedures outline the approved system of corporate financial control to secure the proper administration of the Council's financial affairs, as required by Section 151 of the Local Government Act 1972 and must be adhered to by all.
- 1.2 The **Director of Finance** will add, amend or delete these procedures to reflect the overall needs of Departments and changing circumstances such as, price increases affecting financial thresholds.
- 1.3 Each Chief Officer is responsible for ensuring that these procedures are strictly adhered to, throughout the department under their control.

Except where otherwise stated, all references in these Regulations to "Chief Officer" should be read as meaning heads of department but this includes all officers that are carrying out duties on behalf of a Chief Officer. Such delegation by Chief Officers should be formally approved and documented.
- 1.4 Each Chief Officer should ensure that all staff in their department are made aware of and fully understand the requirements and implications of Financial Procedures as far as they relate to their professional duties and responsibilities. However, this does not remove the requirement for all staff to make themselves conversant with these procedures and comply with their requirements.
- 1.5 Consultants or agencies acting for the Council will be bound by these procedures and it should be a condition of their employment or engagement that they do so. The provisions of these procedures shall also apply to services carried out under agency arrangements for and other Authority or organisation, except where otherwise required by that Authority.
- 1.6 The **Director of Finance** is ultimately responsible for interpreting these Procedures and determining what is considered "substantial", "significant", "adequate", "prompt" etc. as required by these

Procedures. Contact details are given at the start of each procedure to facilitate the provision of advice from **Director of Finance**'s Department. However, in the majority of day-to-day cases it is envisaged that officers will seek advice from their Departmental Head of Finance.

- 1.7 Substantial breaches of the procedures shall be reported to the **Director of Finance** and the Portfolio Holder by the relevant Chief Officer and may be treated as disciplinary offences. Where the **Director of Finance** considers it appropriate he will report to the next meeting of the Audit Sub-Committee any substantial breach of these Regulations that is identified.
- 1.8 The **Director of Finance** shall be responsible for ensuring the Council's continuing compliance with the Accounts and Audit Regulations 2011 and all relevant Accounting Codes of Practice and Auditing Standards.
- 1.9 As such, no report having financial implications shall be submitted to Members without adequately timed prior consultation with the **Director of Finance**. Any such report that has financial implications shall be drafted in accordance with the "Code of Practice on Drafting Financial Implications in Committee Reports".
- 1.10 These procedures shall be reviewed regularly by the **Director of Finance** but at least every 3 years. The General Purposes and Licensing Committee should approve all amendments and summaries of changes resulting from reviews of codes of best practice, procedures or explanatory notes. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on a regular basis.
- 1.11 As suggested good practice it is recommended that these Procedures be applied to transactions relating to any Amenity or Voluntary Funds handled by staff in the course of their duties.
- 1.12 The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year, and covers such items as:
 - Separate accounts for capital and revenue transactions

- The basis on which debtors and creditors at year end are included in the accounts
- Details on substantial provisions and reserves
- Fixed assets
- Depreciation
- Capital charges
- Work in progress
- Stocks and stores
- Deferred charges
- Accounting for value added tax
- Government grants
- Leasing
- Pensions

1.13 Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to External Audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency

2. PREPARATION OF BUDGETS

Contacts: Heads of Finance, Technical (Capital Programme)

Revenue Budget

- 2.1 Prior to the start of the revenue budget process, Chief Officers will submit to the **Director of Finance**, in accordance with a timetable laid down by the **Director of Finance**, projections of anticipated real changes (including statutory and demographic factors) over a predetermined period for the services that they manage, this will be for at least three years. Chief Officers will also submit to the **Director of Finance** appropriate supporting information and documentation as specified by him or her. The **Director of Finance** will use this information to compile a forecast of the Council's revenue expenditure and income for consideration by the Executive.
- 2.2 Prior to each financial year, in accordance with a timetable laid down by the **Director of Finance**, draft estimates of income and expenditure for the ensuing year will be prepared jointly by each Chief Officer for the Service(s) they manage and the **Director of Finance**, for presentation to the Executive.
- 2.3 The **Director of Finance** shall then ensure that the summarised budgets for all Departments are presented, together with an estimate of the sums necessary to meet anticipated inflation and other specific items for the following financial year to the Executive to allow them to recommend a levy to the Council before the end of the preceding February.

Capital Programme

- 2.4 Capital programme procedures must be followed in accordance with the manual of Capital Programme Procedures.
- 2.5 The **Director of Finance** is responsible for ensuring that the programme is prepared on an annual basis. This programme will be considered by the Executive before submission to the Full Council.

3. BUDGETARY CONTROL

Contact: Heads of Finance

- 3.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits, and sets the level at which funds may be reallocated within budgets
- 3.2 Budget management ensures that once the budget has been approved by Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review and adjust its budget targets during the financial year. It also calls to account managers responsible for defined elements of the budget.
- 3.3 By continuously identifying and explaining variances against budgetary targets, the Authority can identify changes in trends and resource requirements at the earliest opportunity. The Authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- 3.4 Chief Officers are responsible for the control of their department's expenditure and income in accordance with the Council's approved "Principles and Budgetary Control Procedures" (see Procedures).
- 3.5 No officer shall incur expenditure outside the limits of the annual revenue budget or the approved capital programme, as amended from time to time by the Executive, except as provided for by the "Principles and Budgetary Control Procedures."
- 3.6 Even if there is insufficient budgetary provision a Chief Officer may incur expenditure that is necessary to carry out any repair, replacement or other work which is of such extreme urgency that it must be done immediately. When such an occasion arises, the Chief Officer shall advise the **Director of Finance** and report to the Executive. In the event of a major environmental disaster or a full scale emergency this can be done retrospectively.
- 3.7 The relevant Chief Officer must consult the **Director of Finance** on any matter within their control that could materially affect the financial

position of the Council.

- 3.8 The Authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Authority's plans and policies.
- 3.9 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an Authority to budget for a deficit.
- 3.10 Medium-term planning (or a three to five year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium term plan. This ensures that the Authority is always preparing for events in advance.
- 3.11 A report on the final accounts will be submitted by the **Director of Finance** to the General Purposes and Licensing Committee as soon as practical after the end of each financial year. The final accounts will need to be approved by the Council annually.
- 3.12 The Local Authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.
- 3.13 Capital expenditure (including use of capital grants and PFI/PPP projects) involves acquiring or enhancing fixed assets with a long term value to the Authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

- 3.14 The Government places strict controls on the financing capacity of the Authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.
- 3.15 Chief Officers must comply with guidance concerning capital schemes and controls issued by the **Director of Finance**.

4. ACCOUNTING ARRANGEMENTS

Contact: Heads of Finance/ Internal Audit

- 4.1 Chief Officers and Heads of Finance are responsible for maintaining all accounting and financial records for systems under their control, including automated or computerised systems, in a form approved by the **Director of Finance**.
- 4.2 The Accounts & Audit Regulations 2011 require that the Authority's accounting system and the form of their accounts and supporting accounting records shall be determined by the responsible financial officer.
- 4.3 Where new financial systems are proposed or significant amendments are planned to existing financial systems, the **Director of Finance's** advice shall be sought. No changes to any accounting procedures or form of accounts shall be made without the approval of the **Director of Finance**.
- 4.4 Each Chief Officer shall, in consultation with the **Director of Finance**, prepare such financial instructions as are considered necessary for the proper financial management, operation and control of the services for which they are responsible, in accordance with Financial Regulations and procedures.
- 4.5 Such financial instructions shall, in accordance with the Accounts & Audit Regulations 2011, contain measures to:
- Ensure that the financial transactions of the Authority are recorded as soon as reasonably practical and as accurately as reasonably possible;
 - Enable the prevention and detection of inaccuracies and fraud; and
 - Facilitate the ability to reconstitute any lost records.

Separation of Duties

4.6 Each Chief Officer is responsible for ensuring, so far as is reasonably practicable, that there is adequate internal separation of duties in their department in relation to significant financial transactions. For example:

- staff responsible for calculating, checking and recording monies due to or due to be paid by the Council shall not receive or make such payments;
- staff examining and checking the accounts of cash transactions shall not carry out (i.e. process) such transactions;
- Staff who sign authorise orders, confirm receipt of goods or services, and certify payments shall not perform more than one function for the same transaction.

Authorised Officers

4.7 Each Chief Officer, in consultation with the Departmental Head of Finance, shall determine which officers in their department are Authorising Officers for all main financial transactions on their behalf. These should as a minimum include:

- orders for goods, works or services;
- payment of accounts;
- travel, subsistence and special assistance claims;
- payroll documents (e.g. overtime claims, timesheets)
- recommendations for write-off

4.8 The appropriate Chief Officer shall supply up to date details of all authorised officers together with copies of their specimen signatures or authorisation evidence, and any financial limits that apply to Accounts Payable. Additionally, copies of these lists and specimen signatures or evidence of authorisation shall be provided to the **Director of Finance** where prime documents are processed under procedures within his or her control (e.g. recommendations to the **Director of Finance** to write off bad debts).

i-Procurement

4.9 All orders for Goods, works and services should be placed via the i-Procurement system unless the following apply:

- The Order originates from an established finance element of a service specific system (e.g. Confirm, Care First), Or
- Where agreed by the **Director of Finance**

4.10 The following role definitions will apply when orders are raised and paid on the i-proc system:-

a) *Requisitioning Officer Role:* an officer authorised by their Chief Officer to raise order requisitions on the i-Proc system on behalf of the Council. They would identify the potential supplier, check budget provision is available and best value is obtained, either by using the “Lead Officer” recommendation or their own knowledge and experience, and in accordance with section 6 and Contract Procedures.

b) *Receipting of goods Role:* an officer who confirms on the i-Proc system that goods/services have been received. The officer fulfilling this role must have first hand knowledge that the goods have been received and will be held accountable for funds subsequently released where the corresponding goods have not been received. This role can be completed by the requisitioning officer or an individual other than the approving officer.

c) *Approving Officer Role:* an officer other than a) designated by their Chief Officer to authorise individual orders in accordance with the approval hierarchy. In approving an order the approving officer is confirming that all relevant Financial Regulations and procedures have been complied with and that there is adequate budgetary provision to cover the resulting expenditure.

Where the received invoice legitimately exceeds the order amount by more than 2% by value*, an approving officer must approve an amendment to the order (submitted by the requisitioning officer of the original order) which must also meet the above requirements.

*The Tolerance for print orders is 10% by price or quantity.

4.11 The following role definitions will normally apply for non i-Proc processes (notwithstanding that different terms may be in common day to day use within departments):

A) *Initiating Officer Role:* an officer authorised by their Chief Officer to authorise official orders on behalf of the Council. They would normally identify the potential supplier, ensure budget provision is available and best value is obtained, either by using the “Lead Officer” recommendation or their own knowledge and experience, and in accordance with Contract Procedures.

Departments may of course prefer that one officer completes an order requisition form for authorisation by a manager but this is not a requirement of Financial Procedures (see Section 6). In such cases, it may be that the manager takes responsibility for checking budget provision and demonstrating best value. However, the manager who authorises the order is deemed the Initiating Officer and he/she therefore cannot then receive the goods, or authorise or certify the invoice.

B) *Authorising Officer Role:* an officer, other than (a) or (c), who passes an invoice for certification, having confirmed receipt of goods or services and checked arithmetical accuracy, quantities, prices etc. to the original order. This officer may in practice be the person who requested the goods / services as they will often be best placed to confirm the order has been delivered accurately.

C) *Certifying Officer Role:* an officer other than (a) or (b), designated by their Chief Officer to certify individual invoices for payment. In certifying an invoice for payment the Certifying Officer is indicating that all relevant Financial Regulations and procedures have been complied with and evidenced in paying the invoice, prior to input and certification onto Accounts Payable.

Write-Offs

- 4.12 No uncollectable amounts, including bad debts, should be written off except with the approval of the **Director of Finance**, whether exercised personally or properly delegated by him to a member of his staff for this purpose.
- 4.13 Further guidance in this area is given in Income Collection and Write off procedures in Section 12 and the main Financial Procedures.

Retention of Documents

- 4.14 Chief Officers shall be responsible for ensuring that the accounts and supporting records of the Authority are maintained securely in accordance with proper practices and for the safe custody and proper use of controlled stationery (i.e. having an implicit monetary value) within their department.
- 4.15 Chief Officers shall also ensure that accounting records are retained in safe custody for such period as shall be determined by the **Director of Finance** and no voucher or other document shall be destroyed before the specified period has elapsed. Details of the minimum periods for which certain records are to be retained (usually six years), and guidance as to how and when document imaging is permissible (usually once the Council's accounts have been certified by the External Auditor), are provided in the retention of documents procedures.
- 4.16 The ultimate disposal of financial records should be arranged by each Chief Officer as "confidential waste" and on no account should sensitive information be disposed of through the normal waste collection process.

External Arrangements

Partnerships

- 4.17 The **Director of Finance** must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and must also consider the overall corporate governance arrangements in respect of financial issues when arranging contracts

with external bodies. The **Director of Finance** must also ensure that the financial risks have been fully appraised before agreements are entered into with external bodies.

4.18 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

4.19 The Relevant Portfolio Holder is responsible for approving the contractual arrangements for any work for third parties or external bodies where the contract value exceeds £500,000 and is within the Council budget.

External funding

4.20 The **Director of Finance** is responsible for identifying all the financial implications, including long term issues, resulting from entering into agreements with external bodies. He/she is also responsible for ensuring that all funding notified by external bodies is received and properly recorded.

5. AUTHORISATION LIMITS

Contact **Director of Finance** / Internal Audit

5.1 Authorisation Limits for placing of orders and payments

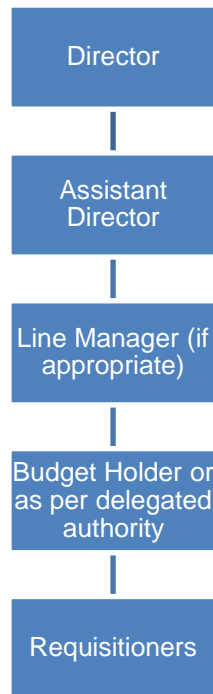
5.2 It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively.

5.3 The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Executive in respect of payments, placing orders, together with the limits of their authority.

5.4 Any delegated authority under the scheme of delegation authorised by a Chief Officer must be in accordance with the Council's Contract Procedure Rules.

5.5 The approval limits (other than listed exemptions) are shown below and these apply to any orders placed via i-proc and any certification through AP1 or 2 after Contract Procedures have been complied with.

Amount of order or payment	Procurement Requirements	Director	Assistant Director	Line Manager (if appropriate)	Budget Holder or as per delegated authority
£1m and above	EU process and Executive approval	✓			
£500,000 up to £999,999	EU process and Portfolio Holder approval	✓			
£250,000 up to £499,999	EU process	✓			
£100,000 up to £249,999	Tendering Process - EU process for EU limit and above	✓	✓		
£50,000 up to £99,999	Tendering Process	✓	✓	✓	✓
£5,000 up to £49,999	3 written quotes	✓	✓	✓	✓
Up to £4,999	1 oral quote (confirmed in writing if exceeds £1,000)	✓	✓	✓	✓



5.6 A requisitioner will be able to raise requisitions on i-proc but they will not be able to approve orders. If the value of the requisition is less than £5,000 the requisition will be automatically routed for approval and order generation subject to the departments scheme of delegation. If the requisition value exceeds an approver's limit the requisition will be routed straight to the 1st appropriate management level above for approval.

5.7 Listed Exemptions

5.8 However there are other payments / actions that require authorisation which Chief Officers should include within their Scheme of Delegation. A list of the exceptions from i-proc and AP1/2 certification limits are detailed below:-

1. Travel Expenses and Petty Cash (inc signature on cheque book) – *Budget Holder, Line Manager, Assistant Director or Director*
2. Timesheets Agency - Staff *Budget Holder, Line Manager, Assistant Director or Director*
3. Overtime Claim and Car Mileage - *Director or Assistant Director*
4. Special Leave, Ex-gratia Payments, Season Ticket loans, Interview Expenses - *Budget Holder, Line Manager, Assistant Director or Director*

5. Income write offs - *Assistant Director or Director /plus Head of Finance as per Financial Regulations 24*
6. Panel Decisions - *ECS department only. Chief Officers scheme of delegation list.*
7. Hexagon Authorisation – *Finance officers only.*
8. Cheques over £50k and BACS - *Finance officers only*
9. Investment Payments - *Technical Group only (senior accountant and above)*

5.9 The authorisation for the above should be locally managed by the Chief Officer for their Department. The completed authorised signatory form should be forwarded to Accounts payable (Resources Department) for them to hold in their records. Any changes should be notified immediately that they occur and not as a result of an update requested by Accounts Payable Department.

5.10 Manual signatures can be captured by various types of equipment including scanners, photocopiers and fax machines. Once acquired, signatures can be transmitted electronically and copied between files, as well as being printed on paper documents.

An electronic document, such as an email, Word file or fax, containing a digitised signature is nowadays considered to be no different from a paper one which has been signed manually.

It is therefore important that individuals use images of their own signatures with care and that there are controls over the use of other people's digitised signatures.

Whereas for internal e-mails there is an assumption that they are from a verifiable source, you should seek assurances that external e-mails are similarly from a secure source.

Examples of electronic signatures are:

- Typed name
- E-mail address
- Scanned image of a signature
- Automatic e-mail signature

Images of signatures should be used only when essential and internally within the organisation.

Electronic signatures will not override instances where signatures or a seal is required e.g. contracts over £200k or where there is a legal requirement.

6. ORDERS AND CONTRACTS FOR GOODS, WORKS AND SERVICES

CONTACT: Legal/ Internal Audit

- 6.1 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. Local Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's contract and procurement rules.
- 6.2 Every officer and member of the Authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with appropriate codes of conduct.
- 6.3 Apart from petty cash and other payments from advance accounts, the normal method of payment from the Authority shall be by cheque or through the banks' automated clearing system (BACS) or other electronic transfers of funds drawn on the Authority's bank accounts by
- 6.4 All orders should be raised on the i-Procurement system. Where this is not possible unique pre-numbered official hard copy orders should be raised, any exceptions should be agreed by the **Director of Finance**.
- 6.5 Chief Officers are responsible for the control of all orders held and issued by their department. They should determine which officers in their department should be allowed to be Initiating Officers and raise and authorise orders on their behalf.
- 6.6 It shall be the responsibility of an officer issuing an order to ensure, as far as is reasonable and practicable, that value for money is obtained in respect of each transaction. All arrangements for using Electronic Ordering, (other than through the Councils corporate - Procurement system) needs the approval of the Procurement Section. Permission will be subject to proper audit trails and safeguards being in place.
- 6.7 An official order, or its equivalent, must be raised for all goods, works and services except where one or more of the following apply:

- (i) Where a specific formal contract exists which does not incorporate any facility for the regular draw-down of services;
- (ii) Rents, business rates, council tax and utility services as supplies of a continuous and obligatory nature;
- (iii) Petty cash payments

Where hard copy official orders, are used they shall as a minimum:

- (iv) be clearly identifiable as an order from the London Borough of Bromley, including invoice address, officer contact etc.;
- (v) be serially numbered;
- (vi) be physically authorised by an authorised signatory;

6.8 Provided that the **Director of Finance** is fully satisfied, the method by which an official order is issued shall be at the discretion of the Initiating Officer, having regard to the requirements of this procedure, and the supplier e.g. by post, fax, or (with the **Director of Finance**' initial approval) by internet e-mail or via the supplier's web site. A carbon copy or photocopy or electronic copy (as appropriate) of all authorised orders should be retained in the form issued.

6.9 In exceptional cases only, an oral order may be made. In such cases a confirmation order must be issued. The confirmation iProc order should be despatched the same day where possible and certainly no later than within two working days and should be clearly marked "confirmation only".

6.10 All goods, works and services ordered shall be for the exclusive use of the Council or an organisation which has established arrangements to make purchases through the Council's accounts.

6.11 All leasing arrangements must have the **Director of Finance's** prior approval.

Orders and Authority

6.12 No order shall be raised unless there is uncommitted budgetary provision to meet the estimated cost unless it relates to works necessary within Section 3.3 of these procedures.

Minimum Requirements

6.13 Before placing an order the Initiating Officer shall estimate the probable cost of the goods works or services required. This estimated cost will determine the normal procedures to be followed in obtaining quotations or tenders. These procedures are outlined below:

- a) Up to £5,000 one oral quotation (confirmed in writing where the estimated cost or value exceeds £1,000) using the appropriate approved list
- b) **Over** ~~Between £5,000 and £50,000 obtain at least three written quotes~~
-follow the Contract Procedure Rules
- c) ~~Over £50,000 follow Contract Procedures~~

7. **CONTRACT PROCEDURE RULES**

These are now contained in the Procurement part of the Managers Toolkit.

7.1 Contract Procedures must be complied with as applicable

[Contract Procedure Rules](#)

8. PAYMENT OF ACCOUNTS

Contacts: Internal Audit (Certification Controls) /Accounts Payable
Accountancy (FIS Accounts Payable)

PAYMENTS REVISED

- 8.1 The **Director of Finance** is responsible for making safe and efficient arrangements for all payment of accounts. All payments on behalf of the Council shall therefore be made by the **Director of Finance** or under arrangements approved by him. All payments should be made through one of the Council's E payment systems (i-Proc; Carefirst; Confirm) wherever possible and unless otherwise agreed with Internal Audit. Where this is not possible an agreed manual process system may be used.
- 8.2 Payments should be made against official invoices (or their equivalent e.g. Contractor Certificate of Payment) received from suppliers, and not against statements, delivery notes etc. The **Director of Finance** must specifically approve exceptions to this requirement, taking account of the risk and any compensating controls in place (e.g. Residential Care payments are currently exempted from this specific requirement).
- 8.3 Payment against copy invoices (i.e. duplicates / photocopies) should only be made where detailed checking has confirmed that no payment has been made against an original and the Certifying Officer should endorse the copy invoice to that effect. Faxed invoices are acceptable with the approval of the **Director of Finance**, or his delegated representative.
- 8.4 The **Director of Finance** shall be responsible for deciding the most appropriate method of payment for categories of invoice. Payments will normally be made via electronic transfer (e.g. BACS); computer cheques or where appropriate controls are in place. Except where there is no practical alternative (e.g. remittance advice required), cheques should normally be despatched independently of Certifying Officers and other ordering or payments staff. Payments via BACS should only be made where the bank details have been confirmed by the supplier and checked by the Accounts Payable team.

- 8.5 Payments in advance should only be made where there is no practical alternative, and the reasons should be recorded. **Payments should not be made in advance of goods or services being delivered.** Any invoice subsequently obtained should be filed with the original payment documentation, and endorsed appropriately to prevent duplicate payments.
- 8.6 Payments must be made under the Council's normal payment procedures unless there is good reason to make payments as urgent (e.g. to obtain a discount). In exceptional circumstances the **Director of Finance** will prepare manual cheques for urgent payments (i.e. where required immediately) but two Authorised signatories will be required.
- 8.7 The following checks should be conducted for all invoices received:
- Establish whether the invoice relates to an i-Proc order, a Confirm order, a Carefirst order or a purchase card payment.
 - The invoice is correctly due and has not already been paid.
 - The invoice matches or part matches the order.
 - The goods or services billed for have been received.
 - The invoice is arithmetically correct.
 - Where VAT is charged the invoice is a valid VAT invoice.
- 8.8 Where an invoice is received with a corresponding purchasing card slip, this indicates that payment has already been made through use of a purchasing card. The invoice should be sent to the Cardholder (if shown on the invoice) or otherwise sent to Corporate Procurement.
- 8.9 Where the invoice relates to an i-Proc order the following additional checks should be undertaken:
- The i-Proc order number has been included.
 - The value of the invoice does not cause the total amount and/or quantity allocated against an order to be exceeded by more than the tolerance set within i-Proc.

- 8.10 Where the above are satisfied the invoice should be passed for payment promptly.
- 8.11 If the value of an invoice relating to an i-Proc order causes the value of the i-Proc order to be exceeded by more than the tolerance then approval to change the value of the i-Proc order must be obtained.
- 8.12 Other anomalies should be referred to the supplier and a correct invoice supplied for payment.
- 8.13 Where on some occasions the invoice is correctly due, has not been paid previously and should have had an i-Proc order raised at the time the decision to purchase was made then the checks at FP8.7 should be conducted, an i-Proc order raised retrospectively, authorised and the invoice paid against it.
- 8.14 An i-Proc order is not required where one or more of the following apply:
- (a) i-Proc is unavailable
 - (b) The invoice is a utility bill
 - (c) The payment relates to an AP2
 - (d) The payment has been approved via a feeder system, e.g. CONFIRM
- 8.15 An AP1 should be completed in all cases matching 8.14 a) or 8.14b). Utility Bills received from Laser are exempt from the above authorisation controls.
- 8.16 Each Chief Officer shall arrange a suitable division of staff duties within their departments so that the officer who certifies an individual AP1/AP2 for payment shall not be the person who either approved the order or requisition, or has confirmed the receipt of goods or completion of the work concerned.
- 8.17 Chief Officers should ensure that all invoices input onto Accounts Payable for payment have been properly authorised and certified, with evidence of at least three designated officers having been involved in the whole process (ordering / receipt of goods or services / payment). The **Director of Finance** must specifically approve exceptions to this requirement e.g. where authorisation / certification is performed electronically or where less than three officers are involved in the process.

- 8.18 Chief Officers may delegate the authority to certify invoices to designated officers within their department, including, Departmental Heads of Finance and the locally placed central department staff. Chief Officers must supply to Accounts Payable up to date details of such officers together with specimen signatures or evidence of authorisation and any financial limits that apply.

Checking Required

- 8.19 The overriding principle to be adhered to is that authorisation and certification checks should be meaningful. To this end, they should be carried out and evidenced by those officers who are in a position to judge, for instance, whether goods / services have actually been received or whether invoice prices are correct. The evidence should also be unambiguous e.g. an isolated signature on an invoice does not make it clear what has been checked or what is being authorised or certified and is therefore not acceptable.
- 8.20 The certifying of individual invoices that do not relate to i-Proc orders shall only be made in writing on the AP1/2 form (or its equivalent).
- 8.21 No invoice shall be passed for payment unless it either relates to an i-Proc order (or other approved electronic ordering method, e.g. Confirm/Carefirst) or the Certification “section” of AP1/AP2 is completed.
- 8.22 No alterations should be made to AP2 forms once they have been certified for payment. If an error is subsequently highlighted the form should be returned to the officer who certified the payment for correction. In situations where the AP2 form can not be returned to the certifying officer, another authorised officer should certify the amendment on the AP2 form.
- 8.23 Certifying Officers are responsible for ensuring that adequate checks are performed and evidenced prior to the payment of an invoice to satisfy themselves that the payment is accurate and due to be paid.
- 8.24 The following checks are regarded by the **Director of Finance** to be good practice.

For all invoices, that:

- (a) Where appropriate, a match is made with the official order, agreement, Council resolution or other document authorising the expenditure (this is done automatically by the i-Proc system);
- (b) Prices are in accordance with quotations or are otherwise reasonable (this is done automatically by the i-Proc system);
- (c) That the invoice arithmetic is correct;
- (d) Goods have been received, examined and approved with regard to quantity and quality and / or that work done or services rendered have been satisfactorily carried out or provided (except in those cases approved by the **Director of Finance** at FP 8.25 -8.29 e.g. maintenance works where no adverse comments have been received);
- (e) Where VAT is charged that the invoice carries the VAT registration number of the supplier;
- (f) The invoice has not been previously passed for payment;
- (g) The invoice is a proper liability of the Council, has been duly authorised (either via a corresponding i-Proc order (or other approved electronic ordering method, e.g. Confirm/Carefirst) or an AP1/AP2 where an i-Proc order is not appropriate) and is, to the best of the Certifying Officer's belief, legal expenditure.

For a sample of invoices, additional pre or post payment checks as follows, that:

- (a) Expenditure codings are correct. This must be one of the cost centre codes included in the budget holder's area of responsibility and must correspond with the type of goods, works or services described on the invoice;
- (b) VAT issues have been complied with where they apply and any VAT has been properly accounted for (NB VAT invoices should never be amended by officers and attention is drawn to the **Director of Finance**);
- (c) Where appropriate, that any assets have been entered into the relevant departmental inventory or stores record (see Section 17).

8.25 The **Director of Finance** recommends the following as the appropriate sample for these additional checks:

<u>Value of Invoice</u>	<u>% to be checked</u>
Under £2,500	5
£2,500 - £10,000	20
Over £10,000	100

8.26 Officers certifying batches of invoices onto the Accounts Payable system should carry out sufficient checks to ensure that corresponding i-Proc orders exist, or AP1's or their equivalents are appropriately signed off and that the amounts and supplier details on the invoice match the certification document.

Verification of Goods / Services Received

8.27 In recognising the practical difficulties associated with verifying the supply of goods or services received in certain circumstances the following approved exceptions will apply to the requirements at paragraph 8.24(d) above. In these circumstances for non i-Proc related expenditure the Goods / Services box on the relevant AP1 may be marked by the Authorising or Certifying officer as "not applicable" or "n/a".

8.28 However, officers responsible for such systems should ensure, in liaison with Internal Audit, that they design and implement sample checks on goods / services received which are appropriate to the level of risk and available resources. In particular, the Director of Education & Care Services should make proper arrangements for the linkage of service visits and inspections to the systems in place for the checking of goods and services received.

Maintenance

8.29 Invoices relating to building maintenance works or personal care aids and adaptations for which there is no corresponding i-Proc order may be certified on the basis of "no adverse comments received". Site inspections must still be performed wherever practicable, using either the sample sizes recommended by the **Director of Finance** at FP8.25 or in Education & Care Services by inspecting as part of pre-arranged visits from care managers.

Placements

8.30 Education & Care Services placements e.g. in temporary accommodation, children's day care or with permanent and temporary residential placements, may be certified without prior physical inspection provided that: (a) the invoice is independently matched to the approved official order (or its equivalent) and (b) certifying officers promptly take account of information received from care providers and any relevant compensating controls already in place within the system e.g. visits to clients by care managers, temporary accommodation registration signing sheets, adverse comments received from clients when making financial contributions.

Direct Care

8.31 As with placements, invoices relating to homecare services (e.g. personal and domestic care) may be certified without prior physical inspection provided that: (a) the invoice is independently matched to the approved official order (or its equivalent) and (b) certifying officers promptly take account of information received from care providers and any relevant compensating controls already in place within the system e.g. visits to clients by care managers, adverse comments received from clients when making financial contributions.

Creditors Provision

8.32 As soon as is practicable after the end of each financial year Chief Officers at the request of the **Director of Finance** must provide details of the outstanding payments relating to that year for which creditors provision should be made in the final accounts.

Late Payment of Debts

8.33 Guidance on Late Payment of Debts legislation is set out in the Payments Financial Procedure.

Purchasing Cards

8.34 Purchasing Cardholder Procedures must be complied with as applicable

[Purchasing Card Procedures](#)

9. IMPREST ACCOUNTS & PETTY CASH

Contact: Corporate Finance, Internal Audit (Internal Controls)

- 9.1 The **Director of Finance** may, at his discretion and at the request of Chief Officers, make available imprest accounts to facilitate the cost-effective payment of minor items of expenditure on behalf of the Council.
- 9.2 Where appropriate, the **Director of Finance** shall open an account or personally approve arrangements for the opening of an account with the Council's bankers for use by a named and responsible officer nominated by the relevant Chief Officer who will be the imprest holder. Under no circumstances is such an account to be allowed to become overdrawn.
- 9.3 Any officer to whom an imprest has been made available shall be responsible for the control and operation of the imprest account. In particular, each such officer shall:
- (a) Ensure that vouchers are obtained and retained to substantiate payments made;
 - (b) Ensure that receipts, where possible, relating to expenditure from an imprest are attached to the relevant voucher;
 - (c) Ensure the safe custody of imprest monies and cheques in their possession;
 - (d) Restrict the amount of any individual payment to £250 (including VAT), unless prior approval has been obtained from the **Director of Finance**. (This approval will normally be delegated to the relevant Head of Finance). Imprest holders must not sub-divide payments to a single recipient;
 - (e) Properly account for VAT on all imprest account transactions (see Section 10), and ensure that HMRC requirements in respect of amounts greater than £100 are fully complied with.

NB a till receipt for items > £250 is not sufficient for VAT return purposes;

- (f) Account to the appropriate Chief Officer for the amount advanced on leaving the employment of the Council or otherwise ceasing to be responsible for holding the imprest.
 - (g) Ensure that the account is reconciled regularly, that regular reimbursement is sought and that the adequacy of the imprest amount / continuing need for the imprest is regularly reviewed;
 - (h) Sign a statement at the end of each financial year confirming the amount of the imprest held. This should also be counter-signed by a senior officer.
- 9.4 No sums received on behalf of the Council may be paid into an imprest account but shall be banked separately.
- 9.5 Every transfer of an imprest account from one member of staff to another shall be evidenced in the records of the department concerned by the signatures of the officers concerned.
- 9.6 The general principle of imprest accounting is that at any time the cash and bank balance, together with the aggregate value of any receipts on hand, unreimbursed claims and cheques not credited should total the approved imprest account balance. At no stage should the cash balance be allowed to fall below zero.
- 9.7 If it becomes apparent that the current level of imprest is insufficient, the items on which the imprest is expended should be reviewed. If it is clear that there is no reasonable alternative to expenditure through the imprest, a formal request in writing to have it increased should be made to the **Director of Finance**. (This approval will normally be delegated to the relevant Departmental Head of Finance).
- 9.8 No officer shall authorise their own claims from an imprest account. Certification by or under delegation from a Chief Officer shall be taken to mean that the certifying officer is satisfied that the expenses and allowances claimed are properly and necessarily incurred and are properly payable.
- 9.9 Expenditure which should form part of the payroll system, e.g. car allowances, shall not be processed through imprest accounts.
- 9.10 The encashment of personal cheques and the advancing of loans from an imprest is strictly forbidden.

Petty Cash

- 9.11 All relevant Financial Procedures above, and specifically paragraph 9.3, shall also apply to petty cash floats.
- 9.12 All departments holding petty cash should ensure that, at all times, cash is adequately secured. As a minimum this should be in a cash box within a lockable drawer where the insurance limit is £350 (for the cupboard overall). Amounts in excess of £350 should be kept overnight in a safe with restricted access (See Section 15).

10. VAT

Contact: Corporate Finance

- 10.1 Chief Officers must ensure that VAT is identified and correctly accounted for in respect of all income and expenditure (including imprests) in accordance with current VAT Regulations. Failure to do so can lead to loss of income and/or imposition of penalties by Her Majesty's Revenue and Customs.
- 10.2 VAT should not be paid unless the supplier's VAT registration number is shown on the invoice. Certifying officers (as defined in Section 8 of these Regulations) shall satisfy themselves that all suppliers' invoices for goods, works or services have complied with relevant VAT legislation.
- 10.3 Officers responsible for instigating income collection for the Council shall satisfy themselves that the Council has complied with the relevant VAT legislation with regard to the supply of its services.
- 10.4 VAT should only be accounted for on imprest payments where the supplier's VAT registration number is shown on the receipt.
- 10.5 All limits shown in these Regulations exclude VAT.
- 10.6 Further guidance and advice on VAT matters is contained in Financial Procedures and is also available from the Principle Accountancy Assistant.

11. SALARIES, WAGES & PENSIONS

Contact: Exchequer Client Unit

- 11.1 Staff costs are the largest item of expenditure for most local Authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that member' allowances are authorised in accordance with the scheme adopted by the Full Council.
- 11.2 All payments of salaries, wages, pensions, compensation and other emoluments to all employees and pensioners of the organisation shall be made by the **Director of Finance** or under arrangements approved by him/her. Salaries and wages must not be paid through the creditors system.
- 11.3 All payments, including travel, subsistence and other allowances shall be made in accordance with current legislation HMRC Regulations and relevant decisions of the Council.
- 11.4 Each Chief Officer should nominate those officers within their department who will be authorised to certify timesheets, overtime claims and claims for travelling and subsistence. This can include the relevant Departmental Head of Finance or the locally placed central department staff. A list of such officers, together with specimen signatures, shall be maintained by the Chief Officer with copies being provided to the **Director of Finance** and the departmental personnel function. Changes shall be notified promptly as they occur.
- 11.5 Each Chief Officer, or their nominated representative, shall notify the **Director of Finance** as soon as is practicable of all matters affecting the payment of emoluments by the **Director of Finance**, and in particular:
- appointments, resignations, retirements, dismissals, suspensions, secondments, transfers and deaths, and for pensions, changes in marital status, dependants and deaths;

- amounts to be recovered from pay e.g. repayment of training expenses on leaving;
- absences from duty for sickness or other reason (e.g. jury service), apart from approved paid leave;
- changes in remuneration (either permanent or temporary), other than normal increments, pay awards and agreements of general application;
- Information necessary to maintain records of service for pensions, income tax, national insurance etc. This will include information on benefits in kind necessary to complete HMRC forms P11D for employees e.g. Council leased cars;
- All time records affecting payments due.

Notification may be by on-line entry into systems where appropriate.

- 11.6 All salaries, wages and pension records, including those relating to 11.4 will be in a form approved by the **Director of Finance** and shall be certified by an officer authorised in accordance with 11.3. All such records should be submitted to the **Director of Finance** in accordance with the timetables and deadlines determined by him.

Self-Employed Status

- 11.7 All payments to individuals, who consider themselves to be self-employed in respect of services provided to the Council, shall still be processed through the payroll system unless the status of the individual has been confirmed as self-employed in accordance with the latest HMRC Guidelines. All casual and part-time employees will nevertheless be included on the payroll.

For further guidance contact Human Resources

Pension Life Certificates

- 11.8 The **Director of Finance** shall ensure that life certificates are obtained in respect of pension beneficiaries at least every two years, with at least half the beneficiaries being checked each year, unless satisfactory alternative automated mechanisms are in place e.g. National Fraud

Initiative (NFI)

- 11.9 The data matching of pension payrolls to official national records of deceased persons as part of the NFI project has provided the first automated, cost-effective and reliable alternative to life certificates. This is significant because if a fraud is being committed, a life certificate sent out by the Council will almost certainly be returned with a false signature.
- 11.10 Records of deceased persons are now provided by the Contributions Agency and are matched, using National Insurance numbers, to pension payrolls. NFI therefore recommends that pension schemes also ask for the National Insurance number of dependants of all their new pensioners.

Travel, Subsistence & Other Allowances

- 11.11 All claims for the payment of car allowances, subsistence allowances, travelling and incidental expenses in relation to the performance of official duties shall be completed in a form approved by the **Director of Finance**, and paid in accordance with approved Council procedures as currently in force.
- 11.12 Below Chief Officer level, claims by officers must be certified by an appropriate line manager, authorised to do so by their Chief Officer. The certification by said officer shall be taken to mean that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

12. INCOME

Contact: Audit

- 12.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Authority's cash flow and also avoids the time and cost of administering debts.
- 12.2 The identification of all moneys due to the Council is the responsibility of the relevant Chief Officer.
- 12.3 Chief Officers will take prompt action to either:
- Collect the income due within arrangements approved by the **Director of Finance** and Section 5 of these Regulations; or
 - Raise an account for inclusion in the Council's debtors system, to enable the **Director of Finance** to ensure that appropriate recovery procedures are undertaken where necessary.
- 12.4 Every remittance or sum of money received by a cashier or other officer employed by the Council or received by a contractor on behalf of the Council, shall immediately be acknowledged by the issue of an official receipt, ticket or voucher except where special arrangements have been agreed by the **Director of Finance**.
- 12.5 If a payer by cheque does not require a receipt, the amount should still be recorded with the receipt being retained. The form of all receipts, tickets vouchers or other official documents in use should be approved by the **Director of Finance**. Receipt books should be serially numbered and a register should be kept of all receipts and issues of such documents to officers, which shall be acknowledged by the signature of the recipient.
- 12.6 All moneys received on behalf of the Council should be paid forthwith at the **Director of Finance's** instructions either to his appointed contractor or be banked direct to the credit of the Council. Every employee who receives moneys shall maintain a record, in a form approved by the **Director of Finance**, of all amounts received and deposited.
- 12.7 Every transfer of official money from one member of staff to another will be evidenced in the records of the department concerned by the signature of the receiving officer.

- 12.8 All bankings must be made promptly and intact i.e. personal cheques should not be cashed out of money received on behalf of the Council and official expenditure should not be incurred (i.e. deducted) from moneys collected and due to be banked.
- 12.9 All officers responsible for banking monies should ensure that individual cheques are listed clearly on the reverse of the bank paying-in slip or comprehensive listing. Each officer who so banks should also enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicates the origin of the cheque. On the reverse of each cheque, the officer should enter the name of the relevant department or division.
- 12.10 Responsibility for the safe keeping of all Council monies must be designated by Chief Officers to specified officers within their departments; this can include the relevant Departmental Head of Finance.
- 12.11 Where moneys are held overnight, secure arrangements must exist for their safekeeping. Keys to safes and other secure containers should be carried on the person of the key-holder or kept under secure conditions. Care should be taken to ensure that the moneys held do not exceed the insurance value of the secure facilities provided (see Section 15).
- 12.12 All charges determined by the Council shall be reviewed at least annually by the Executive or by officers under delegated arrangements. Such reviews should consider the possibility of introducing charges where none are currently made.
- 12.13 Any decision to write-off an amount must be taken with the authority of the **Director of Finance**, whether exercised personally or properly delegated by him to a member of his staff. The amounts involved, and approval granted, should be recorded in the accounting records. Write-off procedures are covered in the scheme.

As soon as is practicable after the end of each financial year Chief Officers at the request of the **Director of Finance** must provide details of the outstanding debts relating to that year, for which debtors provision should be made in the final accounts.

13. BANKING ARRANGEMENTS

Contact: Technical

- 13.1 All banking arrangements should be made through or by the **Director of Finance**, who is responsible for liaising with the Council's bankers in relation to the Council's bank accounts and the issue of cheques.
- 13.2 The **Director of Finance** shall be authorised to operate such subsidiary bank accounts as he deems necessary. Only the **Director of Finance** may open or close a bank account for dealing with the Council's funds. All bank accounts shall be in the name of the Council and never an individual.
- 13.3 An overdraft on the Council's main bank account shall be permitted only to the extent approved by the **Director of Finance**. Subsidiary bank accounts shall not be permitted to become overdrawn. In the event that this does happen, the appropriate Chief Officer shall ensure that corrective action is taken immediately.
- 13.4 The **Director of Finance** shall ensure that the Council's main bank account is reconciled at least once a month and subject to independent review, with large or unusual items investigated as appropriate.
- 13.5 The appropriate Chief Officer shall ensure that all subsidiary accounts under their control (including those operated by contractors on the Council's behalf) are reconciled at least once a month, as above.
- 13.6 Cheque stationery (other than standard cheque books for subsidiary accounts) shall be ordered only on the authority of the **Director of Finance** who shall ensure that adequate cheque registers are maintained and regularly reconciled to records of cheques issued by the Council.
- 13.7 Adequate security arrangements shall be maintained by the appropriate Chief Officer for all unused cheques for accounts under their control.
- 13.8 Except for cheque stationery pre-printed with a facsimile signature of the **Director of Finance**, cheques should only be signed by an approved signatory after the cheque (including its counterfoil) has been completed in full. They should not be pre-signed under any circumstances.
- 13.9 Every crossed cheque for an amount of £50,000 or more and any uncrossed cheque for an amount of £1,000 or more and any manual cheque shall be countersigned by an authorised signatory empowered

by the Director of Finance.

14. TREASURY MANAGEMENT

Contact: Technical

- 14.1 Treasury Management comprises all the borrowing and investment activities of the Authority except those relating to the Pension Fund. Specifically it includes the formulation and monitoring of strategy, cash management, debt management and banking arrangements.
- 14.2 A Treasury Policy Statement and an Annual Treasury Strategy setting out the Authority's strategy and policies for cash management, investments and borrowings (short term and long term) shall be adopted by the Council and thereafter its implementation, monitoring and review shall be delegated to the Resources Portfolio Holder. The Council shall adopt Prudential Indicators, designed to monitor and control treasury management activities, which will thereafter be monitored by the Executive.
- 14.3 All money in the hands of the Council shall be aggregated for the purposes of treasury management and shall be under the control of the **Director of Finance**.
- 14.4 All Executive decisions on borrowing, investment or financing (within policy parameters) shall be delegated to the **Director of Finance** or through him to staff designated by him, who shall be required to act in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Treasury Management in Local Authorities. (See below).
- 14.5 All borrowing and investments shall be in the name of the Council and shall conform to any relevant regulatory requirements. The **Director of Finance** and his staff are required to act in accordance with the Council's treasury management policy statement as approved by the Council.
- 14.6 The **Director of Finance** shall report to the Resources Portfolio Holder not less than four times in each financial year on the activities of the Treasury Management operation and on the exercise of the treasury management powers delegated to him or her including monitoring compliance. One such report shall comprise the Annual Report for presentation by 30th September of the succeeding financial year.

15. INSURANCE AND SECURITY

Contact: Insurance

- 15.1 It is the overall responsibility of the Executive to approve the Council's Risk Management strategy and to promote a culture of risk management awareness throughout the Council. The **Director of Finance** shall be responsible for effecting or approving the arrangements for instituting all insurance cover on behalf of the Council, and for negotiating claims, after consultation where necessary with other officers. The **Director of Finance** will also make arrangements to ensure that appropriate records are kept of all property and risks covered.
- 15.2 This responsibility is delegated on a day-to-day basis to the **Principal Accountant, Technical** in the **Director of Finance's** Department, and covers all of the organisation's assets, as well as claims which may arise in connection with the provision of the Council's services, or from its legal liabilities as an employer, or to third parties.
- 15.3 Separate arrangements exist for Schools and Colleges under the School Standards & Framework Act 1998, but the Local Authority (LA) will require the School to demonstrate that cover relevant to the LA's insurable assets, under a policy arranged by the Governing body, is at least as good as the relevant minimum cover determined by the LA if the LA makes such arrangements.
- 15.4 Every Chief Officer shall notify the **Director of Finance** promptly in writing of any proposals that will change cash storage or alter significantly the value of stocks or stores held within their department. Any additions, deletions or alterations in the functions of the department, that could increase or decrease insurable risk should also be notified in writing. The **Director of Finance** will give advice as appropriate.
- 15.5 Every Chief Officer shall immediately notify the Insurance Section and, where appropriate, the Police upon the occurrence of any loss, damage, liability or potential liability in connection with their department except that notification is not required if the value is less than £500. Initial notification may be by telephone. Evidence supporting the claim should be provided in such form as may be required by the Insurance Section. Notification in writing of every claim must be made in any event within 30 calendar days of the date of the loss or damage.

15.6 The **Director of Finance** will advise Chief Officers of maximum levels of cash holdings for insurance purposes. Chief Officers are responsible for ensuring that these insurance limits are not exceeded in their departments.

The limits for cash in transit for insurance purposes are as follow:-

- Up to £1,500.00 – no restriction
- Between £1,500.01 and £4,000.00 – requires 2 able bodied persons and a specialist carrier (this is a cash box that emits dye if tampered with)
- Between £4,000.01 and £7,500.00 – requires 3 able bodied persons and a specialist carrier.
- Over £7,500 – requires use of a specialist secure collection organisation.
- In the event of an insured loss, an excess of £500.00 applies to each incident.

15.7 Each Chief Officer is responsible for maintaining adequate security at all times for all assets under their control. All monies must be locked away when unattended and lockable cupboards should be used in the absence of a safe and have an insurance limit of £350 (for the cupboard overall).

15.8 Each Chief Officer is responsible for ensuring adequate reference checks are carried out for positions with financial responsibility to ensure the Council complies with its fidelity guarantee insurance arrangements.

15.9 Keys to safes and similar receptacles shall be in the safekeeping of those responsible at all times. The loss of any such keys shall be reported to the relevant line manager immediately.

15.10 Chief Officers must ensure that the **Director of Finance** is kept informed of any changes to the official departmental safe inventory, whether new safes or replacements.

15.11 All overnight cash holdings in safes must in practice be agreed with the **Principal Accountant, Technical** to effect Money Insurance cover, as this is covered internally as a risk rather than with external insurers. A safe schedule will then be maintained containing relevant details e.g. location, type, permitted maximum holding (as determined by the insurance market) and the agreed amount for the particular location. The overnight limit includes pure cash, postal orders, stamps etc. and anything negotiable as money, but not cheques.

- 15.12 The **Director of Finance** is responsible for ensuring that all appropriate employees of the Council shall be included in suitable fidelity insurance.
- 15.13 No employee shall admit liability, take any action or enter into any correspondence admitting liability on behalf of the Council without first consulting with the **Director of Finance**.
- 15.14 Any officer of the Council who is authorised to make use of their own vehicle in the execution of the Council's business shall be responsible for effecting adequate insurance cover for such use and shall produce to their Chief Officer or the **Director of Finance** on request evidence of the adequacy of such cover.
- 15.15 The **Director of Finance** shall be responsible for insuring leased cars.

16. STOCKS AND STORES

Contacts: Head of Finance/ Internal Audit

- 16.1 Chief Officers are responsible for establishing adequate arrangements for the receipt, checking, care, safe custody and issue of stocks and stores held by their department.
- 16.2 Each Chief Officer shall ensure that stocks and stores holdings shall not be in excess of the reasonable requirements of their department. In determining reasonable requirements, due regard shall be paid to the value, usage, and reorder periods of the items concerned as well as perishability and obsolescence.
- 16.3 Each Chief Officer shall ensure that records are maintained of stores received; stores issued and balance in respect of their department. The systems used for stores accounting in departments must have approval of the **Director of Finance**.
- 16.4 Each Chief Officer shall arrange for regular stock taking of significant stores held by their department, preferably involving examination by officers other than the storekeeper(s). This shall include an annual stocktaking following which a certificate of stock held shall be completed, a copy of which will be forwarded promptly to the **Director of Finance**.

17. PLANT AND EQUIPMENT

Contact: - Internal Audit

- 17.1 The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management
- 17.2 Chief Officers are responsible for the safe custody of the plant, machinery, vehicles, furniture, equipment and other non-consumable property held within their department.
- 17.3 Each Chief Officer shall maintain inventories listing all moveable equipment (but not furniture, filing cabinets etc) in the custody of their department which:
- Cost or is valued in its current condition at more than £1,000: or
 - Is attractive and portable: and
 - Is not in store
- 17.4 The inventory should where applicable record details of make, model number etc of equipment held and wherever possible a serial number, and at least one copy should be held separately from the assets that it lists.
- 17.5 Each Chief Officer shall arrange for physical verification of the items on their inventory records to be undertaken at least annually. This verification should be evidenced in writing, signed by the officer(s) concerned and retained for audit purposes.
- 17.6 The Council's property shall not be removed except in the normal course of the Council's business or used otherwise than for the Council's purposes unless specifically authorised by the Chief Officer concerned. Where a Chief Officer authorises temporary removal of property, a formal record shall be maintained indicating where the property can be located and shall be signed by the officer responsible for its safekeeping.
- 17.7 So far as is practical, all items should be effectively marked (using current security techniques e.g. invisible ink) as Council property.

18. LAND AND PROPERTY

Contact: - Property

- 18.1 The **Director of Finance** shall maintain a comprehensive terrier of all land and properties held by the Council.
- 18.2 Each Chief Officer is responsible for making adequate arrangements for the maintenance of buildings under their control in accordance with the approved landlord/tenant split of responsibilities.
- 18.3 The **Director of Corporate Services** shall have the custody of all the title deeds in the possession of the Council under secure arrangements.
- 18.4 The **Director of Finance** shall be responsible so far as land and property under his or her control is concerned for obtaining the best economic return possible consistent with Council policy to which end he or she shall insure that all rents etc. are reviewed regularly.
- 18.5 Each Chief Officer shall be responsible for secure arrangement for the custody of private property of residents in Council establishments (excluding housing) and property held under Trust Fund/Receivership arrangements etc.
- 18.6 For disposal procedures see section 19.

19. DISPOSAL OF ASSETS

Contact: Internal Audit

- 19.1 Each Chief Officer is responsible for ensuring that the best possible price is obtained from the disposal of assets under their control.
- 19.2 Where the estimated current value of the asset exceeds £1,000 but is less than £50,000 the following should be considered:
- Offer the item(s) to all Council Departments - the Purchasing Working Group is the appropriate forum;
 - Sealed tenders or offers;
 - Advertising;
 - Sale by public auction;
 - Sales to staff (this method of disposal should be used only where there are good reasons for not pursuing other alternatives and should always be by sealed offers unless otherwise agreed by the **Director of Finance**).
- 19.3 Where the estimated value of the asset(s) is over £50,000, the tendering procedures in Contract Procedures shall be followed. Subject to 19.4 where the estimated value of the asset is up to £50,000 at least three tenders should be sought and at least two should be obtained and where the asset is estimated to exceed £50,000 in value, at least four competitive tenders should be sought and at least three obtained. All tenders should be received in plain sealed envelopes bearing the word "Tender" and the subject matter to which it relates. It shall not bear any name or mark which would identify the sender. Tenders should be opened at the same time by the Initiating Officer. Where the estimated value of the asset exceeds £150,000, another officer other than the one responsible for the acceptance of the highest bid shall be present.
- 19.4 Where the assets to be disposed of consists of land or premises the Council must (other than the grant of a Lease or assignment of the remainder of a Lease for seven years or less) seek to secure the best consideration that can reasonably be obtained save with the consent of the Secretary of State. The disposal may be effected by a single estate agent or land agent subject to the **Director of Finance** approving the use of such agent. The **Director of Finance** shall certify that he or she considers the use of additional agents or means of advertising or marketing is unnecessary to secure compliance with the aforesaid

statutory duty. Where appropriate, the **Director of Finance** may require the agent to accept offers by way of sealed bids or by way of public auction.

20. INTERNAL & EXTERNAL AUDIT

Contact: Internal Audit

Internal Audit

- 20.1 The Authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 20.2 The Authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 20.3 The Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 20.4 The system of internal controls is established in order to provide measurable achievement of:
- Efficient and effective operations
 - Reliable financial information and reporting
 - Compliance with laws and Regulations
 - Risk management.
- 20.5 The key controls and control objectives for internal control systems are:
- Key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
 - Managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
 - Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
 - An effective Internal Audit function that is properly resourced. It should operate in accordance with the principles contained in the

Public Sector Internal Audit Standards and with any other statutory obligations and Regulations.

- 20.6 An adequate and effective system of Internal Audit of the accounting records and control systems of the Authority will be maintained by the **Director of Finance**, under delegated authority from the Council.
- 20.7 Internal Audit is an assurance function that provides an independent and objective opinion to the Organisation on the control environment, by evaluating its effectiveness in achieving the Organisation's objectives. It objectively examines evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.
- 20.8 The Accounts and Audit Regulations require the Authority ("relevant body") to maintain responsibility for Internal Audit, rather than the Responsible Financial Officer (RFO) designated under section 151 of the Local Government Act 1972. However, Bromley, like many other Local Authorities, has delegated this responsibility to the **Director of Finance**.
- 20.9 Upon production of proof of identity and authority, the Head of Audit or his representative shall have the right to enter, without prior notice, every establishment or department of the Council and require any officer, member, teacher or governor:
- To make available all documents of the Council which relate to their accounting and other records as appear to the Auditor to be necessary for the purpose of the audit, including any information of a confidential nature;
 - To supply such explanations and information as are considered necessary for the purpose of the audit;
 - To produce cash, stores or any property of the Council in their custody.
- 20.10 The Accounts and Audit Regulations 2011 provide for Internal Auditors to have access to any information from the Authority, which they require in order to carry out their duties. Previously, their right of access was confined to the Authority's accounting records.
- 20.11 Internal Auditors comply with the Auditing Practices Board's guideline Guidance for Internal Auditors, as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom

External Audit

20.12 The Local Audit and Accountability Act 2014 set up the Public Sector Audit Appointments Limited, which is currently responsible for appointing External Auditors to each Local Authority in England and Wales. The External Auditor has rights of access to all documents and information necessary for audit purposes.

20.13 The basic duties of the External Auditor are defined in the Local Audit and Accountability Act 2014 and the Local Government Act 1999. In particular the Code of Audit Practice issued by the National Audit Office and Terms of Appointment 2015 set out, what External Auditors must follow when carrying out their duties. The Code of Audit Practice sets out the auditor's objectives to review and report upon:

- the financial aspects of the audited body's corporate governance arrangements
- the audited body's financial statements
- Aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the Best Value Performance Plan.

20. 14 The Authority's accounts are scrutinised by the External Auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Authority and its income and expenditure for the year in question and complies with the legal requirements.

21. FRAUD & CORRUPTION

Contact: Internal Audit

- 21.1 The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority.
- 21.2 The Authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 21.3 The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud and corruption.
- 21.4 Chief Officers and nominated officers under the Raising Concerns (“whistle blowing”) procedure shall inform the **Director of Finance** immediately of any suspected irregularity affecting income, expenditure, cash, stores or other resource of the Council so that the **Director of Finance** may, if he or she considers it appropriate, conduct an independent investigation thereof.
- 21.5 All employees have a responsibility for the security of the Council’s assets. Any employee who becomes aware of non-compliance with these Regulations or suspects any irregularity in respect of the Council’s systems and procedures should immediately notify their Chief Officer, normally through their line manager. If for any reason an employee feels unable to raise their concern through line management, they should do so through a nominated officer under the Council’s Raising Concerns Procedure.
- 21.6 Further guidance is contained in the Anti Fraud & Corruption Strategy

22. INFORMATION SYSTEMS

Contact: IS / Internal Audit

- 22.1 Departments have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing and management systems. Departments are reliant on computers for their financial management, service and other information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 22.2 The **Director of Finance** has a professional responsibility to ensure that the Authority's financial and computer systems are sound and must be notified, in advance, of any new developments or changes.
- 22.3 All Council transactions must be processed through the corporate information systems of the Authority or its approved contractors. To ensure satisfactory standards and control, these systems may only be used with the approval of the **Director of Finance**.
- 22.4 The **Director of Corporate Services** shall ensure that adequate procedures exist to ensure compliance with the Principles of the Data Protection Act 1998 and other relevant legislation including Freedom of Information and Human Rights Acts in respect of personal data held in computerised and manual information systems.
- 22.5 All employees have a responsibility to ensure that they do not cause the loss, unauthorised destruction or disclosure of personal data in contravention of such Principles.
- 22.6 The **Director of Corporate Services** or their nominated representative is the Council's Data Protection Officer and will be responsible for maintaining a central database, recording all systems to be included in notifications to the Data Protection Commissioner. He or she will be responsible for making such notifications as and when required by the Commissioner.
- 22.7 Each Chief Officer shall nominate a supporting Data Protection Officer responsible for:
- Ensuring that the information for his or her department held on the central database is complete, accurate and up to date;

- Collating and providing documentation requested by a Data Subject, in accordance with the Principles of the Data Protection Act 1998.
- 22.8 Each Chief Officer shall be responsible for ensuring that access to computer systems under their responsibility is properly controlled (e.g. appropriate use of, and regular changing of, confidential passwords) and that information is safeguarded by back up copies being taken and kept securely.
- 22.9 All Officers and Members should comply with the Authority's published Code of Conduct on Use of E-Mail & Internet.

23. GIFTS & HOSPITALITY

Contact: **Director of Corporate Services**

- 23.1 All employees and Members of the Council shall be governed by the Council's Codes of Conduct for the acceptance of Gifts and Hospitality.
- 23.2 Material gifts or hospitality offered by an individual or company that does or could provide services to the Council should be refused where they are offered as an inducement to secure favour.
- 23.3 Each Chief Officer shall maintain a register of all gifts and hospitality received by individual members of staff in their department. Any hospitality or gifts accepted must be recorded in the relevant register. The **Director of Corporate Services** holds a separate register for Members for this purpose.

24. PROCEDURES FOR WRITE-OFFS

Background

1. However, circumstances may arise in which amounts due must, for all practical purposes, be deemed uncollectable.
2. The Accounts & Audit Regulations 2011 require that in such circumstances a decision to write-off an amount must be taken with the authority of the “Section 151 Officer” (i.e. **Director of Finance**), whether exercised personally or properly delegated by him to a member of his staff. The amounts involved, and approval granted, should be recorded in the accounting records.
3. No such provisions apply where debts are “cancelled” i.e. because they were incorrectly raised (e.g. wrong amount, wrong debtor) or “waived” i.e. because an authorised policy decision was taken not to charge or to reduce the charge of an amount otherwise properly payable by a debtor.

Bad Debts / Loss of Income

4. The **Director of Finance** may approve the write-off of any amounts properly charged, but deemed uncollectable, in the following cases:
 - (i) bankruptcy or liquidation (where every effort should be made to minimise the loss);
 - (ii) the company having ceased trading and there being no assets;
 - (iii) the debtor being untraceable or having moved abroad;
 - (iv) court decisions;
 - (v) **The debtor having no funds in their estate;**
 - (vi) **The debt being statute barred;**
5. Other individual bad debts or loss of income, not falling into these categories, may be written off as follows:
 - (i) by the **Director of Finance**, if it does not exceed **£15,000**;
 - (ii) by the **Director of Finance** with the approval of the relevant Portfolio Holder if over **£15,000** not exceeding **£25,000**;
 - (iii) by the **Director of Finance** with the approval of the Executive if exceeding **£25,000**.

6. For those items falling within (4) and (5) (i) above, the **Director of Finance** has nominated the following to approve write-offs on his behalf:*

~~Deputy Director of Finance~~

Departmental Heads of Finance

Named School Governors up to £1,000 for Secondary Schools

Named School Governors up to £500 for Primary Schools

Head of Revenues and Benefits

Chief Accountant

Head of Exchequer Services

* This is subject to amendment by the **Director of Finance** and reported annually to Members of the Audit Sub Committee

7. Departments should, for this purpose, regularly notify the above **Director of Finance's** staff of those officers properly delegated responsibility from their Chief Officer to recommend write-offs to the **Director of Finance** and include specimen signatures.

Stocks and Stores

8. Stocks and Stores may be written off as follows:
- (i) If not exceeding £5,000 for one set of adjustments, the balances on stock records may be adjusted by the appropriate Chief Officer to reflect actual stock levels, following such investigations as he deems necessary. If cumulative adjustments in any one year exceed £10,000 the **Director of Finance** must be informed;
 - (ii) If exceeding £5,000 but not exceeding £10,000 the appropriate Chief Officer must obtain the approval of the **Director of Finance** prior to adjusting stock records to reflect actual stock records. The Chief Officer and **Director of Finance** will jointly determine what investigations may be necessary for all adjustments in excess of £5,000.

- (iii) Approval of the relevant Portfolio Holder is required for adjustments exceeding £10,000.

9. Details of all write-offs must be provided to the **Director of Finance**.

Plant and Equipment

10. Chief Officers may authorise items to be deleted from an inventory of their department where:
- (i) the item has become obsolete and / or is no longer adequate for the purpose intended;
 - (ii) the item is broken or worn and of no further useful purpose;
 - (iii) the item has become surplus to requirements;
 - (iv) has been lost or stolen, in which case the **Director of Finance** should be informed.

PROTOCOLS AND SUPPLEMENTARY INFORMATION FRAUD AND CORRUPTION PROTOCOL

Part of Financial Regulations and Procedures

Introduction

This protocol specifies how the **Director of Finance** and other Chief Officers should manage alleged cases of fraud or corruption. It clarifies responsibilities for carrying out investigations and advises on action to be taken.

Fraud for these purposes is defined as:

“The intentional distortion of financial statements or other records by persons Internal or External to the Authority which is carried out to conceal the misappropriation of assets or otherwise for gain”

Corruption for these purposes is defined as:

“The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”

All employees have a responsibility for the security of both the Council’s assets and for clients’ assets where Council employees may have some involvement. Any employee who suspects any irregularity should immediately inform their Chief Officer, normally through their line manager. If for any reason an employee feels unable to raise their concern through line management, then they should go through a nominated officer under the Council’s Raising Concerns Procedure also known as the confidential reporting code (Financial Procedure 21.2).

Chief Officers and nominated officers, under the Raising Concerns Procedure, have a responsibility to inform the **Director of Finance** immediately of any suspected irregularity affecting income, expenditure, cash, stores or other resource of the Council. The **Director of Finance** may, if he or she then considers it appropriate, conduct an independent investigation. (Financial Procedure 21.1)

The Council will take legal and/or disciplinary action in all cases of fraud or irregularity where it is considered appropriate.

Initial Allegation or Suspicion

Internal Audit and the appropriate Chief Officer should be promptly informed of any allegations or suspicions of fraud or irregularity. To facilitate a speedy and appropriate response to any concerns expressed, initial information provided should, where possible, outline the following:

The nature of the potential or actual loss to the Council, or Council's client. When and how the matter came to light Officers and /or other parties alleged to be implicated (names and designations where appropriate) "Organisation" structure showing the position and responsibility of the person(s) allegedly involved identify those who are aware of the potential fraud/irregularity.

Care needs to be taken to ensure that officers or members who may be involved in the suspected irregularity do not become aware of the situation. Staff should not carry out their own investigation prior to notifying Internal Audit as this can affect any subsequent investigation.

Internal Audit will advise if the circumstances demand immediate action to safeguard evidence or to avoid further loss to the Authority. This may include removing documentation from the site and /or the suspension of employees.

Internal Audit will also advise on whether, and if so when, the Police should be informed. The Council has nominated contacts in the Metropolitan Police who can provide advice and, where appropriate, carry out their own investigations. Initial contact with them should be made by Internal Audit. As a general rule the Council can carry out its own investigations regardless of any police involvement.

(Note: there may be instances where it is not possible to contact Internal Audit promptly e.g. weekends or evenings. At such times, for cases of identified theft rather than suspected fraud or irregularity, it is more appropriate for the matter to be reported immediately to the local police station and a crime reference obtained. In these instances Internal Audit, line management and the **Principal Accountant, Technical** should be informed of the details the next working day.)

Investigation

Responsibility for carrying out independent investigations lies with Internal Audit. In some cases, however, it may be more appropriate for

staff in the relevant Department to carry out the investigation with Internal Audit acting in an advisory capacity. In such cases, staff undertaking the investigation will liaise with Internal Audit at intervals agreed at the point of referral, to ensure that evidential requirements continue to be met and that the Local Authority is kept fully informed at all stages.

The most appropriate approach will be decided by Internal Audit following the initial contact and may be revised during the investigation.

Any investigation should be carried out promptly and thoroughly. To do this staff may need to be interviewed and documentation reviewed. All stages of the investigation should be thoroughly documented. The investigation should involve, as a minimum, the following:

- A clear understanding of the allegation/suspicion
- A review of all relevant documentation. Note that documents may need to be retained during the investigation
- Identification and interviews with all appropriate staff/individuals to determine such things as relevant procedures and practices
- Consideration of alternative explanations for the situation
- An evaluation of all the evidence
- A conclusion based on the findings

The findings of the investigation could be used during disciplinary or legal action. Consequently care needs to be taken to ensure that evidence is safeguarded and that the investigation is thorough and the conclusions reached are valid. The findings of the investigation should be treated as confidential.

During the investigation it may be necessary for individuals to be interviewed under caution. In such instances the rules laid down in the Police and Criminal Evidence Act and Criminal Justice and Public Order Act 1994 must be adhered to. Advice on this is available from Internal Audit. There will be instances where documentation is taken away by Internal Audit or the investigating officer for safeguarding during the investigation. The originals should be removed rather than copies. These should be kept secure and a statement prepared stating how, when and who removed the documents and where they will be stored. A decision on the removal of documents needs to be made early on in the investigation to avoid the risk of removal or tampering.

The appropriate Chief Officer and Head of Audit should be kept informed of progress during the investigation. This can be done

verbally and/or by preparing written progress reports. At the end of the investigation a report should be prepared for the appropriate Chief Officer and Head of Audit. This should include all the issues listed above together with any other relevant information. This should form the basis of a decision for any further action to be taken.

Action

It is for the appropriate Chief Officer to take appropriate action where there is evidence to support instances of fraud or irregularity. The Head of Audit should be kept informed of action taken and relevant outcomes.

These could include referral to the police, disciplinary action and/or recovery of any amounts involved.

The Chief Officer is also responsible for ensuring that any system weaknesses identified during the investigation are addressed.

RETENTION OF DOCUMENTS

Background

1. Government requirements for Local Authorities to retain financial and accounting documents are not as prescriptive as those, say, in the NHS which are governed by tailored legislation. However, all officers need to ensure that other legislative requirements, relevant to Local Authorities, are observed, in particular those laid down by the HMRC, in respect of:
 - Minimum periods for which the Council must retain records; and
 - The form in which documents may be retained.
2. The Public Records Office produces standards for the management of government records, and although these are aimed at central government, many of the standards and good practice outlined can be applied equally to local government.
3. The Association of Chief Archivists also produced guidance in 1999 through the DETR/LGA on records management within local government, in accordance with Section 224 of the Local Government Act 1972. This covers the retention of more permanent documents such as deeds, and registers of births, deaths and marriages.
4. The following paper highlights key legislation relevant to Local Authority records and presents guidance for officers on retention periods for common documents. However, clarity in this area is achieved in part by separating the timing issue (i.e. how long to retain documents) from the format issue (i.e. how to retain documents). They are actually separate, but related questions, because there is no specific legislation covering the format in which local government records are to be retained, except for those prescribed by the HMRC.
5. The following therefore sets out the key legislative requirements and best practice in both these areas and then includes at Annexes various recommended retention periods together with suggested formats.

The Local Audit and Accountability Act 2014

6. **Section 2 of the Local Audit and Accountability Act 2014** provides External Auditors with a right of access to every document relating to a body that appears necessary for the purpose of carrying out the Auditor's function under the Act.
7. The Council therefore needs to retain documents in order to be able to satisfy External Auditors' rights of access. Any policy on retention of documents therefore needs to be guided by an assessment of the likelihood that an External Auditor may request certain documents. This assessment needs to ensure that the Council avoids circumstances whereby it could have reasonably foreseen a request for a document, but the document has subsequently been destroyed.

Other Legislation

8. There is very little specific legislation that covers the periods of retention of documents for Local Authorities. The main consideration is the Limitations Act 1980 and this is discussed below.
9. In addition, Part VA of the Local Government Act 1972 deals with Access to Information. Section 100(c) refers to public inspection of minutes and other documents after meetings. This specifies that certain documents, which form part of the public part of the agenda, are required to be available for inspection by members of the public for a period of 6 years from the date of the meeting. These documents are:
 - Minutes, or copies of minutes of the meeting (except exempt items)
 - and related minutes;
 - A copy of the agenda of the meeting; and
 - A copy of any reports discussed (except exempt items).
10. From 1996/97 Local Authorities were required to have their accounts approved by a full committee or the council meeting as a whole. This requirement means that the statement of accounts would have been one of the agenda items and would therefore be one of the records that the Authority would need to retain for 6 years and have available for public inspection.
11. **Central Government guidance** recommends Authorities to consider whether longer periods of retention are appropriate and although nothing is prescribed, key financial records may merit permanent preservation. As a minimum, the following is considered to be in this category:

One set of annual financial accounts and statements approved by Full Council or Committee.

Minimum Retention Periods

12. As noted above, legislation that could be applied generally to local government records is the Limitations Act 1980, which specifies the statutes of limitation. A statute of limitation is one which provides that no Court shall entertain proceedings for the enforcement of certain rights if such proceedings were set on foot after the lapse of a definite period of time, reckoned as a rule from the date of the violation of the right. The Act provides, amongst other things:
 - That actions founded on simple contract and tort should not be brought after the end of 6 years from the date on which the cause of action accrued;
 - That an action on a specialty (which is an obligation contracted by matter of record, or by bond or other instrument under seal) may not be brought after the end of 12 years; and
 - That, in general, no action may be brought to recover land after the end of 12 years from the date when the right of action accrued.
13. Under the 1980 Act documents are therefore normally required to be retained for a period of between 6 and 12 years. For financial and accounting records the period would start from the beginning of the financial year after that to which it relates.
14. **Central Government Guidance** recommends however, that pay and pension records should be retained for a substantial period to safeguard the pension rights of staff e.g. officers may wish to retain records until the employee reaches benefit age. However, where pensions are being paid after retirement, it would seem appropriate to retain records until such time as pension is not required to be paid to any benefactor.
15. For External Audit purposes, the responsible body currently the **Public Sector Audit Appointments Limited** recommends that original records such as invoices, payroll documents etc. should be retained for at least 18 months after the end of the financial year to which they relate and longer if possible. However, where audits remain “open” (i.e. incomplete) due to queries, objections or outstanding litigation, then it would be appropriate to retain the records for the financial years in

question. Items such as general ledger, journals, loan records and interest payments may merit retention for longer periods.

Format of Preservation

16. There is no specific legislation covering the format in which Local Government records are retained except for those prescribed by the Her Majesty's Revenue and Customs (HMRC):
17. The responsible body currently the **Public Sector Audit Appointments Limited** recommends that Local Authorities consider the benefits of retaining the original documents for the financial year for which the audit is still open and the related costs of storage space and staffing involved in keeping original documents and weigh these against the cost of microfilming (which may include the cost of buying, borrowing or sharing the equipment).
18. Where Local Authorities do decide to microfilm records, the responsible body currently the **Public Sector Audit Appointments Limited** states that they need to ensure that the **Director of Finance** has certified the accuracy and completeness of microfilmed records and that this certification accompanies the records.
19. Where a decision is taken to microfilm or maintain documents in some form of electronic format, the responsible body currently the **Public Sector Audit Appointments Limited** also recommends that officers should consider the Code of Practice for Legal Admissibility of Information Stored on Electronic Document Management Systems and its related compliance workbook, which are published by the British Standards Institution.
20. These publications are designed to assist in the evaluation of document management systems and provide a clear audit trail. Officers may also wish to consider the Code of Practice for Information Security Management, which provides guidance and recommendations on information security and IT systems and networks.

Value Added Tax (VAT)

21. Under the VAT Act 1994 (Schedule 11 paragraph 6(1)), Local Authorities must keep records as required by the Commissioners of Customs & Excise. The requirements are set out in the VAT Regulations 1995. A public body's records generally reflect the size and complexity of its activities, which may range from simple manual

records to a sophisticated computerised system. The records do not have to be in any set format, but should be up to date and in sufficient detail to allow:

- Calculation of the correct amount of VAT to be paid or reclaimed;`
and
 - Customs & Excise to readily check the figures on the VAT return.
22. VAT records are normally required to be kept for 6 years. Annexes show the type of records that are required to be kept.
23. The VAT Act 1994 Schedule 11 paragraph 6(3) requires every taxable person to preserve records for a period not exceeding 6 years.
24. Records can be preserved by any means approved by the local HMRC office. Under Schedule 11 paragraphs 6(4) and 6(5) of the VAT Act 1994, records may be kept on microfilm or by computer storage media e.g. scanned images, magnetic tape, optical storage disks.
25. When the local VAT office considers an application to use such systems, the applicant's compliance history and reliability is taken into account. Approval is subject to the following conditions:
- A satisfactory audit trail;
 - Satisfactory and legible copies can be easily produced from the system on request;
 - Adequate facilities exist for viewing the system;
 - HMRC staff have access to the system on request in order to check its operation and the information stored on it;
 - HMRC staff will be given training on the system or its software; and
 - All records on the system are retained for the statutory period or such lesser time as may be allowed.
26. When any of these facilities are denied, the applicant is required to be warned in writing by the local HMRC office that unless they are provided immediately, approval to keep such records on microfilm, computer storage media etc. will be refused or withdrawn.

National Insurance Contributions (NIC)

27. Under the Social Security Contributions and Benefits Act 1992 Schedule 6(1) and SI 1979/591 and subsequent amendments, an employer must keep records of any Class 1 NIC payable in a tax year.

28. Records need to be maintained to support year-end returns, which summarise details of each employee's earnings and deductions. Other information that may be included are Class 1A contributions on the use of company cars, details of statutory maternity pay (SMP) and statutory sickness pay (SSP).
29. All of this information is required to be retained for 3 years after the tax year to which it relates. It can be stored and provided electronically.

Pay As You Earn (PAYE)

30. Details of the records to be maintained are set out in the IT (Employment) Regulations 1993 and its subsequent amendments. Regulation 38 highlights that employers must maintain deductions working sheets for each employee receiving emoluments during the tax year.
31. Year-end returns which summarise details of employees' emoluments and deductions are required to be sent to the HMRC. P11Ds and P9Ds which record details of expenses and benefits not covered by dispensations are required to be sent to the HMRC. Records must be maintained which support the entries on all these returns.
32. All supporting records must be retained for not less than 3 years after the end of the tax year to which they relate. This information may be provided electronically. Where the data is stored electronically, paragraph 55(7) of the Regulations requires that the employer provide suitable facilities to enable an inspector to examine these records.

Payments made under deduction of tax

33. Records are required to be retained of any interest paid on stock issued by Local Authorities under deduction of tax and of returns made to the HMRC. Any rent paid under deduction of tax e.g. to a non-resident landlord must be recorded and returned to the HMRC.

Construction Industry Scheme (CIS)

34. Under the scheme contractors, including Local Authorities, must deduct and pay over to the HMRC tax at the basic rate on payments made to subcontractors (net of the cost of materials).
35. Paragraph 5 of SI 1993/743 advises that contractors are required to maintain records of all payments made and tax deducted from subcontractors who do not hold a valid exemption certificate. Records

are also required to be maintained for payments that have been made without deduction of tax. These should include evidence that determines why no tax should be deducted.

36. All these records are required to be retained for 3 years after the end of the tax year to which they relate and must be available for inspection.
37. There follows a list of certain records and documents indicating what may be regarded as minimum retention periods taking account of the legislation in the preceding paragraphs and best recommended practice, whichever is the longer. Where documents are required for the purpose of actual or contemplated legal action officers should take advice before destroying documents.
38. It is stressed that where possible it may be preferable to keep certain records (e.g. general ledgers) for longer periods, and title deeds, share certificates etc. or any other documents evidencing title to or ownership of assets should, for obvious reasons, be retained until disposal of the assets.
39. It is suggested that good practice for actual invoices to be retained for the current financial year and the previous financial year (until the Accounts have been signed off by the External Audit). The previous year could then be discarded with the microfilmed copy retained.

ACCOUNTING RECORDS	PERIOD AFTER WHICH DOCUMENTS MAY BE DESTROYED	BASIS OF RETENTION	FORMAT OF PRESERVATION
Published Annual Report & Statutory Statement of Accounts (with certificates signed by Director of Corporate Services & District Audit)	Permanent	Responsible Body recommendation Local Government Act 1972 Accounts & Audit Regulations 2003	Hard copy
All records relating to VAT (as per Annex C attached)	6 years after the end of the financial year to which they relate	VAT Act 1994	Subject to conditions, may be kept on microfilm or by computer storage media where local VAT office has approved.
Salaries, Wages & Pensions (as per paras 27 – 32 above)	6 years after the end of the financial year to which they relate, or (Pensions only) on the date on which the officer reaches the age of 70, whichever is the later.	Pension rights of staff Responsible Body recommendation Social Security Contributions & Benefits Act 1992 IT (Employment) Regulations 1993	No specific requirements, except that where stored electronically the Inland Revenue would require the employer to provide suitable facilities to

	Where pensions are being paid after retirement, records should be retained until such time as pension is not required to be paid to any benefactor.		enable an inspector to examine these records
Principal ledger records including cash books, general ledgers and journals	6 years after the end of the financial year to which they relate	Limitation Act 1980 VAT Act 1994	No specific requirements other than those relating to VAT

<p>Other major accounting records: e.g. paid invoices, receipts, cleared cheques, bank statements, insurance policies, investment holdings, loan records</p>	<p>6 years after the end of the financial year to which they relate</p>	<p>Limitation Act 1980 VAT Act 1994 SI 1993/743 (CIS)</p>	<p>Actual invoices should be retained for the current financial year and the previous financial year (until the Accounts have been signed off by the External Auditor). The previous year can then be discarded with the microfilmed copy retained.</p>
<p>Fixed asset registers, year end statements of stock and supporting statements of stocktaking</p>	<p>6 years after the end of the financial year to which they relate</p>	<p>Limitation Act 1980</p>	<p>No specific requirements other than those relating to VAT</p>
<p>Major establishment records including personal files, letters of appointment, employment contracts, references and related correspondence and records of leave</p>	<p>6 years after the officer leaves the service of the Council</p>	<p>Limitation Act 1980</p>	<p>No specific requirements</p>

Internal Audit files and draft and final reports	3 years after formal clearance by the relevant auditor but final reports: 6 years	NHS Internal Audit Standard	Soft copy
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<p>Minor accounting records: pass-books, deposit slips, cheque counterfoils and cancelled and discharged cheques; petty cash expenditure accounts, travel & subsistence records, minor vouchers, duplicate receipt books etc.</p>	<p>Unless the external audit is still “open” (i.e. incomplete) - 18 months after the end of the financial year to which they relate</p> <p>BUT</p> <p>6 years if relates to VAT</p>	<p>Responsible Body recommendation VAT Act 1994</p>	<p>No specific requirements other than those relating to VAT</p>
<p>Debtors records</p>	<p>Unless the external audit is still “open” (i.e. incomplete) - 18 months after the end of the financial year in which they are paid or are written off, but at least 6 years in respect of any unpaid account which has not yet been written off</p> <p>BUT</p> <p>6 years if relates to VAT</p>	<p>Limitations Act 1980 Responsible Body recommendation VAT Act 1994</p>	<p>No specific requirements other than those relating to VAT</p>

Housing & Council Tax Benefits, Council Tax etc.	6 years	Limitations Act 1980	No specific requirements
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RETENTION OF CONTRACT DOCUMENTS

Type of Records	Detail
Documentation bearing signature of witnesses (e.g. contracts); documents relating to successful tender; tender opening summary, envelopes etc.	Must be retained in <u>original form</u> for 6 years (or 12 years for contracts under seal), or the project life plus 2 years, whichever is greater
Unsuccessful tenders tender evaluations; interim valuations.	Must be retained in <u>original form</u> for current year Life off contract
Supporting documents e.g. correspondence and drawings	May be microfilmed

Some records may merit consideration for permanent preservation e.g. key records relating to major building and engineering works such as surveys, site plans, drawings, bill of quantities, contract documents, including those relating to major projects which have been abandoned or deferred, deeds, lease documents, insurance policies, inventories, valuations

Contracts with consultants should include a clause which requires the consultant either to retain documents in accordance with the above, and allow reasonable access to them by the Council's authorised officers, or to return the documents to the Council for retention.

Where Private Finance Initiative contracts are entered into, it would be advisable to retain the contract documents in their original format for at least the life of the contract, and longer if possible.

VAT RECORD REQUIREMENTS

Type of Records	Detail
Business and accounting records	Orders and delivery notes Relevant business correspondence Appointment and job books Purchase and sales books Cash and other accounts books Purchase invoices and copy sales invoices Records of daily takings e.g. till rolls Annual accounts Import and export documents Bank statements and paying-in slips A VAT account Any credit or debit notes issued or received
A VAT Account (prescribed in Regulation 32 VAT Regulations 1994)	An account summarising the totals of the output tax and input tax for each tax period
Copies of all VAT invoices issued (Regulation 31(1) (c))	A copy of all VAT invoices must be retained either on paper, computer or other media and should be readily available for inspection
All VAT invoices received	
Documentation relating to acquisition of goods from other EU countries	
Copy documentation relating to the transfer, dispatch or transportation of goods to or from EU countries	

Documentation relating to imports and exports	
All credit notes, debit notes or other documents which evidence an increase or decrease in consideration that are received and copies of all such documents that are issued	
Additional records as required by Customs and Excise	

CODE OF PRACTICE ON DRAFTING FINANCIAL IMPLICATIONS IN COMMITTEE REPORTS

1. Employee costs should include National Insurance and Pension contributions, leased car costs and overtime pay where appropriate. Gross salaries should normally be calculated on the midpoints of the appropriate pay scales. The **Director of Finance** will circulate updated “ready reckoners” of employee costs within four weeks of a pay award being settled.
2. Departments should have regard to staff turnover savings assumed in the revenue budget when determining the additional savings which are likely to arise from the deletion of posts.
3. All reports should identify clearly:
 - a) recurring and non-recurring expenditure and income
 - b) part-year and full year effects.
4. Appendices should be used when it is necessary to present large volumes of financial information in a report.
5. Avoid quoting figures to the nearest penny or pound. The nearest £’000 will suffice in most instances.
6. Where additional costs are identified:
 - a) virement should be actioned in accordance with Financial Regulations. (The report should identify the specific budgets that are to be vired and seek Member approval where necessary).

OR

- b) there should be a formally recommendation to seek a supplementary estimate from the Executive
7. Reports should cost all proposals even where expenditure can be “met from existing budgets”.
 8. All areas of financial uncertainty or risk should be highlighted. In this respect a paragraph on the risks should be clearly stated so that all risks are clear and transparent and that where relevant a full risk assessment has been carried out in line with the Risk management policy.
 9. Heads of Finance Officers should clear all draft financial reports before being passed to the Committee services.
 10. Every effort should be made to allow the **Director of Finance**'s Department two full working days to comment on a draft report, although it is acknowledged that there will be some instances when a more urgent response is required.
 11. The Chief Accountant should clear all draft reports with financial considerations that impact on the Capital Programme before they are passed to the Committee services.

CODE OF CONDUCT FOR GIFTS AND HOSPITALITY

- i) The main reasons for having Guidelines on Conduct is to ensure that Council Officers maintain the traditional high standards of the Council. These high standards are expected of Local Government generally and their maintenance is necessary to uphold the integrity and reputation of the Council.

These standards are in some areas more rigorous than those applying to the private sector - all of us have to recognise and accept this. The fact that Local Authorities generally and the Council in particular are moving towards more business-like methods of providing services does not mean that the standards have been relaxed.

- ii) All Officers are subject to the provisions of this Code of Conduct, and to the provisions of their conditions of service relating to such matter. One of the purposes of the Code of Conduct is to provide practical guidance on how to deal with matters related to gifts and hospitality.
- iii) The third and perhaps most important reason for this Code of Conduct is that failure to follow the rules puts individual officers at personal risk of disciplinary action and, in certain circumstances, of criminal prosecution. Failure to comply with the Code of Conduct could give rise to disciplinary action, including dismissal. Criminal proceedings can arise from failure to declare pecuniary interests in accordance with the Local Government Act 1972 and under the Prevention of Corruption Acts. Any such criminal action resulting in conviction could give rise to imprisonment and would give rise to disciplinary action, including dismissal.

B. Potential Conflict between Personal and Job Roles

It is sometimes difficult to distinguish between personal and job roles. On some occasions an offer of hospitality will clearly be personal in that there is no connection whatsoever with the job of the officer to

whom it is made. On other occasions an offer of hospitality will be clearly made directly because of the officer's job role. However, there is an area in which the two roles merge, particularly with Chief and Senior Officers. It is difficult to give guidance which would cover all circumstances, but the following are examples:-

- i) If an offer of hospitality purports to be personal, officers should ask themselves whether it would have been made if they did not hold their office with the Council. If not, it should be treated as job related.
- ii) Does the person or organisation making the offer have any connection or potential connection with the Council? If so treat it as job related.

If there is any doubt the only safe course is to treat an offer as job related. At the very least, officers should seek advice. If an offer of hospitality is job related this Code of Conduct should be applied to it, together with any provisions in the conditions of service.

C. Acceptance of Gifts

Gifts should not be accepted (other than items of very small intrinsic value such as business diaries and calendars, which should be used in the work place). There are few permissible exceptions to this general rule but there are occasionally special circumstances such as:

i) Civic Occasions

From time to time there are civic occasions on which personal gifts may be given to officers. For example, an officer may be given a personal gift by a delegation from abroad which is here as part of a twinning arrangement. To refuse it would cause unnecessary offence. Therefore in such circumstances it is permissible for the officer to accept the gift provided that its value is not excessive. If it is a gift which is not personal it should be treated as belonging to the Council and dealt with accordingly. The important point is that such matters should be dealt with openly and, if need be, advice sought.

ii) **Unsolicited Gifts of Value**

Unsolicited gifts may be made which are more than small but still of modest value, e.g. bottles of spirits at Christmas. In such circumstances officers should consider whether they should be immediately returned, if need be with a note explaining why they cannot be accepted. If this is impracticable or would cause unnecessary offence, the gift may be presented to the Mayor for charitable purposes, or similar appropriate action taken. In such circumstances, it is appropriate to tell the donor what has been done and why. In any event, valuable gifts must be returned.

D. Acceptance of Hospitality

Reasonable hospitality may be accepted where it is related to a specific working arrangement (e.g. a working lunch). Caution should be exercised where the invitation is predominantly of a social nature, unless it falls into one of the exceptions mentioned later in this Code of Conduct.

A test which officers should apply in considering any offers of hospitality is that of public scrutiny. Would the acceptance of such hospitality, if made public, be open to misrepresentation, or raise doubts as to the integrity and motives of the provider and the recipient?

i) **Lunches, Dinners and Drinks**

They must only be of a reasonable value. Extravagance must be avoided.

ii) **Civic Hospitality**

It is permissible to accept civic hospitality provided by other Local Authorities, and similar hospitality provided by other public organisations. On such occasions officers will receive formal invitations and any such hospitality is open and above board. Similarly, it is acceptable where officers are invited in an official capacity to represent the Authority at a function or event unless

it falls into one of the excluded categories in this Code of Conduct.

iii) **Commercial Organisations**

Although modest hospitality is an accepted courtesy of a business relationship, this is an area which requires the utmost care. It can conveniently be divided into two parts:

1. Hospitality provided by commercial organisations with whom the Council has an existing business relationship.

This is likely to fall into two categories:-

- (a) The kind which is related to specific Council business.
- (b) The kind which is not specifically business-related but which is provided for representatives of the Council as a client. It is reasonable to accept this kind of hospitality as long as it is not extravagant unless:
 - the renewal of the firm's contract with the Council is imminent;
 - the firm is or is likely to be seeking other contracts with the Council in the immediate future; or,
 - It closely follows the award of a contract.

However, as a general rule business relationships should not become too cosy or too close - a proper distance should be kept.

2. Hospitality provided by commercial organisations with whom the Council does not have an existing business relationship.

The general rule must be to refuse. There may be possible exceptions, e.g. a local connection such as a firm with its headquarters based in Bromley having a Centenary Dinner to which it invites leading Members and Chief Officers of the

Council. However, any exceptions should be carefully considered and, if need be, advice sought.

E. Conferences/Seminars

It is the practice at some Conferences/Seminars for the Sponsors or interested organisations to provide hospitality or entertainment for those participating. Generally it is permissible for officers to accept this kind of hospitality but a distinction needs to be drawn between such hospitality which is generally provided (i.e. all the participants or a large group of them are invited) and individual hospitality (i.e. directed solely to one officer). The former is acceptable but the latter would be unlikely to be acceptable.

F. Study Trips

If these are promoted by, or involve, commercial organisations, they should be dealt with under E. Conference/Seminars. Generally, officers should participate only if the invitation is general and not confined to an individual or a select few.

G. Exhibitions/Demonstrations

Care should be exercised before accepting offers to visit exhibitions and demonstrations at the expense of other organisations. If there is a good reason to inspect equipment, etc. which the Council is considering purchasing then it may be acceptable. Even in such circumstances consideration should be given to the Council meeting any costs. An invitation which is made to a wide range of people is more likely to be acceptable than one which is made to an individual. Hospitality provided in such cases must not be extravagant.

H. Entertainment and Sporting Events

Generally the guidance given above relating to the acceptance of hospitality also applies to the acceptance of invitations coming under the heading of Entertainment, such as invitations at someone else's expense to sporting occasions, theatre trips etc. Generally such invitations should not be accepted unless they can be justified under

one of the various headings in this Code of Conduct. An exception may be where the entertainment or sporting event is of modest value and forms a part of the life of the community where the Council would normally expect to be represented. Invitations to premium events must be declined.

I. Trips Abroad

Trips abroad for business reasons (e.g. study trips or conferences) fall into two categories:

(i) To European Union (EU) Countries

The relevant Chief Officer has delegated authority to approve suitable trips but must report to the relevant service committee subsequently.

(ii) To Non-EU Countries

All trips to non-EU countries require prior approval from the relevant service committee. There is no delegation to officers.

These requirements apply whether the trip is at the Council's expense or is paid for by someone else. However, in the latter case, the same criteria of propriety should be applied, in deciding whether to accept in the first place, as apply to other types of gifts or hospitality.

J. Personal Inducements

Officers should beware of personal inducements being offered by companies in order to achieve orders for goods. The acceptance of such a personal inducement would lay staff open to criminal prosecution and disciplinary action including dismissal. Staff should report any such offer to their Chief Officer who, in appropriate cases, will alert the **Director of Finance** and other relevant Chief Officers. Care needs to be taken if the Council still wishes to purchase the goods from the firm concerned notwithstanding that the personal inducement has been refused and reported. It would be appropriate for written representations to be made to the firm concerned to make them aware that the practice was unacceptable and should cease.

K. Register

Each Chief Officer maintains a Register to record:

- (i) Hospitality received - this should cover hospitality whenever and wherever it is received. It is not confined only to hospitality received during working hours.
- (ii) Gifts received (other than items of very low value such as business diaries, pens, pencils, calendars etc.)
- (iii) Entertainment, study trips, visits to exhibitions or demonstrations at the expense of others.
- (iv) Conferences and seminars - any hospitality, entertainment etc., during the course of conferences and seminars should be recorded in the Register.

The register entry should contain the name of the officer, the date of receipt, the name of the person or organisation providing the gift or hospitality, and a brief description of the gift or hospitality.

Officers must understand that making an entry in the Register does not legitimise the receipt of the hospitality or gift where it is questionable on the grounds of propriety. In other words the first decision is whether the hospitality or gift should be accepted taking into account this Code of Conduct - if so, it must be registered, if not the question of registration does arise.

L. Seek Advice/Be Open/Apply Common Sense

There will be occasions when hospitality is offered which is not covered by this Code of Conduct but which nevertheless is acceptable. Similarly, there will be occasions when hospitality offered appears to come within it but nevertheless should be refused. It is a fundamental principle that in considering any offer of a gift or hospitality, officers should use judgement and common-sense.

Finally, if in doubt officers should seek advice and always be open about such matters. They should understand that if they are not prepared to seek advice or be open, it is highly likely that, whatever it is, they should not be doing it.

Transparency Code

Introduction

The Department for Communities and Local Government (DCLG) published a revised Local Government Transparency Code on 27 February 2015. The revised Code came into effect on 1 April 2015. The code seeks to ensure that certain data held by local Councils is published in a timely and open way.

Personal data will not be included if publishing it would contravene the Data Protection Act 1998.

Areas covered

The Code requires the publication of specified categories of data, and recommends the publication of additional data, under the headings below:

- Individual items of expenditure exceeding £500;
- Data on the land and buildings held by the authority;
- Information on invitations to tender, and every contract or purchase order, with a value of over £5,000;
- Details of every transaction on a Government Procurement Card used by the authority;
- Grants to voluntary, community and social enterprise organisations: dates made and amounts granted;
- The authority's organisation chart, covering the top three levels in the organisation, including salary bands;
- Details of trade union facility time: number of representatives and spending upon them;
- The number of controlled parking spaces within their area;
- Data on the value of the authority's social housing stock;
- Data on senior salaries
- The pay multiple
- The authority's constitution;
- Details of counter-fraud work;
- Details of waste contracts;
- Data on parking revenues.

The current Local Government Transparency Code was issued in February 2015. The Code applies to local authorities in England, including fire and

rescue authorities and National Park authorities, and to parish councils with either gross income or expenditure over £200,000; but not to Police and Crime Commissioners. It can be found at:

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

Summary of Amendments to CPR's - November 2015

The Council's Contract Procedure Rules incorporate a set of core requirements which form a cornerstone for the arrangements used by the Council to ensure its contracting activity and engagement with third part providers are designed to provide value for money, ensure the use of fair and transparent procedures and allow for necessary management and member overview and control.

Increasingly the Governments agenda on openness and transparency requires that the authority's approach is modified and strengthened to reflect these changes, which are often prescribed within Statutory Regulations (such as the Public Contract Regulation 2015 (PCR2015)– and associated Statutory Guidance, issued by Crown Commercial Services, which regulate how the baulk of our third party engagement and contracting is required to be conducted. However, the guiding principles of their content are drafted to enable;

- The achievement of Best Value for public money spent;
- Enables a Value for Money Procurement decision based on Whole Life Costing and the consideration of Sustainable Procurement practice (encompassing Economic, Environmental and Social benefits for the locality);
- Be consistent with the highest standards of integrity;
- Ensure fairness and transparency in the allocation of public contracts;
- Comply with all legal requirements;
- Ensure that Non-Commercial Considerations do not influence any Contracting Decision;
- Support the Council's Corporate and Departmental aims and policies;
- Complies with the Council's Corporate Procurement Strategy.

(A marked up version of the proposed changes being recommended, together with an index of CPR Clauses, is attached for reference – **Blue** Additions /**Red** Deletions).

In general terms the combined effect of the Transparency requirements and contents of the PCR's 2015 opens the Council to an increased degree of external scrutiny and challenge at much lower values of contracting with a consequential need to reflect these risks in our business and tender processes.

Summary of Consequential Amendments

Introduction – reflects the statutory changes required by the PCR2015 and associated guidance – with a new lower limit for regulated procurement at £25k and transparency information on contracting arrangements £5k. The drafting also reflects the possible future use by Third Party Contractors, who may be required to operate a number of the activities on our behalf under delegated arrangements.

Introduction – Amended to allow use of officer delegated power to amend changes in Job Title resulting from re structures.

1) Basic Principles - Amended to reflect revised financial limits, the new "Light Touch" Regime, the relaxation of permissible contracting arrangements and the move towards mandatory use of e procurement/electronic exchange of documentation, together with appropriate reporting arrangements on TUPE/Pension issues.

2) Requirement to ensure financial impacts of TUPE and Pensions are properly considered and mandatory updating of Contract Register on a Quarterly basis by Chief Officers in line with new member expectation and monitoring arrangements.

3) Amendment of authorisation requirements on the use of Frameworks and similar arrangements to reflect their greater use and acceptance as good practice when used appropriately.

Mandatory requirements on use of the Council's E Procurement System(s) to reflect requirements to communicate electronically; secure and publish contracting information; embedding of good contracting practice, coupled with audit trails and management overview to inform and protect the Council from challenge and disrepute claims.

Clarification on e mail exchange being acceptable as "Signature" where required.

4) Inclusion of "Best Consideration" to reflect position on Property and Asset requirements.

5) Steps Prior to Purchase amended to reflect Procurement Regulations, Social Value Act Consultation requirements and improved contract management arrangements, including contract monitoring and "Gate" Reporting to members.

6) Contract Transparency Code requirements - provision for their inclusion in records to be maintained and published.

7) Clause has been amended to reflect UK requirements on £25k and above contracting arrangements (and the mandatory use of Contracts Finder when advertising opportunities identified) and where the use of the £100k dispensation is allowed, together with appropriate use of Approved Lists and of Local Contractors, Constructionline and Trustmark lists when possible and appropriate. The revised drafting also reflects the curtailment of the use of a Prior Qualification Process for all contracts with an estimated value below the EU Threshold for Supplies and Service (currently around £172.5K).

8) Has been amended to reflect the requirements of the PCR's 2015 and their consequential impact on the lower values of intended contracts now subject to their statutory provisions. The opportunity has been taken to bring Consultancy arrangements in to the general provisions of CPR's rather than have them covered within a separate CPR clause and the drafting has the effect of tightening the authorisations and values required for their use.

9) Amended to reflect acceptance and relaxation over the use of prior engagement//consultation with the Market.

10-12) One of the main areas of change and consequential impacts on our working practice resulting from the UK requirements to use "suitability" questions only as part of an "Open" tender process for below EU threshold activity and use only of the mandatory PQQ documents above this value.

Similarly the move towards use of e documentation and the availability of all contract documents at the issue of Notice (both above and below EU Threshold), coupled with the publication of a greater amount of "Transparency" information, makes mandatory use of the Council's e procurement systems more important.

13) The codification of case law around the approach used to calculate the values of allowable modifications to a contract required, beyond the scope and values indicated at the time of the original Notice and tender processes require a closer look to be maintained on the cost and circumstances around contract variations and their costs. The opportunity to provide for officers to deal with

extension of contract periods included in original reports, subject to satisfactory contract monitoring having been completed.

14) Amendments made to reflect the change wording of the Legislation around reasonable and proportionate time allowance being made for the submission of documents, as well as the minimum time periods included, which also underlines the need to use the Council's E procurement systems and modified tender receipt requirements.

15) Amended to reflect that the legislation includes more flexible requirements around the correction/submission of supplementary information post-tender without necessarily invalidating their original tender submission.

16) Amended to reflect the need for all tender process to be fair, equal, transparent and proportionate, with the Tender Evaluation process, in line with current practice, being underwritten by the use of the CIPFA Standing Guide to Commissioning of Local Authority Works and Service to further detail our approach to such matters as Tender Evaluation. Additionally, the officer review mechanism to consider any formal challenges on Tender Award processes is included, to ensure the proper treatment /consideration of any "challenge" made.

17- 23) Wording amended to reflect a tightening of the requirements around Contract Documentation and its content, including Pension Bond arrangements, together with a strengthening of the Contract Monitoring reports required to be produced in line with current practices.

Annex A – Now subsumed in to Procurement Page on Managers Toolkit on OneBromley.

Annex B – Amended to include Crown Commercial Services Guide to the Public Contract Regulations 2015.



A BRIEF GUIDE TO THE EU PUBLIC CONTRACTS DIRECTIVE (2014)

October 2015

Crown Commercial Service, Customer Service Desk: 0345 410 2222 | www.gov.uk/ccs | follow us on [Twitter](#) | connect with us on [LinkedIn](#)

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1. Introduction

- 1.1 The Public Contracts Directives set out the legal framework for public procurement. This guidance note covers the new Public Contracts Directive which will apply when contracting authorities seek to acquire supplies, services, or works (e.g. civil engineering or building). Separate information will be provided to cover new directives on contracts awarded by utilities bodies (e.g. water companies) and concessions contracts. This note does not cover the procurement of contracts for defence and security requirements¹.
- 1.2 The Public Contracts Directive sets out procedures which must be followed before awarding a contract to suppliers (i.e. providers of works, supplies or services) when its value exceeds set thresholds, unless it qualifies for a specific exclusion -- e.g. on grounds of national security. Details of the current thresholds can be found at: <https://www.gov.uk/transposing---eu---procurement---directives>.
- 1.3 This guidance summarises the main provisions of the Public Contracts Directive. It does not set out all the relevant rules. It is not intended as a substitute for project specific legal advice, which should always be sought by a contracting authority where required. This guidance may not apply to contracting authorities in Scotland
- 1.4 The EU procurement regime, based on the Treaty principles of transparency, non---discrimination, equal treatment and proportionality and described by the Public Contracts Directive and Regulations referred to in this guidance, is not static. It is subject to change, driven by evolving European and domestic case law, European Commission communications, new and revised Public Contracts Directives and amendments to the existing UK Regulations.

2. Public Contracts Directives in national law

- 2.1 Public Contracts Directive 2004/18/EC on public procurement was implemented into national law in the UK by the Public Contract Regulations 2006 (with separate transposition in Scotland). These Regulations came into force on 31 January 2006 and have been amended a number of times. New UK Regulations, which will supersede the 2006 Regulations, will implement the new procurement Directives. This

guidance is based on the published text of the new Public Contracts Directive (2014/24/EU) which can be viewed at <https://www.gov.uk/transposing---eu---procurement---directives#the---directives>

3. Purpose

3.1 The purpose of the EU procurement rules, underpinned by the Treaty principles, is to open up the public procurement market and to ensure the free movement of supplies, services and works within the EU. In most cases they require competition. The EU rules reflect and reinforce the value for money (vfm)² focus of the Government's procurement policy. This requires that all public procurement must be based on vfm, defined as "the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought", which should be achieved through competition, unless there are compelling reasons to the contrary.

¹ More details at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35925/dsd_govt_awareness_guide.pdf

² See Managing Public Money at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212123/Managing_Public_Money_AA_v_2_-_chapters_annex_web.pdf.

4. Reform of the EU rules – The 2014 Public Contracts Directives

4.1 On 20 December 2011 the European Commission published proposals to revise and update the public sector and utilities procurement Directives (2004/18/EC and 2004/17/EC respectively) plus a proposed new directive on the award of concession contracts³.

4.2 Following negotiations between Member States, the European Parliament and the Commission the texts of the Public Contracts Directives have been agreed and came into force on 17 April 2014. Member States must transpose the Public Contracts Directives into national law within 24 months of that date.

4.3 The new rules support UK Government priorities of economic growth and deficit reduction by making the public procurement process faster, less costly, and more effective for business and procurers alike. They represent an excellent outcome from the UK's extensive negotiations in Brussels.

4.4 These changes provide a much more modern, flexible and commercial approach compared to the existing regime. Outdated and superfluous constraints have been removed, and many new features have been added to streamline and modernise public procurement. For contracting authorities, this means being able to run procurement exercises faster, with less red tape, and more focus on getting the right supplier and the best tender. And for suppliers, the process of bidding for public contracts should be quicker, less costly, and less bureaucratic, enabling suppliers to compete more effectively.

4.5 The Minister for the Cabinet Office has asked the Crown Commercial Service to prepare the transposition of the new rules earlier than the time allowed, to take advantage of the improvements in the rules as soon as possible.

5. New provisions

5.1 This note outlines the requirements of the new Public Contracts Directive, drawing attention to a number of changes to procedures and requirements for public procurement. More detailed guidance on some of the changes described will follow in due course.

5.2 A list of the key changes follows immediately below, with additional detail in the subsequent sections:

General

5.3 Contracting authorities will be able to reserve the award of certain services contracts to mutuals/social enterprises for a time-limited period

5.4 Although the thresholds of application of the rules will not change immediately, the Public Contracts Directive includes a binding commitment on the Commission to review the economic effects of the thresholds on the internal market. This review must be completed by 2019.

Facilitating SME involvement

5.5 Contracting authorities are encouraged to break contracts into lots to facilitate SME participation.

³ Concessions contracts are currently subject to minimal EU regulation; the proposed new legislation aims to ensure that concessions are competed effectively. Concessions contracts involve giving exploitation rights as part of the supplier's reward for delivering a public service or building – examples include toll bridges and car parks built on public-authority-owned land. Risk-transfer is also a significant feature of concessions.

5.6 A turnover cap has been introduced to facilitate SME participation. Contracting authorities will not be able to set company turnover requirements at more than two times contract value except where there is a specific justification.

5.7 A central, on-line point called "E-certis" where suppliers can find out the type of documents, certificates etc which they may be asked to provide in any EU country, even before they decide to bid. This should help suppliers to bid cross-border, if they are unfamiliar with these requirements.

Selection of Suppliers

5.8 A much simpler process of assessing bidders' credentials, involving greater use of supplier self-declarations, and where only the winning bidder should have to submit various certificates and documents to prove their status.

5.9 Poor performance under previous contracts is explicitly permitted as grounds for exclusion.

5.10 Various improved safeguards from corruption:

- Requirements on contracting authorities to put in place appropriate safeguards against conflicts of interest. The rules are not prescriptive on what the safeguards should be, but compliance could be achieved, for example, through a common current practice amongst many UK contracting authorities, where declarations are signed by procurement staff to confirm they have no outside interests with bidders etc;
- Time limits for the exclusion of suppliers (not more than 3 or 5 years depending on the reason for the exclusion);
- Suppliers who have been excluded from public procurement for bad practice can have the exclusion ended if they effectively “self clean”.

Procedure changes

5.11 Preliminary market consultations between contracting authorities and suppliers are encouraged, which should facilitate better specifications, better outcomes and shorter procurement times.

5.12 More freedom to negotiate. Constraints on using the competitive procedure with negotiation have been relaxed, so that the procedure will generally be available for any requirements that go beyond “off the shelf” purchasing.

5.13 The distinction between Part A and Part B Services has been removed, and a new light-touch regime introduced for social and health and some other services. There is an OJEU advertising requirement and other specific obligations for this new light-touch regime, but a much higher threshold has been agreed (EUR 750,000).

5.14 A new procedure, the “Innovation Partnership” procedure, has been introduced. This is intended to allow scope for more innovative ideas. The supplier bids to enter into a partnership with the authority, to develop a new product or service.

5.15 The statutory minimum time limits by which suppliers have to respond to advertised procurements and submit tender documents have been reduced by about a third. This flexibility could be helpful for speeding up simpler or off-the-shelf procurements, but still permits longer timescales for requirements where suppliers will need more time to respond.

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Electronic procurement

5.16 Electronic versions of the procurement documentation must be available through an internet URL immediately on publication of the OJEU contract notice.

5.17 Full electronic communication (with some exceptions) will become mandatory for public contracts 4.5 years after the Public Contracts Directive comes into force (i.e. October 2018). For central purchasing bodies the deadline is three years (April 2017).

- 5.18 The rules on “Dynamic Purchasing Systems” (DPS) have been greatly simplified, with the removal of the onerous obligation to OJEU---advertise call---off contracts made under the DPS.
- 5.19 Electronic catalogues for public procurement are expressly permitted, removing any doubt as to their legality.

Contract award

- 5.20 Improved rules on social and environmental aspects, making it clear that:
- social aspects can now also be taken into account in certain circumstances (in addition to environmental aspects which have previously been allowed);
 - contracting authorities can require certification/labels or other equivalent evidence of social/environmental characteristics, further facilitating procurement of contracts with social/environmental objectives;
 - contracting authorities can refer to factors directly linked to the production process.
- 5.21 The full life---cycle costing can be taken into account when awarding contracts; this could encourage more sustainable and/or better value procurements which might save money over the long term despite appearing on initial examination to be more costly.
- 5.22 Legal clarity that contracting authorities can take into account the relevant skills and experience of individuals at the award stage where relevant (e.g. for consultants, architects, etc).

Other

- 5.23 Contracting authorities no longer have to submit detailed annual statistics on their procurement activities. The Commission will collect this information directly from the online system, thereby freeing up valuable time and resources for contracting authorities.
- 5.24 Works concessions contracts are excluded from the Public Contracts Directive. The new Concessions Directive will apply to both works and services concessions when it is transposed into UK law.

6. Training

- 6.1 The EU procurement rules are detailed and technical and to assist in their understanding the Crown Commercial Service has prepared a training package for contracting authorities (though its contents may also be of interest to suppliers, advisers and other interested parties). This document is a part of that package, which is being rolled out across the public sector.
- 6.2 This section of the guide describes briefly the provisions of the EU procurement regime and in particular the new Public Contracts Directive. Where the Public Contracts Directive introduces major changes to the current regime these are **highlighted in bold**.

6.3 The training package will be available for free download from <https://www.gov.uk/transposing---eu---procurement---directives> and is also the subject of an electronic learning package which will be available to contracting authorities shortly.

7. Geographical coverage – which countries have access to the EU rules?

7.1 In addition to the 28 EU Member States and the 3 states of the European Economic Area (Iceland, Liechtenstein and Norway) the benefits of the EU public procurement rules also continue to apply to suppliers from a number of other countries where the EU has entered into an agreement. The main agreement is the one negotiated through the World Trade Organisation (WTO) titled the Government Procurement Agreement (GPA)
http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm10_e.htm#govt.

7.2 Compliance with the EU rules ensures compliance with the GPA, where it applies, and suppliers from GPA countries have the same rights as EU suppliers. The non---EU countries who are signatories to the GPA are:

- Armenia; Aruba; Canada; Hong Kong, China; Iceland; Israel; Japan; Liechtenstein; Montenegro, New Zealand; Norway; Republic of Korea; Singapore; Switzerland; Taipei; and the USA.

7.3 The EU has similar Free Trade Agreements with some other countries, and contracting authorities should check to see if any of these apply if they receive expressions of interest or bids from suppliers in other, non---GPA countries. A Commission list of such agreements can be found at:
http://ec.europa.eu/internal_market/publicprocurement/rules/free_trade_agreements/index_en.htm

8. Contracts outside the scope of the Public Contracts Directives

8.1 Even when a tender process is not subject to the Public Contracts Directives, (for example because the estimated value of a contract falls below the relevant threshold), EU Treaty---based principles of non---discrimination, equal treatment, transparency, mutual recognition and proportionality apply. Where the authority considers that a contract is likely to attract cross---border interest it is obliged to publish a sufficiently accessible advertisement to ensure that suppliers in other Member States can have access to appropriate information before awarding the contract. This is in line with the UK objective of achieving value for money in *all* public procurement --- not just those covered by the Public Contracts Directives. Some degree of advertising, (appropriate to the scale of the contract), is likely to be necessary to achieve transparency where the contract is likely to attract cross---border interest.

8.2 The UK regulations will also include some specific UK rules to support growth by improving suppliers' access to public contracts below the EU thresholds ("sub---threshold contracts"). These rules include requirements for advertising all public contracts below the EU thresholds, but over certain other threshold values, on Contracts Finder. They also include a requirement for contracting authorities to have regard to Crown Commercial Service guidance on the selection of suppliers and the award of contracts and to ensure that suppliers pay their sub---contractors within 30 days (as is already required of contracting authorities).

9. Does the Public Contracts Directive apply to the contract?

9.1 The Public Contracts Directive applies in principle to all contracts awarded by a contracting authority.

However, there are some specific exclusions where there is a relevant defence or security dimension, see Annex A, Flowchart 1. **The Public Contracts Directive also exempts certain contracts between contracting authorities where they are effectively meeting genuine ‘in-house’ requirements within a number of contracting authorities.** This could be through the form of a ‘vertical’ arrangement under shared control (so-called ‘Teckal bodies’ from the lead case in the European court, Case C-107/98). Or it might be through a ‘horizontal’ arrangement, where a number of contracting authorities genuinely co-operate with each other to meet a shared legal obligation (as in the *Hamburg* case in the European court, Case C-480/06).

10. Mixed contracts

10.1 In some cases contracts awarded by contracting authorities will contain elements that are covered under the rules in the new public sector regulations, the new utilities regulations, the new concessions regulations and/or the Defence and Security Public Contracts Regulations. These issues are complex and will be the subject of separate guidance. See Annex A, Flowchart 2 for mixed procurements involving the new public sector regulations, the Defence and Security Public Contracts Regulations and/or Article 346 of the Treaty.

11. Reservation of certain contracts: mutuals and sheltered workshops

11.1 Mutuals

11.2 **One of the UK priorities in the negotiations was to secure flexibility to enable fledgling public service mutuals to gain experience of delivering services before being exposed to EU-wide competition.** The new Public Contracts Directive permits competition for certain contracts, listed by CPV code, mainly in the social and health sectors, to be “reserved” to organisations such as mutuals and social enterprises meeting certain limited criteria described in Article 77 of the Public Contracts Directive. The reservation works in practice by requiring an OJEU competition for those services using the ‘light touch regime’ referred to at paragraph 12.1 below but only allowing bids from organisations meeting the mutual or social enterprise criteria.

11.3 The reservation has time-based conditions to prevent misuse, so contracting authorities cannot reserve contracts for organisations that have been awarded contracts within the last 3 years, and contracts cannot be longer than 3 years.

11.4 Sheltered workshops

11.5 **The Public Contracts Directive also expands the scope of the existing reservation for sheltered workshops/employment programmes** by allowing reservation of any contract for disadvantaged as well as disabled workers, and reducing the minimum proportion of those workers in the supplier’s workforce required for a supplier to be eligible to bid for a reserved contract. The reservation works in practice by requiring an OJEU competition for those services but only allowing bids from organisations meeting the criteria.

12. The ‘light touch regime’ for certain services

12.1 **Under the 2006 Regulations there are different rules for so-called ‘Part A and Part B’ services. In the new Public Contracts Directive, the position for services contracts has changed significantly.**

- A new “light-touch regime” for a smaller number of categories of services contracts in the health and social service areas listed at Annex XIV to the Public Contracts Directive. Some contracts that were formerly “Part B” but are not listed in the Annex, will be subject to the *full* EU procurement rules;
- A significantly higher threshold than for supplies and for other services (EUR 750,000 for public sector authorities);
- A new obligation on contracting authorities to publish a call for competition in the OJEU, as well as a contract award notice, for above-threshold contracts covered by the light-touch regime.

12.3 Member States have flexibility to design their light touch rules. To preserve as much of the existing flexibility as possible the UK rules will be much less stringent than the full EU rules regime. As well as the OJEU advertising requirements the UK rules will require compliance with the basic Treaty principles (transparency, equal treatment, non-discrimination) and publication in OJEU of contract award notices. Otherwise, there will be considerable flexibility for contracting authorities to use procedures, tools and techniques of their own choosing, whether analogous to those in the main rules or not. More detailed information will be released by the time the UK Regulations come into effect.

13. Aggregation rules and thresholds

13.1 The threshold levels for the application of the Public Contracts Directives (which can be found using the links at: <https://www.gov.uk/transposing-eu-procurement-directives>) will be unchanged because of GPA commitments but **the Commission has made a commitment to review, by 2019, the economic effects of the thresholds on the internal market.** The Public Contracts Directive’s rules on determining the value of a contract are unchanged.

13.2 Where a single work involves more than one contract, the estimated value of all the contracts must be aggregated to decide whether the threshold is reached. Where the threshold is reached, each of the works contracts will be covered by the rules except small contracts (known as small lots) the value of which falls below the de minimis level provided for in the Public Contracts Directive.

13.3 In determining whether the threshold has been or is likely to be reached for public supplies or services contracts, the rules require aggregation:

- of the estimated value of separate contracts for meeting a single requirement; and
- where a series of contracts or a renewable contract is entered into for supplies/services of the same type during a twelve month period.

13.4 Where an authority is divided into a number of separate operational units (SOUs) with authority to decide independently whether to enter into procurement contracts, then aggregation need only be applied to each unit. In other cases the authority as a whole must be considered for aggregation purposes. The Public Contracts Directive provides greater detail as to when aggregation can be carried out at the SOU level.

14. Electronic procurement

14.1 **The Public Contracts Directive requires electronic submission of OJEU notices, electronic availability of procurement documents at the time of notice publication, and electronic communication and information exchange for all communication under the Public Contracts Directive, subject to specified exclusions.** Contracting authorities must ensure that the tools and devices used for electronic communication meet certain requirements set out in the Public Contracts Directive. Contracting authorities must decide and apply to these communications, appropriate electronic security, guided by a high level framework in the Regulations.

14.2 **The Public Contracts Directive reforms the DPS to remove the previously burdensome need for OJEU**

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advertising of “call-off” contracts to be awarded using the system. Under the new rules, only the DPS itself will need to be OJEU-advertised, with call-off contracts being subject to much more straightforward procedures, similar to the established process for awarding call-off contracts under a framework agreement by mini-competition. A key advantage of a DPS compared to a framework, which it resembles, is that suppliers can be added at any time to a DPS provided that they pass the exclusion criteria and minimum capacity requirements. This will greatly streamline the system and allow greater competition to be maintained.

14.3 **The Public Contracts Directive also provides helpful confirmation that electronic catalogues can be used as a basis for tenders for contracts or frameworks. Some safeguards are required where contracting authorities intend to compare offers without seeking re-submission of catalogues by suppliers.**

15. Central purchasing bodies

15.1 As now contracting authorities may purchase through Central Purchasing Bodies (CPBs). CPBs may act as a ‘wholesaler’ – supplying an authority on the basis of contracts it has itself awarded and/or provide contracting authorities with access to framework deals or dynamic purchasing systems it has established.

16. Frameworks

16.1 The Public Contracts Directive introduces minor clarifications of the rules on frameworks relating mainly to transparency. Thus contracting authorities must not use a framework unless clearly identified in the notice as permissible users and contracting authorities must be transparent about the methods of call off to be used. It does however confirm that a contract awarded under a framework may have a completion date after the end of the framework.

17. OJEU advertising requirement

17.1 As now, generally contracts covered by the Regulations must be the subject of a ‘call for competition’ published in the OJEU. **In most cases this will be a Contract Notice but in a change from the current rules contracting authorities other than central government (e.g. local authorities) will also be able to use the Prior Information Notice (PIN) for this purpose in certain defined circumstances.** A number of detailed changes have also been made to the information that must be included in the notice forms.

17.2 The Commission is preparing revised versions of its Standard Forms to accommodate these changes. We hope these will be available in time for the UK and other Member States to implement the

Public Contracts Directives early. The Crown Commercial Service is considering the most appropriate way to proceed if they are not available and if necessary will issue guidance in due course.

18. Shorter minimum time limits

18.1 **The minimum time allowed for responses or tenders is reduced to allow flexibility where the current minimum time limits are unnecessarily long.** In certain circumstances these can be shortened further where the requirement is urgent or where sufficient information has already been provided by a prior information notice to allow suppliers to respond quickly. See Annex B for a summary of the time limits in the new Public Contracts Directive.

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19. Choice of procurement procedure

19.1 **The new Public Contracts Directive provides for five award procedures, rather than the existing four:**

- the open procedure, under which all those interested may respond to the advertisement in the OJEU by submitting a tender for the contract;
- the restricted procedure, under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender for the contract.
- the competitive dialogue procedure, under which a selection is made of those who respond to the advertisement and the contracting authority enters into dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender. **The new Public Contracts Directive provides greater freedom to use this procedure than do the existing rules** (see below);
- the competitive procedure with negotiation under which a selection is made of those who respond to the advertisement and only they are invited to submit an initial tender for the contract. The contracting authority may then open negotiations with the tenderers to seek improved offers. **The new Public Contracts Directive provides greater freedom to use this procedure than the existing rules** (see below).
- the innovation partnership procedure, under which a selection is made of those who respond to the advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market. The contracting authority is allowed to award partnerships to more than one supplier.

19.2 In certain narrowly defined circumstances the contracting authority may also award a contract using the 'negotiated procedure without prior publication'. Here the contracting authority would approach one or more suppliers seeking to negotiate the terms of the contract. One of the permitted circumstances is where, for technical or artistic reasons or because of the protection of exclusive rights, the contract can only be carried out by a particular supplier.

19.3 Contracting authorities have a free choice between the open and restricted procedures. **The competitive dialogue procedure and the competitive procedure with negotiation are available where certain criteria are met, including where the contract is complex or cannot be purchased 'off the shelf'**. The 'negotiated procedure without prior publication' may only be used in the limited circumstances described in the Public Contracts Directive.

19.4 Contracting authorities using the restricted procedure, competitive dialogue procedure and the competitive procedure with negotiation must aim to select a number of suppliers sufficient to ensure genuine competition. Provided there are sufficient suitable candidates, the Public Contracts Directive requires a

minimum of five for the restricted procedure, and three for competitive dialogue and competitive procedure with negotiation

20. Stages in the procurement process

20.1 The Public Contracts Directive includes procedural requirements designed to ensure all suppliers established in countries covered by the rules are treated on equal terms, to avoid national discrimination. The rules in particular cover the following:

- Specification stage -- how requirements must be described, avoiding brand names and other references which would have the effect of favouring or eliminating particular providers, products or services and the requirement to accept equivalence. The use of performance specifications is encouraged. **The new Public Contracts Directive also makes clear that there is some scope for building into the specification equality issues (e.g. access issues for the disabled) and social/environmental issues (e.g. a requirement to conform to social or environmental labels).** Regarding social/environmental issues, contracting authorities also may specify production processes and methods as long as they are linked to the

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subject matter of the contract.

- Selection stage -- there are a number of grounds for the exclusion of suppliers based on evidence of unsuitability, some of which are mandatory. Reasons include criminal conviction for certain offences (mandatory), failure to pay taxes (mandatory) **and previous poor performance which has led to early termination, damages or other comparable sanctions (discretionary).** Some of the grounds for mandatory exclusion are subject to account being taken of remedial action by the supplier, e.g. organisational changes. **There are statutory limits to the duration of any exclusion period.**
- Those suppliers not excluded can then be assessed on the basis of their economic and financial standing, e.g. whether they meet proportionate levels of financial soundness. **The Public Contracts Directive requires that where this is judged on the basis of turnover this should not normally exceed twice the value of the contract.**
- **Suppliers may also be assessed on their technical capacity and ability e.g. that they will be adequately equipped to do the job and that their track record is satisfactory.**
- **Award stage -- the award of contract must be based on the tender most 'economically advantageous' to the authority (MEAT).** This can however include assessment on the basis of price/cost only as well as other methods including the 'best price/quality ratio' (equivalent to value for money), which can include social and environmental requirements provided they relate to the contract.

20.2 **The Public Contracts Directive also places a duty on the contracting authority to investigate tenders it considers abnormally low and to disregard those that are based on approaches in breach of international environmental or social law.**

20.3 To allow suppliers to seek effective review of contracting authorities' decisions, contracting authorities will as now be required to include a 10---15 day standstill period⁴ between the point when the decision on the award of the contract is made and the signature of the contract. The standstill letter must provide certain information about the contracting authority's decision. There are detailed requirements for this process, which are set out in the Public Contracts Directive.

21. Changes to contracts once awarded

21.1 **The Public Contracts Directive provides useful clarity about the extent to which a contract can be changed after award without the need to re-advertise in OJEU.** Permissible grounds for modification include the existence of suitable “clear, precise and unequivocal” review clauses in the contract; or a need for additional supplies or services where a change of supplier is impossible or would cause significant inconvenience or a need for additional deliveries due to unforeseen circumstances (both subject to 50% maximum increase in contract value); or where a new supplier replaces the existing supplier because of insolvency, genuine restructuring etc.

22. Termination of contracts

22.1 **The Public Contracts Directive contains provisions to ensure that Member States’ contracts allow termination in circumstances where there has been a breach of EU law on public procurement, particularly where this results from a change in an awarded contract.**

22.2 The contracting authority must be able to terminate a contract should any of the following three grounds occur:

⁴ At least 10 days, when the notice is communicated using electronic means, or when using non-electronic means, there is a choice between either 15 days from date of sending; or 10 days from date of receipt

- Where the contract has been subject to a substantial modification that constitutes a new award;
- Where it is discovered after contract award that the contractor should have been excluded on mandatory exclusion grounds;
- Where the Court of Justice of the European Union (CJEU) has declared a serious infringement by the contracting authority of its obligations, meaning the contract should not have been awarded to the contractor.

22.3 The Regulations will specify that contracting authorities must include a condition in contracts allowing them to terminate if any of the grounds are found to apply. As a fallback, the Regulations will also include a deeming provision to ensure this possibility exists where a contract fails to include a termination condition.

23. Enforcement

23.1 The enforcement regime will be included in the Regulations, and derives from the Remedies Directives, which have not changed. The principal means of enforcement for a breach of the Regulations and other enforceable EU law such as the Treaty are:

- action by suppliers against individual contracting authorities in the High Court; and
- action by the Commission against the Member State in the Court of Justice of the European Union (CJEU).

23.2 The High Court’s powers include both pre-contractual remedies (i.e. those that can be imposed before the contract is entered into) and post-contractual. Pre-contractual remedies include the power to suspend an incomplete contract award procedure (an injunction) or the setting aside of a decision in an incomplete contract award procedure. The High Court also has powers to award damages as a pre-contractual remedy.

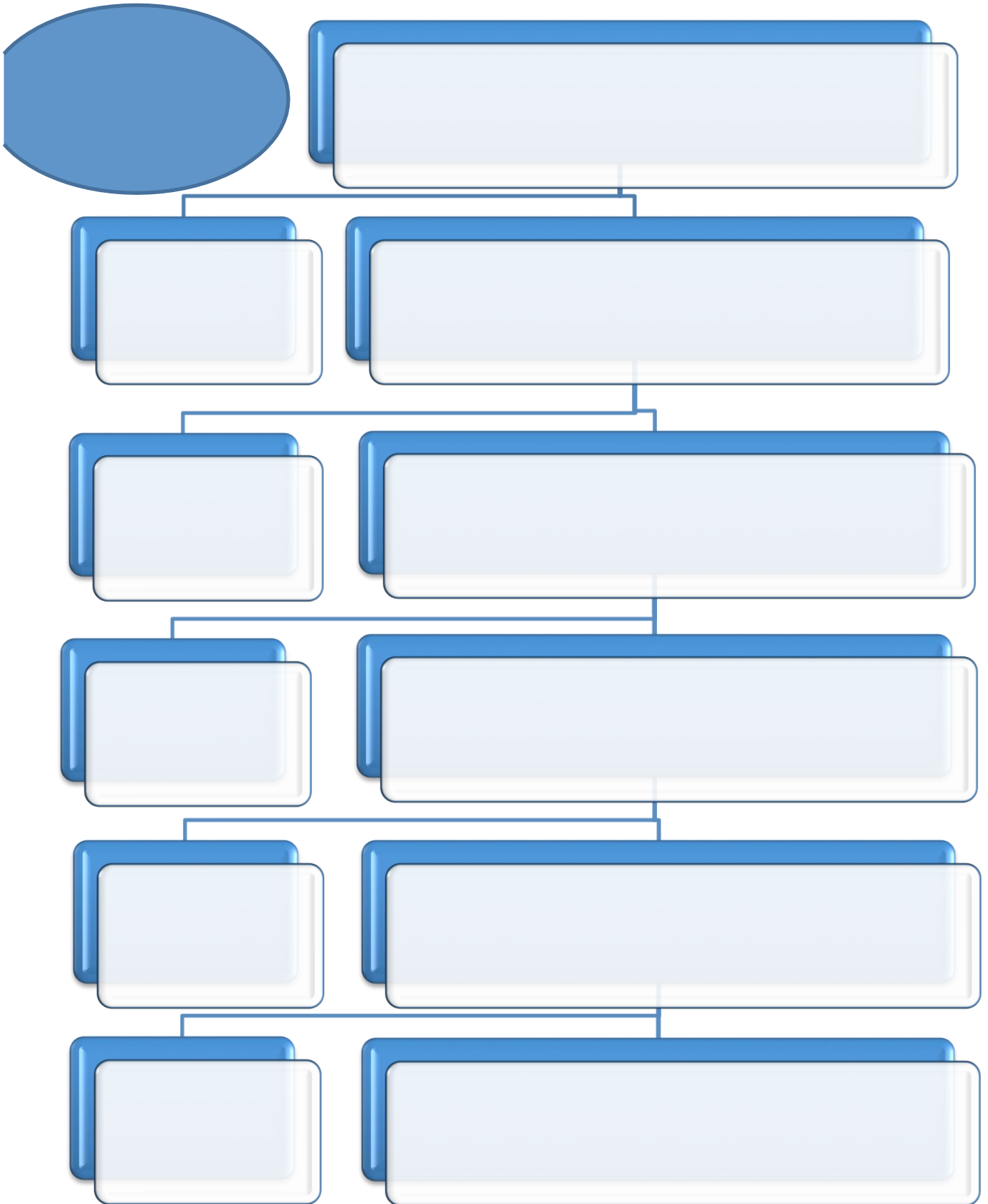
23.3 Post-contractual remedies (for contracts that have already been awarded) include contractual ineffectiveness (i.e. cancellation, but only for very serious rule breaches,) contract shortening, and civil financial penalties (fines). A properly applied standstill period gives good protection against post-contractual remedies.

23.4 Cases can also be pursued via the European Commission, for breach of the relevant European Directive and/or the EU Treaties. These cases, where accepted by the Commission, trigger infraction proceedings against the Member State, and can lead to a CJEU hearing, substantial fines, and potentially other CJEU imposed orders against the Member State if the breach is not satisfactorily resolved by other means.

24. Further information

24.1 For further detailed information, including the training materials, see <https://www.gov.uk/transposing-eu-procurement-directives>. More detailed information on certain aspects of the legislation will also be made available in due course.

24.2 Enquiries should be addressed to: Crown Commercial Service, Customer Service Desk: 0345 410 2222
info@ccs.gsi.gov.uk



**Defence and Security Exclusions – Part 2 of the Public Contract Regulations 2015
Flowchart 1**

Are some parts of the requirement covered by Article 346 TFEU and/or DSPCR 2011 but other parts are not?

YES

Go to Flowchart 2

NO

Does the requirement fall within the scope of DSPCR 2011, or does DSPCR 2011 not apply in accordance with Regulations 7 or 9 of DSPCR?

YES

Part 2 of PCR 2015 does not apply

NO

Does Article 346 TFEU apply?

YES

Article 346 TFEU prevails over Part 2 of PCR 2015

NO

Do the security and secrecy exemptions apply? (Regulations 15(2) and 15(3))

YES

Part 2 of PCR 2015 does not apply in accordance with Regulations 15(2) and 15(3)

NO

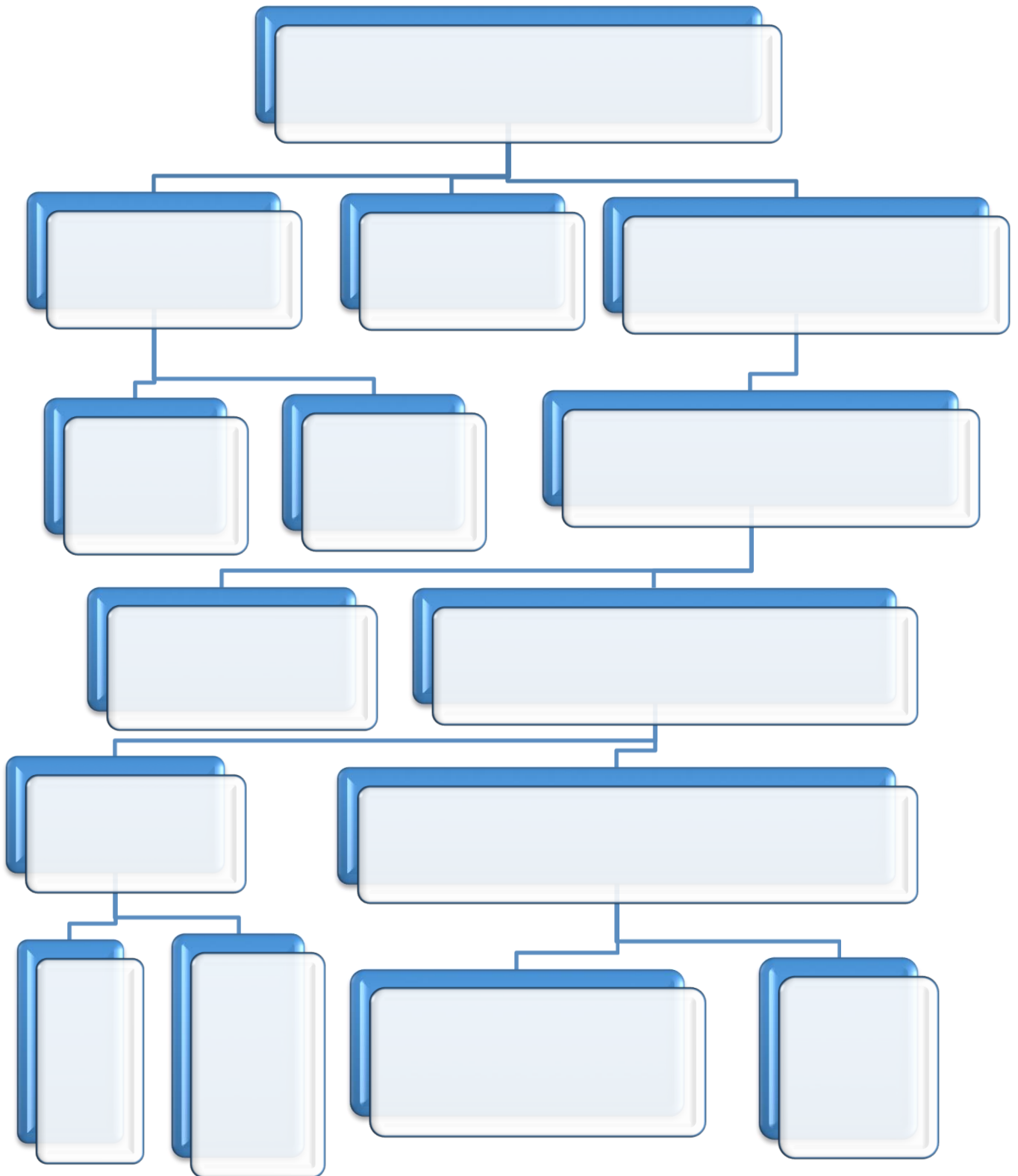
Will the contract be awarded in accordance with relevant international rules? (Regulation 17)

YES

Apply Regulation 17 to determine whether an alternative regime to Part 2 of PCR 2015 applies

NO

Part 2 of PCR 2015 applies subject to its non-defence/security exclusions and thresholds



Are the different parts objectively separable?

NO

Does the requirement include parts to which Article 346 TFEU applies?

YES

Contracting Authority can award separate contracts

YES

If Contracting Authority wants to award a single contract covering all the parts:

NO

Contract may be awarded in accordance with DSPCR 2011

YES

No need to apply Part 2 of PCR 2015

Is the decision to award a single contract being taken to exclude it from Part 2 of PCR 2015 or DSPCR 2011?

YES

Separate contracts must be awarded

NO

Is part of the contract covered by Article 346 TFEU, regardless of whether any part is covered by DSPCR 2011?

YES

Is a single contract justified by objective reasons?

NO

Is a single contract justified by objective reasons?

NO

Separate contracts must be awarded

YES

Can award a single contract without applying Part 2 of PCR 2015

YES

Can award a single contract under DSPCR 2011, without prejudice to exclusions and thresholds in DSPCR

NO

Separate contracts must be awarded

Annex B

OJEU advertising time limits

Minimum OJEU time limits for the Public Contracts Directive

NORMAL MINIMUM TIME	IF ELECTRONIC TENDER PERMITTED	IF URGENT+	WHERE PIN PUBLISHED*	IF SUB CENTRAL AUTHORITY**
Open procedure				
Minimum time limit for receipt of tenders 35 days	Minimum time limit for receipt of tenders 30 days	Minimum time limit for receipt of tenders 15 days	Minimum time limit for receipt of tenders 15 days	-
Restricted procedure				
Minimum time limit for requests to participate 30 days	-	Minimum time limit for requests to participate 15 days	Minimum time limit for requests to participate 30 days	Minimum time limit for requests to participate 30 days
Minimum time limit for tenders 30 days	Minimum time limit for receipt of tenders 25 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders to be set by agreement with tenderers. In the absence of agreement minimum time limit 10 days
Competitive procedure with negotiation and innovation partnerships				
Minimum time limit for requests to participate 30 days	-	Minimum time limit for requests to participate 15 days	Minimum time limit for requests to participate 30 days	Minimum time limit for requests to participate 30 days

Minimum time limit for initial tenders 30 days	Minimum time limit for receipt of initial tenders 25 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders to be set by agreement with tenderers. In the absence of agreement minimum time limit 10 days
Competitive dialogue				
Minimum time limit for requests to participate 30 days	--	--	--	--
No explicit time limits for submission of initial/subsequent tenders	--	--	--	--

Notes

These are minimum time limits. When fixing the time limits for the receipt of tenders and requests to participate, contracting authorities must take account of the complexity of the contract and the time required for drawing up tenders

+ This shorter time limit is allowed where a state of urgency duly substantiated by the contracting authorities renders the minimum impracticable

* This shorter tendering time limit is allowed where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, provided that all of the following conditions are fulfilled:

- (a) the prior information notice included all the information required in section I of the PIN notice referred to in the Public Contracts Directive, insofar as that information was available at the time the prior information notice was published;
- (b) the prior information notice was sent for publication between 35 days and 12 months before the date on which the contract notice was sent.

** 'sub---central contracting authorities' means all contracting authorities which are not central government authorities

Main Feature of the Documentation

Member Decision Making

3.1 The current process for member involvement, after the establishment and agreement of a budget is to some extent optional, with inclusion in the process being at Chief Officer volition.

3.2 A clear framework for Portfolio and Executive input into contracts with likely strategic importance is set out with a general need for each to authorise contracting activity at critical “gates” in the process. For Portfolio Holders these are set at contracts with a value of contract estimated to be valued over £500k and for the Executive those estimated to have a value over £1m. The “gates” operate at the following points;

- Formal consultation on the intended action and contracting arrangement (Rule 5) prior to embarking on contracting activity, to provide opportunity for member involvement in the formation and shape of any intended contract.
- Any decision to negotiate rather than subject contracting activity to competitive tender. (Rule 13)
- Contract Award (Rule 16.5).
- The submission of an annual report on contractor performance during the life of the contract to monitor the delivery of required contractual outcomes (Rule 23).

3.3 In addition provision is made, by way of retrospective reporting for Audit Sub-Committee to overview certain activities taken under delegated authority with the submission of a bi-annual report into the application of exemptions to competitive tendering (Rule 3.4 and 13.1).

Other member Involvement

3.4 Some relaxation of the current arrangements around the employment of Consultants is provided for within a controlled environment of consultation with Finance and Procurement. Formal Consultation is provided with the Portfolio

Holder where these Commissions exceed £100k. (Rule 8.5). These are supplemented by the reporting regime put in place around the operation of the service and corporate Contract Registers

Improvements to Management Arrangement

3.5 The need to ensure the use of procurement (and management) best practice runs through the drafting of the document and the inclusion of overviews of activity by officers within Resources and Legal. The following provides an indication of the requirements incorporated.

- Rule 1.1 – Value for Money basis of purchasing to be based on Whole Life Costing and Consideration of Sustainable Procurement practice.
- Rule 2.1.1 & 5.1 – Officers must have regard (and discuss with the Head of Procurement, departures from the best practice identified) the guidance provided in the Council's - "Guide to Successful Procurement".
- Rule 2.2.1 – Maintenance and use of Corporate and Service Contract Register.
- Rule 3.4 – Invoking of Business Continuity Plan
- Rule 3.8 – Value for money and the implicit use of Collaborative Procurement arrangements.
- Rule 3.9 – Use of Voluntary Sector Organisations.
- Rule 7.3 - Use of Framework Arrangements.
- Rule 10 – Contract Award Criteria.
- Rule 16 – Mandatory "Standstill" periods and Call in,
- Rule 21-23 - Use of Programme and Project management best practice and onward reporting of contract management and outcomes to Members.

2. Legal Implications

- 4.1 The attached Financial Regulations and Contract Procedure Rules are made under the provisions of s135 Local Government Act 1972 and set out the practices that should be adopted in regard to the making or entering into of contracts by or on behalf of the Authority. These supplement the power of the Council under s111 LGA 1972 and s2 LGA 2003 to enter into contracts to facilitate the discharge of its functions.
- 4.2 The Accounts and Audit Regulations 2003 require the Council to have a sound system of internal control which facilitates the effective exercise of the Council's functions and includes arrangements for management of risk. The Council is required to conduct a review of the effectiveness of such systems at least once a year.
- 4.3 The Financial Regulations provide the framework for managing the Council's financial affairs and apply to every Member and officer as well as anyone acting on its behalf. The Procedure Rules which are mandatory provide further detail and these are in turn supported by CIPFA code of conduct and practice.

ervices

LONDON BOROUGH OF BROMLEY
CONTRACT PROCEDURE RULES

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All costs stated in these contract procedure rules are exclusive of VAT, staff costs and fees.

Terms appearing in the definitions appendix are italicised and capitalised.

Further advice on the interpretation of these requirements can be obtained from the following;

Director of Corporate Services

Director of Finance

Head of Procurement

To aid use of these Contract Procedure Rules the following Colour Coding has been used for those associated with various actions and requirements;

Council /Executive	
Portfolio Holder	
Audit Sub Committee	
Chief Executive	
Director of Corporate Services	
Director of Finance /Head of Finance	
Chief Officer	
Heads of Service	
Head of Procurement	
Contract Manager	
Line Manager	
Officer / Initiating Officer	
Values/Amounts	£

<u>Current EU Limits</u>	£
For Works –	4,322,012
For Supplies and Services (other than Light Touch) -	172,514
For the Specific Services Covered by the “Light Touch” Regime –as identified in Schedule 3 of the Public Contract Regulations	625,050
<u>Current UK Limits</u>	
Additional UK Limits – Publication in Contract Finder	25,000 – 172,514
Permissible LBB CPR Set aside Limit	100,000
Current (additional) UK Limits – Local Government Transparency Code – Mandatory Publication of Procurement Information	5,000
Current (additional) UK Limits – Local Government Transparency Code – Mandatory Publication of Expenditure Information	500

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

INTRODUCTION

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act), which form part of the Council's Standing Orders, are intended to promote good *Procurement* practice, establish Value for Money, enhance public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently and protects the Council from challenge on the arrangements used for its contracting activity. They reflect the requirements of the 2015 Public Contract Regulations, which set out the statutory requirements for Public Sector Procurement with a value of £25,000 and above and the Local Government Transparency Code 2015. Further descriptions of these requirements, together with associated Policy, Guidance and Practice Notes can be found the Council's Intranet Site in the Procurement element of the "Manager Toolkit".

VFM/Best Value

All **Officers** responsible for *Procurement* activity or disposal must comply with these Contract Procedure Rules. They lay down minimum requirements only; a more thorough procedure may be appropriate for a particular contract.

(For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rule 3 even if one might apply or be granted.)

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy documents or information issued via a Council E Procurement System.

- Follow the rules if you purchase goods or services or order construction work of any type;
- Take all necessary legal, financial, procurement and professional advice;
- Declare any personal financial interest in a contract. Corruption is a criminal offence;
- Conduct a *Best Value Service* review to establish Value for Money to inform the *Procurement* need;
- Check whether there is an existing *Corporate Contract* or *appropriate framework* you can make use of before undergoing a competitive process;
- Normally allow at least 30 days for submission (more as required, if above EU Threshold) of bids (unless there are good reasons not to);
- Keep bids confidential;
- Complete a written contract and / or Council Purchase Order (using its E Procurement Systems where possible) before the supply, service or works begin (unless otherwise agreed by the **Director of Corporate Services**);
- Identify a contract manager with responsibility for ensuring the contract delivers as intended;
- Keep records of dealings with all tenderers and contractors;

- Assess each contract afterwards to see how well it met and continues to meet the *Procurement* need and *Value for Money* requirements.

In accordance with the *Constitution*, the *Director of Corporate Services*, in agreement with the *Director of Finance* shall have the power to make amendments from time to time to these Contract Procedure Rules *subject to a report being made to the Council within 3 months of any amendment being made*. The *Chief Executive* in agreement with the *Director of Corporate Services*, and the *Director of Finance* shall have the power to amend the titles of the responsible *Officers* identified within these Contract Procedure Rules where these result from changes in organisational structure and/or other amendments to roles and responsibilities of the *Officer* concerned.

The *Head of Procurement* will make the latest version of these Contract Procedure Rules and its associated Guidance Notes available to all officers and members as necessary and be responsible for its circulation and communication

Various Best Practice Guidance Notes and associated processes can be found on the Council's Intranet Site in the Procurement element of the "Manager Toolkit". These complement these Procedural Rules and have been prepared to assist those involved in the *Procurement* process to identify and use best practice. The practices identified should be used by those involved in contracting processes and arrangements unless an alternative course of action has been agreed by the *Head of Procurement in consultation with the Director of Corporate Services* as necessary. In any case the requirements set out in these *Contract Procedural Rules* must be followed unless a general or specific derogation has been agreed by the Council.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

1.1 All *Procurement* and disposal procedures must:

- Achieve *Best Value* for public money spent;
- Enable a Value for Money *Procurement* decision based on *Whole Life Costing* and the consideration of *Sustainable Procurement* practice and any associated *Life Cycle Costings*.
- Support Local Business to the maximum extent permitted by law and the duty to demonstrate value for money;
- Be consistent with the highest standards of integrity;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Ensure that *Non-Commercial Considerations* do not influence any *Contracting Decision*;
- Support the Council's Corporate and Departmental Aims and Policies;
- Comply with the Council's *Corporate Procurement Strategy*.

1.2 In determining the estimated cost (or value) identified in these Rules the following shall apply:

- **Officers** shall not sub-divide work which could reasonably be treated as a single contract;
- The total estimated value of orders for a given type of goods, services or work should wherever practicable be amalgamated for the purpose of determining *Procurement*, in any case due regard should be given to the "Method for Calculating the Estimated Value of Procurement" identified in Regulation 6 of the *Public Contract Regulations*. This will also apply to *Framework Agreements* or *Draw Down Facilities*;
- If a contract/arrangement is for a period greater than one year then the estimated value of orders to be placed over the full period (including any identified extensions) should be used to determine the appropriate procedure inclusive of any allowance for inflation;
- Where leasing arrangements are used, the total amount payable over the life of the lease shall determine the appropriate procedure;
- Where contracts entail both revenue and capital costs (e.g. acquisitions and support for IT systems) the value of the contract shall be calculated by the aggregation of the total estimated capital cost and the estimated revenue costs calculated as identified above;
- If the lowest quote/tender obtained exceeds the upper limit applicable to the procedure selected, the **Chief Officer** should consider (and record the reason) whether the procedures for the higher category should be applied.

1.3 The formal advice of the **Director of Corporate Services** and the **Director of Finance** (or their **nominees**) must be sought for the following contracts:

- Where the *Total Value* exceeds **£100,000**;
- Those involving leasing arrangements;

- Where it is proposed to use a supplier's own terms;
- Those involving the purchase of application software with a *Total Value* of more than **£50,000**;
- Involve the placement of a *Contract* with another *Public Sector Organisation*, other than through a *Framework Agreement*, authorised as required in these *Contract Procedure Rules*;
- Arrangements which require the provision of a formal *Gate Report* to be made to Members during any stage of the contracting process;
- Those that are complex in any other way.

1.4 The *Public Contract Regulations* (see Annex B of these *Contract Procedure Rules*) provide for five (5) main processes under which *Works, Services and Supplies*, that fall within their provisions can be placed. These are identified as being the (1) “*Open Procedure*”; the (2) “*Restricted Procedure*”; the (3) “*Competitive Dialogue Procedure*”; (4) “*Competitive Procedure with Negotiation*” and (5) the “*Innovation Partnership Procedure*”. In addition, but only in very limited circumstances, (6) a “*Negotiated Procedure without Prior Publication*” may be used. However, unless the formal Advice of the *Head of Procurement* has been obtained, and the Agreement of the *Director of Corporate Service* and the *Director of Finance* given, only the first two of these options may otherwise be used.

1.5 Provision is also made within the *Regulations* for the placement of those activities identified in Schedule 3 – “*Social and Other Specific Services*” – to which a “*Light Touch Procurement Regime*” may be applied, which differs from those for other *Works Services and Supplies*, and provide for differing arrangements above and below a threshold of **£625,050**, as identified in Section 7 of the *Public Contract Regulations*, which must be followed in the placement of requirements under this provision.

1.6 For all activities, UK specific requirements as set out in Part 4 of the *Public Procurement Regulations*; apply to any arrangements made with a value greater of **£25,000** and above.

Further detailed *Procurement Guidance* on the requirements around the differing contracting arrangements for contract valued at, **£25,000; £50,000; £100,000; £172,514 £500,000; £625,000 and £1,000,000** are provided in the *Best Practice Guidance Notes* which can be found on the Procurement Site in the *Managers Toolkit*.

1.7 Where the estimated value of any intended *Contract*, either singly or in aggregate, or as otherwise identified in the *Public Contract Regulations*, identifies the *Contract* as being subject to its requirements, the formal advice of the *Head of Procurement* must be obtained, Any required Notice or details issued under these *Regulations* must be agreed with and issued, as required, by the *Head of Procurement*.

1.8 The Council must ensure that it treats all economic operators equally and without discrimination and must act in a transparent and proportionate manner in its contracting arrangements.

1.9 Unless agreed by the **Director of Corporate Service**, following Consultation with the **Head of Procurement**, the Council's Standard Contract and Tender Process Forms (which are embedded in its *E Procurement System* and/or included within the *Procurement Toolkit*), together with the identified methodologies for their assessment and evaluation, must be used.

1.10 The authorisation of matters which have implications for the Council's Pension Fund, which result from any Contracting Decision, must be Authorised by GP&L Committee (or the Council), acting on recommendations made by the Pensions Sub-Committee.

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 **Officers** responsible for *Procurement* or disposal must comply with these Contract Procedure Rules, *Financial Regulations*, the Officers Code of Conduct and with all UK and Public Contract binding legal requirements. **Officers** must ensure that any *Agents*, *Consultants* and contractual partners acting on their behalf also comply with these requirements.

2.1.2 **Officers** must:

- Have regard to the *Best Practice Guidance* identified above
- Check whether a suitable *Corporate Contract* exists before seeking to let another contract; where a suitable *Corporate Contract* exists, this must be used unless there is a justified and auditable reason not to;
- Keep the records required by Rule 6;
- Take all necessary legal, financial, pensions, procurement and other professional advice;
- Estimate the cost (or value) of the Supply, *Service or Work* required in accordance with Rule 1.2 above.

2.1.3 No *Order* or *Contract* shall be raised or placed unless there is uncommitted budgetary provision (revenue estimate and/or Capital Programme) to meet the estimated cost (or value) unless it relates to matters undertaken (and reported as required) for reasons of *Extreme Urgency*.

2.1.4 The *Estimate Cost (or Value)* calculated as provided for above will be used to determine the arrangements to be followed in seeking and agreeing quotations and tenders for the Council.

2.1.5 When any employee either of the Authority or of a service provider may be affected by any transfer arrangement, **Officers** must ensure that the Transfer of Undertaking (Protection of Employment) (*TUPE*) issues and any Pensions matters are considered and obtain legal and financial advice before proceeding with inviting *Tenders* or *Quotations*.

2.2 Chief Officers

2.2.1 The *Head of Procurement* will maintain a Register of all Contracts with a value of **£200,000** and above. Directorates are required to use the Corporate System to record contracts with an estimated value of **£50,000** and above, in the detail it requires and provide for its update on a quarterly basis.

2.2.2 *Chief Officers* must:

- Ensure that their staff comply with Rule 2.1;
 - Keep registers of:
 - Contracts completed by signature, rather than by the Council's Seal (see Rule 17.3) and arrange their safekeeping on Council premises;
 - Exemptions recorded under Rule 3.2.
-

3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

3.1 The Council and its Executive have power to Waive any requirements within these Contract Procedure Rules for specific projects, and any such decision may be a Key Decision.

3.2 Where there is the need to Waive the requirements for Competitive Bids pursuant to rule 13.1 or any other provision of these Contract Procurement Rules because of an unforeseeable emergency involving immediate risk to persons or property or serious disruption to Council services or significant damage or potential damage to the image or reputation of the Council (including circumstances which require a Head of Service to invoke a Business Continuity Plan) a Chief Officer may exercise such Exemption or Waiver subject to the following:

- (i) Where the value of a relevant contract (or proposed contract) exceeds £50,000 the Agreement of the Director of Corporate Services shall be obtained.
- (ii) Where the value of a relevant contract (or proposed contract) exceeds £100,000 the Agreement of the Director of Corporate Services, the Director of Finance and the Agreement of the relevant Portfolio Holder shall be obtained. A report advising on the action taken shall be submitted to the Audit Sub Committee on a bi-annual basis.
- (iii) Where the value of a relevant contract (or proposed contract) exceeds £1 million the Agreement of the Director of Corporate Services, the Director of Finance and the Agreement of the relevant Portfolio Holder shall be obtained. A report advising on the action taken shall be submitted to the next meeting of the Executive and to the Audit Sub Committee on a bi-annual basis.

3.3 All exemptions (as identified above and in Rule 13.1), and the reasons for them, must be completed in writing and recorded. Exemptions shall be signed by the Officer and countersigned by the Director of Finance and Director of Corporate Services. For the purpose this and associate CPR requirements, an exchange of e mails or correspondence via similar electronic mediums can be taken to evidence such action.

3.4 Heads of Finance must hold a record and monitor the use of all exemptions granted.

3.5 Use of Framework Type Arrangements

3.5.1 In seeking to demonstrate Value for Money, the Head of Procurement must be consulted prior to commencing any Procurement process using any Framework Contract, Dynamic Purchasing System arrangement or Catalogue provided by "Crown Commercial Services or a similar Central Purchasing Organisation Contracts, or Joint Contracts with another Authority. The terms and conditions of contract applicable to any such arrangement, including the requirement to undertake competition between providers, must be fully complied with and agreed by the Director of Corporate Services.

3.6 Any purchases proposed to be made via any of the entities identified in CPR3.5.1 above are deemed to comply with these *Contract Procedure Rules* and no exemption is required. However, purchases above the *EU Threshold* must be placed under an *EU compliant process*, unless the consortium has satisfied this requirement already by letting their contract in accordance with the *EU Procedures* on behalf of the authority and other consortium members, however, advice must be sought from the *Head of Procurement as the Council* has a legal responsibility for their proper use of such arrangements and any necessary standstill requirements for an above threshold call off observed.

3.6.1 Before entering into any collaborative procurement arrangements, joint contracts or shared service arrangements with another Public Body or Private Entity, other than those identified in 3.5 above, the *Officer* must consult with the *Director of Finance* and the *Director of Corporate Services*.

3.6.2 All *Contracts* placed under these types of arrangement will be reported as required in these *Contract Procedure Rules*

3.7 Where a *Service* is to be provided by a *Voluntary Sector Organisation* through an external *Service Level Agreement* and providing such *Service(s)* is amongst those covered within the arrangements identified in the “*Light Touch Regime*” provided for under Section 7 of the *Public Procurement Regulations*, the relevant *Chief Officer*, in consultation with the *Director of Corporate Services*, can decide not to obtain competitive tenders or quotations provided that:

- The *Chief Officer* is satisfied that the *Voluntary Sector Organisation* is, or will be able to provide a satisfactory quality of *Service* and that the sums payable under any *Service Level Agreement* entered into represent *Value for Money*;
- The relevant *Head of Finance* keeps a record of all payments made and any *Grants* received under the *Service Level Agreement*;
- The *Service Level Agreement* is time limited and subject to renewal under the arrangements identified in this Rule.

Approvals will be obtained as provided for in Rule 13.1, as appropriate for the estimated total value of the intended arrangement and in all cases any overriding requirements of the *Public Contract Regulations* will be observed.

3.8 E Procurement Arrangements

3.8.1 All *Officers* are required to make use of the Council’s *E Procurement System* (ProContract) when carrying out any Contracting activity which has an estimated value of **£5,000** and above, unless otherwise agreed with the *Head of Procurement*. Where the Council’s *E Procurement System* is not used the relevant *Chief Officer* shall ensure that the information required by CPR 6 is recorded and included within any information required to be published by the Council.

3.8.2 The use of e-procurement technology does not negate the requirement to comply with all elements of these *Contract Procurement Rules*, particularly those relating to completing contracting activity in a fair and transparent way, with any necessary degree of competition and in a way required to establish *Value for Money*.

3.8.3 Unless otherwise agreed by the **Director of Finance** any Purchase Orders placed must make use of and be issued through one of the Council's standard electronic IT systems / processes via *I Proc; Carefirst or Confirm*.

4. RELEVANT CONTRACTS

4.1 All *Relevant Contracts* must comply with these *Contract Procedure Rules*. A *Relevant Contract* is any arrangement made by, or on behalf of, the authority (including schools) for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The supply or disposal of goods;
- The hire, rental or lease of goods or equipment;
- The delivery of services, including (but not limited to) those related to;
 - the recruitment of staff;
 - land and property transactions;
 - financial and consultancy services;

4.2 *Relevant Contracts* do not include:

- Contracts of employment which make an individual a direct employee of the authority, or
- Agreements regarding the acquisition, disposal, or transfer of interests in land (for which *Financial Regulations* shall apply). or
- Are otherwise include in Section 10 of the *Public Procurement Regulations 2015*.

However, any such Services must be procured in a way which demonstrably secures *Value for Money* and/or as appropriate, *Best Consideration*.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

5.1 The **Officer** must review the intended *Procurement* in a manner commensurate with its complexity, risk and value, taking into account any relevant guidance contained in the *Best Practice Guidance Notes and associated processes included in the Procurement Element of the Managers Toolkit*,

- Taking into account the requirements from any relevant Service review;
- Appraising the need for the expenditure and its priority;
- Defining the objectives of the purchase;
- Assessing the risks associated with the purchase / procurement and how to manage them, including those associated with any required consultation, TUPE, Pensions, Insurance and the Tax implications of any contracting arrangements proposed, together with the Social Value Act Legislation;
- *Undertake Preliminary Market Consultation* with the “Market” and Service Providers as appropriate and to the extent provided for in the Public Contract Regulations (Cl.40), providing this does not distort or compromise the contracting process;
- Considering what *Procurement* method is most likely to achieve the *Procurement* objectives, including internal or external sourcing, partnering, packaging strategy and collaborative *procurement* arrangements with another local authority, government departments, statutory undertakers, public service procurement consortium or Central Purchasing Organisations (CPO’s);
- Contract Length; Consider the appropriate time limits allowed for the completion of the tender process and any statutory requirements that may apply;
- Consulting users, staff and other interested parties, as appropriate, about the proposed *procurement* method, contract standards and performance and user satisfaction monitoring;
- Identify and record the reasons for any “*Lotting*” Strategy to be used;
- Drafting the terms and conditions that are to apply to the proposed contract;
- Consider the approach to be taken to performance and contract management and the reporting arrangements needed to ensure the delivery of the required service.
- Ensuring the correctness of any use of member or delegated approval for the expenditure and that the purchase is in accord with the approved policy framework, *Scheme of Delegation* as set out in the *Constitution*;
- If the purchase is a *Key Decision*, all appropriate steps have been taken
- Setting out these matters in writing if the *Total Value* of the purchase exceeds **£50,000**.
- Ensure that for any Contracts involving the Outsourcing (or Insourcing) of any requirements, the necessary Legal, Finance, HR, Pensions, Procurement and IT advice is obtained.

5.2 Where the estimated value of the intended arrangement requires the publication of an *OJEU* and / or *Contract Finder Notice*, the required Procurement Documents must be available at the point of publication.

5.3 Where the estimated value of the intended arrangement is **£500,000** or more the relevant **Portfolio Holder** will be *Formally Consulted* on the intended action and contracting arrangements, having submitted, for consideration, a formal “*Gate Report*”, covering, as appropriate, the matters identified in the Council’s Standard “*Gate Reporting Template*”. Reports produced must identify, after discussion with the *Relevant Officers in Legal, Finance, Human Resources, Procurement and Information Technology*, any service and cost implications arising from the proposals being considered.

5.4 Where the value of the intended arrangement is **£1,000,000** or more the **Executive** will be *Formally Consulted* on the intended action and contracting arrangements, having submitted for consideration a formal “*Gate Report*”, covering as appropriate, the matters identified in the Council’s Standard “*Gate Reporting*” Template..

6. RECORDS

6.1 Information to be maintained under the requirements of the “Local Government Transparency Code 2014”

6.1.1 As provided for within the above Code, for all Invitation to Tender or Requests for Quotations with an estimate value of **£5,000** and above, the relevant **Chief Officer**, shall ensure that the following Information and Procurement Records (including that for staff who are employed via consultancy firms of similar agencies or otherwise work on behalf of the Authority), is maintained and provided for publication as necessary.

At the time of the issue of any Invitation to Tender or Request for Quotation the required information to be provided shall include the following;

- reference Number;
- title;
- description of Work / Goods or Service Required;
- the Start and End Date together with any Review Dates envisaged;
- the Service Area responsible.

At Contract and/or Award, the following additional information shall be provided for publication;

- the suppliers name and details;
- the sum to be paid over the length of the Contract (or the estimated annual spend or budget for the Contract);
- any Value Added Tax that can’t be recovered;
- whether or not the contract was a result of a Request for Quotation or a published Invitation to Tender;
- Whether or not the supplier is a small or medium sized enterprise and/or community sector organisation and if so provide the relevant registration number.

The information identified within CPR 6.1 are mandatory fields for completion within the Council’s E Procurement System (ProContract). The System will automatically publish the

required details and the use of the Council's E Procurement System, therefore, negates the need for a separate record of this information to be maintained by the relevant Chief Officer. The published E Procurement System Record will be considered to be the Council's Contract Register for activities valued between £5,000 and £50,000. Check what Confirm and Carefirst set out

6.2 Where the information is not held on the Council's E Procurement System and for Contracts with an estimated value less than £50,000, the following contractual records must also be kept by the relevant Chief Officer:

- Invitations to quote and *Quotations*;
- A record:
 - of any exemptions and the reasons for them,
 - of the reason if the lowest price 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.

6.2 Where the *Total Value* exceeds £50,000 the Officer must also record:

- The method for obtaining *Bids* (see Rule 8.1);
- Details of any required Notice and/or advert placed;
- Any *Contracting Decision* and the reasons for it;
- Any exemption under Rule 3 together with the reasons for it;
- The *Award Criteria* in descending order of importance;
- *Tender* documents sent to and received from *Candidates*;
- Pre-tender market research;
- Changes to the contracting timetable
- 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.

6.3 Records required by this rule must be kept for six years (12 years if the contract is under seal) after the end of the Contract. (However, written documents which relate to unsuccessful *Candidates* may be microfilmed or electronically scanned or stored by some other suitable method or disposed of after 12 months from award of contract), provided there is no dispute about the award. Documents may then be disposed of as identified in the Council's *Financial Regulations*

6.4 Where the *Total Value* exceeds £50,000 the Directorate or Department concerned shall maintain a record of the contract placed in the *Service Contract Register*, using the corporate system, unless otherwise agreed by the Head of Procurement.

6.5 Where the *Total Value* exceeds £200,000 the Head of Procurement will maintain a record of the contract placed, using the information provided under CPR 6.4, to compile the *Corporate Contract Register*.

7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS – Restrictions on Use

7.1.1 The Public Contract Regulations and their accompanying guidance limit the opportunity to make use of “Approved Lists” for requirements with an Estimated Value above £100,000, without the opportunity also being advertised in Contracts Finder and allowing any who respond to be considered in the tender process.

7.1.2 Where the Estimated Value of an Opportunity is lower than the EU Threshold for Supplies and Services the Authority is also prevented from making use of any Pre-Qualification process and is required to invite all those expressing an interest, who pass any Suitability Criteria set, to Quote or Tender for the Opportunity identified.

7.1.3 As a result Approved Lists, such as *Constructionline* or *TrustMark*, should only be used in appropriate circumstances, as agreed in discussion with the *Head of Procurement*. For opportunities with an Estimated Value below £100,000 the arrangements identified in the Council’s “**Local Rules - OK**” procedure (as included in the Appendices to these Rules), may also be used, unless there are operational considerations which prevent their use.

7.1.4 Where the Councils E Procurement system is not used to manage the tender process the *Chief Officer* will be responsible for ensuring the issue of any Contract Notices and Advertisements, including those for Contract Finder, required.

7.2 Identifying and Assessing Potential Candidates

7.2 .1 *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Candidates* located in other member states of the EU or as otherwise required within the Public Contracts Regulations, that a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements / notices may be placed include:

- The Council’s website;
- Portal websites specifically created for contract advertisements;
- National official journals; or
- The Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED) (even if there is no requirement within the *EU Procedure*);
- Contracts Finder

However, the contract opportunity must always be published in Contract Finder if any type of advertisement is to be made.

7.2.2 Where the estimated value of the Contract is greater than £100,000 The *Officer* shall consult with the *Head of Procurement* on the detailed requirements of Part 4 of the *Public Contract Regulation* and their requirement for the envisaged contracting arrangement (see Annex B of these Contract Procedural Rules).

7.2.3 **Officers** are responsible for ensuring that all *Candidates* for a *Relevant Contract* are suitably assessed. The assessment process, shall establish that the potential *Candidates* have sound:

- economic and financial standing;
- technical ability and capacity;

to fulfil the stated requirements of the authority. However, where the estimated value of the contract is below that identified in CPR 7.1.2 the “*Suitability Assessment*” shall be incorporated into the tender process and documentation as part of the Invitation to Tender.

7.2.4 This shall be achieved in respect of proposed contracts by selecting firms from:

- *Approved Lists* of providers, maintained by the authority or on its behalf or
- Shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement, placed on Contract Finder in the first instance.

In the case of *Contracts* with an *estimated value* above the **relevant EU Thresholds** the authority must only consider candidates who respond to the *OJEU Contract Notice*.

7.2.5 Public advertisements issued in respect of Rule 7.2.4 above shall reflect the potential degree of interest from *Candidates* located within other member states of the EU.

7.3 Approved Lists

7.3.1 *Approved Lists* may be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. *Approved Lists* cannot be used where the *Public Contract Procedures* apply.

7.3.2 **Chief Officers** may draw up in consultation with the **Head of Procurement**;

- *Approved Lists* of persons ready to perform contracts to supply goods or services of particular types including without limitation on the basis of agreed contract terms:
- Criteria for establishing the suitability of those being invited to participate from the lists.

7.3.3 No person may be entered on an *Approved List* until there has been an adequate investigation into both their financial and their technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.

7.3.4 All *Approved Lists* shall be maintained in an open, fair and transparent manner, be open to public inspection and be compiled and operated in compliance with the relevant Public Contract Regulations.

7.3.5 A register of pre-qualified contractors and *Consultants* maintained by or on behalf of Central or Local Government, a Central Purchasing Organisation or similar body will be deemed to be an *Approved List* for the purpose of these contract procedure rules and shall not be subject to the requirements of Rules 7.2 to 7.3.6 inclusive.

7.3.6 Any *Approved List* compiled and operated by the Council will reflect the overarching basic principles identified in Rule 1.1.

7.4 Framework Agreements, Dynamic Purchasing Systems and Electronic Catalogues

7.4.1 The term of a *Framework Agreement*, unless otherwise agreed, by the **Director of Corporate Services** and **Director of Finance**, must not exceed four years

7.4.2 In general terms Contracts based on a *Framework Agreements* may be awarded by either:

- Applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- Where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
 - inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the contract to submit written *Tenders*
 - fixing a time limit which is sufficiently long to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
 - awarding each contract to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.

However, the specific requirement on the operation of Framework agreements, identified below, for opportunities valued above and below the stated thresholds must be followed.

7.4.3 Where a Framework agreement is intended to be used for a Contract with an Estimated Value **above** the relevant EU Thresholds it must be operated as provided for in Part 2 / Section 4/ 334 of the Public Contract Regulations (see Annex B of these Contract Procedure Rules).

7.4.4 Where a Framework agreement is intended to be used for a Contract with an Estimated Value **below** the EU Thresholds it must be operated as provided for in Part 4 /Section 106 of the Public Contract Regulations (see Annex B of these Contract Procedure Rules).

7.4.5 In a similar fashion use may be made of Dynamic Purchasing Systems and Electronic Catalogues providing they are operated in accordance with the arrangements identified in 7.4.4 above.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The **Officer** must calculate the *Estimated Cost (or Value)*.

The following procedures apply where there are no other procedures, which take precedence. Other procedures may include Regulatory Requirements, agency agreements with Government or other Public Bodies. If in doubt, **Officers** must seek the advice of the **Director of Corporate Services**.

It is a requirement of the Public Contracts Regulations that, for both above and below EU threshold activity all contract documentation should be available prior to the issue of any required Notice or posting to “Contract Finder”.

To encourage SME engagement in the tender process and unless there is good reason not to do so, consideration should be given (and a reason not to do so recorded) to divide the opportunity in to “Lots”, however the total value of all such “Lots” will determine the value to be taken in to account when determining the Procurement route to be taken.

Under Regulatory Powers introduced by the UK Government, Prior Qualification Questionnaires are only permitted to be used for contracting arrangements with an estimated value at or above the EU Threshold for Services and Supplies. The Content of the Questionnaire to be use is prescribed by the legislation and any deviation from it are required to be reported to Crown Commercial Services.

Below the value identified above a “Suitability” Assessment Process, which is relevant and proportionate to the subject matter of the intended procurement, included within an open tender process, must be used unless other arrangements around these requirements, have been specifically allowed for by the Secretary of State.

8.1 Procurement – Competition Requirements

8.1.1 Where the *Estimated Cost or Value* for a purchase is within the limits identified in the in the first column below, the *Award Procedure* in the second column must be followed. *Shortlisting* shall be done by the persons specified in the third column.

<i>Estimated Cost (or Value)</i>	Sourcing Procedure	Short Listing By
Up to £5,000 (£25,000 for Consultancy Services)	One oral <i>Quotation</i> (confirmed in writing where the <i>Estimated Cost or Value</i> exceeds £1,000) using the Using the Council’s “Local Rules” Process where possible and other Approved Lists where Authorised	Officer
£5,000 - up to £25,000	3 written <i>Quotations</i> using the Council’s “Local Rules” Process where possible and other lists as Agreed with the Head of Procurement .	Officer

<p>£25,000 – up to £100,000</p>	<p>Request for Quotation using the Council’s “Local Rules” Process where possible and other lists as Agreed with the Head of Procurement., to at least 3 and no more than 6 Candidates</p> <p>If for whatever reason, a Request for Quotation is made using a Public Advertisement, the opportunity must also be included on “Contract Finder”, with all Suitable Candidates responding, being considered.</p> <p>In both cases use must be made of the Council’s E Procurement System, unless otherwise agreed by the Head of Procurement.</p>	<p>Officer and Line Manager</p>
<p>£100,000 up to the EU Threshold for Supplies and Services (applies to all activities)</p>	<p><i>Invitation to Tender</i> making use of a Public Advertisement. The opportunity must also be included on “Contract Finder”, with all Suitable Candidates responding, being considered. No Prior Qualification process is permitted</p> <p>Use must be made of the Council’s E Procurement System, unless otherwise agreed by the Head of Procurement.,</p>	<p>Officer, HOS and Head of Procurement Head of Finance</p>
<p>Above EU Threshold for Supplies and Services (applies to all activities) and / or £500,000</p>	<p><i>The appropriate EU / Public Contract Procedure</i> or, where this does not apply, <i>Invitation to Tender</i> by an Appropriate Notice / Advertisement to at least five and no more than eight Candidate</p>	<p>As above + in Consultation with the Director of Corporate Services and Customer Services and Director of Finance – see Rules 7.2.3 & 8.1.4</p>
<p><i>Note – Where an intended arrangement is for the provision of Consultancy Type Service, including those for Construction related activity and the estimated value of the intended arrangement is above £50,000 the relevant Portfolio Holder will be Formally Consulted on the intended action and contracting arrangements to be used.</i></p>		

8.1.2 Where it can be demonstrated that there are insufficient suitably qualified *Candidates* to meet the competition requirement, all suitably qualified *Candidates* must be invited.

8.1.3 An **Officer** must not enter into separate contracts nor select a method of calculating the *Total Value* in order to minimise the application of these Contract Procedure Rules or the *Public Contract Regulations*.

8.1.4 Where a Public Contract Regulations *applies*, the **Officer** shall discuss with the **Head of Procurement** and Consult with the **Director of Corporate Services** and **Director of Finance** to determine the arrangements to be used for the completion of the *Procurement*. In any case

the Final Contract Documentation shall be available for viewing, via the internet, from the date of publication of any required Contract Notice, unless otherwise agreed.

8.2 Assets for Disposal

8.2.1 Assets for disposal must be sent to public auction except where better *Value for Money* is likely to be obtained by inviting *Quotations* and *Tenders*. (These may be invited by advertising on the Council's internet site.) In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the relevant **Head of Finance**. (see also Financial Regulation / Procedure 19)

8.3 Providing Services to External Purchasers and other Public Sector Organisations

8.3.1 The **Director of Corporate Services** and **Director of Finance** must be *Consulted* where contracts to work for organisations other than the authority are contemplated.

8.4 Collaborative and Partnership Arrangements

8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these *Contract Procedure Rules*. If in doubt, **Officers** must seek the advice of the **Director of Corporate Services** and **Head of Procurement**.

8.5 The Appointment of Consultants to Provide Services

8.5.1 Consultant architects, engineers, surveyors and other professional *Consultants* shall be selected and commissions awarded in accordance with the procedures detailed within these Contract Procedure Rules as outlined above

8.5.2 The engagement of a *Consultant* shall follow the preparation 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.

8.5.3 Records of consultancy appointments shall be kept in accordance with Rule 6.

8.5.4 *Consultants* shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant **Head of Finance** for the periods specified in the relevant agreement.

9. PRELIMINARY MARKET CONSULTATION

9.1 The **Officer** responsible for the purchase:

- May consult potential suppliers prior to the issue of the *Invitation to Tender* in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential *Candidate*; but

- Must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Candidates* or distort competition; and
 - Must seek advice from the *Head of Procurement* where the tender under consideration has an estimated value greater than the relevant EU Threshold and observe the requirements of the Public Contract Regulations Cl.40/41 in the approach taken on such consultation and any subsequent involvement, by those consulted in the tender process.
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10. TECHNICAL SPECIFICATIONS, STANDARDS, LABELS, SELECTION, SUITABILITY AND AWARD CRITERIA

10.1 The *Officer* must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The *Officer* must include those standards which are necessary properly to describe the required quality. The *Director of Corporate Services* must be *Consulted* if it is proposed to use standards other than European Standards.

10.2 Where the use of a specific Label is to be used to identify a particular technical requirement others proposed as being equivalent must be considered

10.3 In any case the requirements of the above Rules 10.1 and 10.2 shall be operated as required by Clauses 42 – 44 of the Public Contracts Regulations.

10.4 *Selection Criteria* used, as further identified in Cl.68 of the *Public Contract Regulations*, must be related and proportionate to the subject matter of the contract and may consider factors such as, suitability, economic and financial standing and technical, financial and professional ability. Statutory Guidance on the Standard PQQ Documentation to be used and the approach to its assessment is stipulated by Crown Commercial Services and where such arrangements are used the *Officers* must seek the advice of the *Director of Corporate Services* and *Head of Procurement*, if they wish to depart from the use of the Standard arrangements identified in the Councils *Procurement Practice Notes* and *Model Documents*.

10.5 Where the Estimated Value of any procurement process is below the EU value identified for Supplies and Services, a selection process may not be used and an Open Tender Process. Based on a two stage “Suitability” evaluation and tender submission, by all those found to be suitable, must be followed.

10.6 2 The *Officer* must define *Award Criteria* that are appropriate to the purchase, linked to the subject matter of the contract and designed to secure an outcome giving *Value for Money* for the authority. The basic criteria shall be:

- ‘most economically advantageous’ (“MEAT”), where considerations other than price also apply; or
- ‘lowest price’ where payment is to be made by the authority;
- ‘highest price’ if payment is to be received;

Where “MEAT” criterion are adopted, it must be further defined by reference to sub-criteria, which may refer only to relevant considerations. These may, for example, include price /cost of service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. The criteria used, and where possible the weighting attributed to them, shall be included in the Notice and or tender documentation as appropriate.

10.5 Award Criteria shall not have the effect of conferring an unrestricted freedom of choice on the Authority and shall ensure the possibility of effective competition.

10.6 Unless there are valid and justified reasons to do otherwise, the Council’s preferred method of determining *Value for Money* in its *Procurement* arrangements is by the consideration of the *Whole Life Cost* and / or the *Life Cycle Costing* of the intended arrangement aligned with its *Sustainable Procurement* practice.

10.7 *Award Criteria* must not include:

- *Non-commercial Considerations*;
- Matters, which discriminate against suppliers from the *European Economic Area* or signatories to other *Government Procurement Agreement*.

11. INVITATIONS TO TENDER/QUOTATIONS

11.1 The *Invitation to Tender* shall state that no *Tender* will be considered unless it is received by the date and time stipulated in the *Invitation to Tender*. No *Tender* delivered in contravention of this clause shall be considered, unless agreed by The **Director of Corporate Services**.

11.2 All *Invitations to Tender* shall include the following:

(a) A specification that describes the authority’s requirements in sufficient detail to enable the submission of competitive offers.

(b) A requirement for tenderers to declare that the *Tender* content, price or any other figure or particulars concerning the *Tender* have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).

(c) A requirement for tenderers to complete fully and sign all *Tender Documents* including a form of *Tender* and certificates relating to canvassing and non-collusion.

(d) Notification that *Tenders* are submitted to the council on the basis that they are compiled at the tenderer’s expense.

(e) A description of the *Award Procedure* and, unless defined in a prior advertisement, a definition of the *Award Criteria* in objective terms and if possible in descending order of importance.

(f) Notification that no *Tender* will be considered unless it has been submitted using the Council's E procurement System or, where agreed otherwise, as identified in (g) below, is enclosed in a sealed envelope or container which bears the word '*Tender*' followed by the subject to which it relates, but no other name or mark indicating the sender.

(g) A stipulation that any *Tenders* submitted by fax or other electronic means shall not be considered, unless specifically provided for in the Invitation to Tender and with the prior agreement of the *Director of Corporate Services* and *Director of Finance* as to the process to be used. (see also Rule 14.3)

(h) The method by which any arithmetical errors discovered in the submitted *Tenders* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender*, or vice versa. (See also Rule 16.4)

11.3 All *Invitations to Tender* or *Quotations* must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 17).

11.4 The *Invitation to Tender* or *Quotation* must state that the Council is not bound to accept any *Quotation* or *Tender* and may extend the closing date where appropriate.

11.5 All *Candidates* invited to *Tender* or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

11.6 It is a requirement of the of the Public Contract Regulations 2015, that all relevant Contract documentation and information is available at the point of any required Notice (either in OJEU or Contract Finder) or at Tender, should a Notice not be required.

12. SHORTLISTING

12.1 Where permissible any *Shortlisting* must have regard to the financial and technical standards required to the contract; and be relevant and proportionate to the intended Procurement and be consistent with the selection criteria outlined in the Public Contract Regulation cl.60(9). Specific UK Government Rules apply to UK procurement activity which legislates for different requirements and treatment for all types of contracting arrangement valued between £25,000; £100,000 and the EU Threshold for Supplies and Services. These are in addition to those identified for above EU Threshold activity. The advice of the *Head of Procurement* should be sought before commencing any *Shortlisting* process..

12.2 The *Officers* responsible for *Shortlisting* are specified in Rule 8.1.1.

12.3 Where *Approved Lists* are used, *Shortlisting* may be done by the *Officer* in accordance with the *Shortlisting* criteria drawn up when the *Approved List* was compiled (see Rule 7.2.2).

However, where the *Public Contract Regulations* applies, *Approved Lists* must not be used (where outside of any local dispensation), and requirements must be placed via an OJEU or Contract Finder Notice as appropriate (see Rule 7).

13. EXEMPTIONS TO THE NEED FOR COMPETITIVE TENDER

13.1 A decision to negotiate with one or more candidates on any arrangements required within the *Procurement* process shall not be made except in compliance with the following and any Public Contract Regulations (see also Rule 3). Note - For the purpose of this Rule the establishment of a *Service Level Agreement* is treated as being a negotiated arrangement;

Estimated Value)	Cost(or	Authorisation Requirement
£5,000 - £50,000		Chief Officer Agreement
£50,000 - up to £100,000		Chief Officer in agreement with <i>Director of Corporate Services</i> and <i>Director of Finance</i> with a report of the use made of this exemption being made to <i>Audit Sub committee</i> on a bi-annual basis.
£100,000 – up to £1,000,000		Chief Officer in agreement with <i>Director of Corporate Services</i> and <i>Director of Finance</i> and following Approval of the relevant <i>Portfolio Holder</i> , with a report of the use made of this exemption being made to <i>Audit Sub committee</i> on a bi-annual basis.
£1,000,000 and above		Chief Officer in agreement with <i>Director of Corporate Services</i> and <i>Director of Finance</i> and the approval of the <i>Executive or the Council</i> as appropriate.

13.2 The Officer concerned will need to ensure that the records necessary to justify the intended action are maintained and issued where necessary, for above and below EU Threshold activity as set out in the Public Contracts Regulations.

13.3 In determining the Value (and any Aggregate Values) for a particular requirement, together with those used to calculate the values of any modifications and /or extensions proposed to existing arrangements, care must be taken to value such activity using the approaches identified in the various parts of the Public Contract Regulations. In general terms it is the Value of an activity across the Council, and not of a contract in isolation which determines its treatment within the Public Contract Regulations.

13.4 Subject to the satisfactory completion of any required Contract Monitoring Report (see CPR 23), and where the Report produced as required by CPR 5 provides for a discretionary Extension of the Contract for an additional period of time. Providing the Authorising Committee have indicated their agreement at the point of the CPR 5 Report, without the need for further referral, then the relevant Chief Officer may, in agreement with the *Director of Corporate Services* and *Director of Finance*, and any other person specified in the authorisation and in Consultation with the Portfolio Holder, make use of this permissible extension providing it is notified to the Audit Sub committee, as part of the Bi Annual Report produced and identified in this CPR.

13.5 Chief Officers with Social Care responsibilities have specific exemptions provided to them under the Council’s *Scheme of Delegation* for certain contracting arrangements

14. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS

14.1 Candidates must be given a reasonable and proportionate amount of time in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of *Tenders*. The *EU Procedure* lays down specific time periods which must be observed.

14.2 All *Quotations* or *Tenders* must be returned in compliance with the following requirements;

Estimated Cost(or Value)	Receipt Procedure	Opening Procedure
Up to £5,000	Opened on arrival	By Officer
£5,000 – up to £100,000	Held in the custody of the Relevant Chief Officer or their representative until the time appointed for their opening	Opened and recorded by two Officers nominated by the Relevant Chief Officer, Initiating Officer may also attend.
£100,000 and above	Held in the custody of the Director of Corporate Services or their representative until the time appointed for their opening	Opened and recorded by two officers nominated by the Director of Corporate Services, (Initiating Officer may also attend) and returned by them to the Initiating Officer.

The Council’s preferred method of issuing an *Invitation to Tender* or *Requests for Quotation* and receiving any responses made is via the use of its E Procurement System, which should be used for all such activity, unless otherwise agreed by the Head of Procurement. Where a paper based process is agreed to be used it must follow the following requirements.

In all cases the tender instructions or notice shall state that no *Quotation* or *Tender* shall be received by the Council except in a plain sealed envelope/package which shall bear the words “Tender/Quotation” (as appropriate) followed by the subject matter to which it relates, but shall not bear any name or mark which would identify the sender. They must also make it clear to whom and where the completed tender should be returned, as provided for in the above detail.

14.3 The Director of Corporate Services must approve any receipt of tenders by Fax or other electronic means (e.g. email), which should otherwise be rejected

14.3 Where the Council is utilising an electronic reverse auction as a *Procurement* procedure enabling suppliers/providers to adjust their tender price in the light of information from the tender prices submitted by competing suppliers/providers, then alterations will be accepted as permitted by the auction process. No *Procurement* shall take place by an electronic reverse auction unless the **Director of Finance** agrees that such process is appropriate for the *Procurement* in question and the e-auction is completed in line with methods agreed by the **Head of Procurement**.

14.4 The relevant **Officer** as identified in Rule 14.2 shall be responsible for the safekeeping of *Tenders* until the appointed time of opening and:

- Suitably recording, the date and precise time it was received;
- Securely storing on receipt to guard against amendment of their contents;
- Recording immediately on receipt in the *Tender Record Log*.

14.5 Upon opening, a summary of the main terms of each *Tender* (i.e. significant issues that are unique to each *Tender* submission and were not stated in the *Tender* invitation documents such as *Tender* sum, construction period, etc) must be recorded in the *Tender Record Log*. The summary must be initialled (or tagged as actioned on any E Procurement System used) on behalf of the relevant **Officer** as identified in Rule 14.2.

14.6 In the event that a tender that does not comply with the Council's requirement, as set out in the tender invitation e.g. is qualified, arrive late and /or after other tenders had been opened, is received, with the circumstances recorded on the *Tender Record Log* and any evidence of the relevant events retained (i.e. envelop, packaging, receipt documentation etc.). **Chief Officers** may, however, seek the agreement of the **Director of Corporate Services** and the **Director of Finance** to relax these requirements in appropriate circumstances. Any such relaxation shall be identified when seeking any necessary authorities required before the acceptance of a tender and will include consideration of any reasonable endeavour made by a tenderer to properly submit their tender by the appointed time, and any opportunity presented that might allow the amendment or change of details submitted so as to offer the opportunity for an unfair advantage to be taken.

14.7 For *Tenders* with an estimated *Value* of **£50,000** or above, where fewer than the minimum number of *Tenders* required have been received the **Director of Corporate Services** and the **Director of Finance** shall be *Consulted*, prior to any award decision, on any steps considered necessary to establish and maintain the adequacy of the tender process. Where the *Tender* has an estimated *Value* of less than **£50,000** the relevant **Chief Officer** may decide, on a Value for Money basis, the need for any additional actions required to maintain the adequacy of the tender process.

15. CLARIFICATION PROCEDURES AND ANY PERMISSABLE POST-TENDER NEGOTIATION

15.1 Providing clarification of an *Invitation to Tender* to potential or actual *Candidates* or seeking clarification of a *Tender*, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a *Tender* and before the award of a

contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price.

15.2 Where information or documentation submitted at tender is, or appears to be, incomplete or erroneous, or where specific documents are missing, consideration as to allowing the tenderer to submit, supplement, clarify or complete the relevant documentation or document (within an appropriate time limit) shall be made in consultation with the *Head of Procurement* and with the agreement of the *Director of Finance* and the *Director of Corporate Services*.

15.3 If post-tender negotiations are permissible and necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Candidates* have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the *Tender* documents. *Officers* appointed by the *Chief Officer* to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

15.4 Post-tender negotiation must only be conducted in accordance with the guidance issued by the *Director of Finance* in consultation with the *Director of Corporate Services* who, together with the *Head of Procurement*, must be *Consulted* wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a division independent to that leading the negotiations.

15.5 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered unless the *Director of Corporate Services* and the *Director of Finance* agree to an alternative course of action.

16. EVALUATION, AWARD OF CONTRACT AND DEBRIEFING CANDIDATES

16.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Candidates* must be preserved at all times and information about one *Candidate's* response must not be given to another *Candidate*. Any processes used must ensure compliance with the principles of transparency and the equal treatment of those submitting tenders.

16.2 Contracts must be evaluated and awarded in accordance with the stated *Award Criteria*, which must be linked to the subject matter of the *Procurement* and be contract specific. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

16.3 Care should be taken in the evaluation process, where it is anticipated there may be subsequent changes to Council requirements, to ensure the impact of a reduction or increase in the volumes of expected activity are considered

16.4 The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, and dealt with in the following manner:

- The tender(s) should be given details of the error(s) found during the examination of the tender and shall be given an opportunity of confirming without amendment, or withdrawing the tender; or
- Amending the tender to correct any genuine arithmetic error(s) apparent on the face of the document, providing that in this case, apart from the these genuine errors no other adjustment, revision or qualification is permitted.

Such amendments should only be made in circumstances agreed with the **Director of Corporate Services**.

16.5 Unless otherwise agreed by the **Head of Procurement**, the Council's standard approach to Tender Evaluation, as contained in the CIPFA "Standing Guide to the Commissioning of Local Authority Works and Services, shall be used for the evaluation of all contracts with a value of **£25,000** and above.

16.6 **Officers** may accept, within their relevant financial limit, delegated authority and providing the stipulated degree of separation of duties is maintained, Quotations and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules and, in respect of proposed contracts that are expected to exceed **£500,000**, the approval of the relevant **Portfolio Holder** has been secured. The awarding of contracts that are expected to exceed **£1,000,000** shall be approved by the **Executive or the Council**, the responsible **Officers** having submitted for consideration a formal "Gate Report", covering, as appropriate, the matters identified in the Council's Standard "Gate Reporting Template for consideration at Award of Contract

16.7. Where the actual value of any intended contract is greater than that provided for in the original budgetary provision, or any tolerance provided for in the Council's *Capital Programme Procedures and/or Financial Regulations* the tender should not be accepted without seeking the advice of the **Director of Finance** and obtaining any necessary authorisations for increased budgetary provision.

16.8 Where the intended contract has a value in excess of **£200,000** it should be completed under seal as provided for in Section 17 of these Rules.

16.9 Where the Council is in receipt of income or net benefit under a contract it should be signed as a Deed.

16.10 In all cases the tender evaluation must be carried out as provided for in the Invitation to tender unless otherwise agreed with the **Director of Corporate Services** following *Consultation* with the **Head of Procurement**.

16.11 Where the *Total Value* is over **£100,000**, the **Officer** must notify all *Candidates* simultaneously and as soon as possible of the intention to award the contract to the successful *Candidate*. The **Officer** must provide unsuccessful *Candidates* with a period of at least ten days in which to challenge the decision before the **Officer** awards the contract.

If the decision is challenged by an unsuccessful *Candidate* then the *Officer* shall not award the contract and shall immediately seek the advice of the *Director of Corporate Services*.

16.12 The *Officer* shall debrief in writing all those *Candidates* who submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of the *Director of Corporate Services*:

- How the *Award Criteria* were applied;
- The prices or range of prices submitted, in either case not correlated to *Candidates'* names;
- The names of *Candidates* where there were three or more *Candidates*.

16.13 If a *Candidate* requests in writing the reasons for a *Contracting Decision*, the *Officer* must give the reasons in writing within 15 days of the request (or 10 Days were an electronic medium is used). If requested, the *Officer* may also give the debriefing information at Rule 15.6 above to *Candidates* who were deselected in a pre-tender *Shortlisting* process.

16.14 Where the award of the contract is a *Key Decision* any award must take account and observe the Council's *Call in Procedure* (see Annex C)

16.15 Mandatory Standstill Period – 10 Days

16.15.1. Where a contract decision is required for a tender process completed under the Public Contract Regulation (and unless otherwise provided for), the Council must inform any *candidate* that has submitted an offer, has applied to be amongst those selected to tender for or negotiate the contract, or any candidate who has applied to be party to a *framework agreement*, of its decision in relation to the award of the contract or the conclusion of (setting up) a *framework agreement*.

16.14.2 The process adopted and information sent must be completed in compliance with the requirements set out in Clause 86 of the Public Procurement Regulations and identify, on an individual basis the "...characteristics and relative advantages..." of the successful tenderer(s) and those not successful.

16.14.3. Unless agreed otherwise with the *Head of Procurement*, the required Notice must be sent using the Council's E Procurement System and the recipient must be given until midnight on the end of the 10th day from issue (or if this is a weekend or bank holiday the end of the next working day?), to respond before it can finalise the process and enter in to a contracting arrangement.

16.15. Call in Period

While the periods may run concurrently, officers need also to ensure their compliance with the Council's "*Call In*" requirements as identified in part 4 of the Council's Constitution (summarised in Annex D).

16.16 End of Standstill and Call in Period

At the satisfactory completion of the time periods identified in 16.14 &16.15 the **Head of Service** shall notify the **Director of Corporate Services** and the **Head of Procurement** of their end to enable the issue of the necessary Contract Documentation and Award Notices.

16.17 Action on the Receipt of Any Challenge

In the event of any letter being received by the Council which indicates a *Challenge* to any element of the Tender or Award Process or if any correspondence is received from the *"Mystery Shopper Team" at Crown Commercial*, no further actions should be taken on the Tender or Award Process *until* the **Director of Corporate Services** and the **Head of Procurement** have been Consulted and a response agreed. The Council requires that a review of the tender process is completed by the Officers identified above if any formal *challenge* to the tender arrangements is made.

SECTION 4: CONTRACT AND OTHER FORMALITIES

17. CONTRACT DOCUMENTS

17.1 Relevant Contracts

17.1.1 All *Relevant Contracts* that exceed **£100,000** shall be in writing.

17.1.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- The provisions for payment (i.e. the price to be paid and when);
- The time, or times, within which the contract is to be performed;
- The provisions for the council to terminate the contract.

17.1.3 Unless otherwise agreed by the **Director of Finance**, the *Council's Official Order Form*, as provided for in *Financial Regulation 5*, shall be used **Director of Corporate Services** shall also agree the use of any standard terms and conditions issued by a relevant professional body which it is proposed to use.

17.1.4 In addition, every *Relevant Contract* of purchase over **£50,000** must be completed under Legal Guidance and state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent;
- Any insurance requirements;
- Health and safety requirements;
- Sustainability requirements;
- Ombudsman requirements;
- Data protection requirements, if relevant;
- That charter standards are to be met if relevant;
- Race relations requirements;
- Disability Discrimination Act requirements;
- Freedom of Information Act requirements;
- Payment requirements within 30 Days to the Contractor and their Sub Contractor to the same effect.
- Variation Clauses which fully reflect the Councils potential requirements and the implications of the Public Procurement Regulations (Clause 72) and any valid associated Guidance
- Where *Agents* are used to let contracts that *Agents* must comply with the Council's contract procedure rules;
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.
- Include the Council's standard requirements with regard to "Whistle Blowing"
- Any appropriate measures required to support the Council in the event of a Civil Emergency being declared or the Council's Business Continuity Plan invoked.

17.1.5 Where it is envisaged that there may be a need to a *Variation* to the Council's requirements during the period of a contract, appropriate conditions should be included allowing for the valuation of any subsequent changes.

17.2 Contract Formalities

17.2.1 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the **Director of Corporate Services**.

17.2.2 The **Officer** responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

17.2.3 Prior to the commencement of the contract (if not provided as part of the tender process) the **Officer** responsible shall request that the Main Contractor provides the names of their Sub Contractors and their representative. The Main Contractor will also be required to advise the Council of any changes in this information during the term of the contract.

17.3 Sealing

17.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be signed by at least two **Officers** which, together with the fixing of the council's seal, must be witnessed by a further officer on behalf of the **Director of Corporate Services**.

17.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the **Director of Corporate Services**.

17.3.3 A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end;
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;
- There is any doubt about the authority of the person signing for the other contracting party; or
- The *Total Value* exceeds **£200,000**.

18. BONDS AND PARENT COMPANY GUARANTEES

18.1 The **Officer** must *Consult* with the **Director of Corporate Services** and the **Director of Finance** about whether a *Parent Company Guarantee* is necessary when a *Candidate* is a subsidiary of a parent company and:

- The *Total Value* exceeds **£200,000**; or
- Award is based on evaluation of the parent company; or
- There is some concern about the stability of the *Candidate*.

18.2 The **Officer** must *Consult* with the **Director of Corporate Services** and the **Director of Finance** whether a *Bond* is needed: where the *Total Value* exceeds **£200,000** or where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the *Candidate* or there are other risks associated with the intended contract which require additional security.

18.3 Where the intended *Tender* and/or *Contract* is likely to have *TUPE* implications or require amendment to the Council's Pension Fund arrangements, the **Director of Finance** in consultation with the **Director of Corporate Services** shall agree the intended actions and the value of any Pensions Bond required, prior to any further authorisation otherwise identified.

19. PREVENTION OF CORRUPTION

19.1 The **Officer** must comply with the *Code of Conduct* and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the *Officer* to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 19.2 below.

19.2 The following clause must be put in every written Council contract: *"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:*

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done),*
or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or*
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.*

Any clause limiting the Contractor's liability shall not apply to this clause."

20. DECLARATION OF INTERESTS

20.1 If it comes to the knowledge of a Member or an employee of the authority that a contract in which he or she has a personal or pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the **Chief Executive**. The **Chief Executive** shall report such declarations to the appropriate *Committee*.

20.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.

20.3 A shareholding in a body not exceeding a total nominal value of **£25,000 or 1%** of the nominal value of the issued share capital (whichever is the less) is not a personal or pecuniary interest for the purposes of this *Contract Procedure Rule*.

20.4 The **Chief Executive** shall maintain a record of all declarations of interests notified by members and **Officers**.

20.5 The **Chief Executive** shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

21. MANAGING CONTRACTS

21.1 **Heads of Service** in sponsoring departments are to name **Contract Managers** for all new *Contracts*. All *Contracts* must have a named Council **Contract Manager** for the entirety of the contract.

21.2 **Contract Managers** must follow the reporting requirements and procedures set out in these Contract Procedure Rules and any supplementary Guidance issued by the **Head of Procurement**

21.3 As a minimum requirement the named **Contract Manager** will compile and maintain the standard “**Contract Monitoring Summary**” Template Document (as included in the Procurement Pages of the “Mangers Tool Kit” on OneBromley), and ensure their content is maintained and accurately reflects the information included in the *Service Contracts Register* required to be maintained by CPR 2.2 and 6.4.

22. RISK ASSESSMENT AND CONTINGENCY PLANNING

22.1 All *Procurement* activity and projects with an estimated value above **£100, 000** must incorporate the use of the *Council’s Programme and Project* methodologies as appropriate for the cost, complexity and risk associated with the intended activity, including those associated with TUPE, Pensions and Tax liabilities. This includes the preparation of a business case. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

22.2 For all contracts with a value of over **£50,000**, **Contract Managers** must:

- Maintain a risk register during the contract period;
- Undertake appropriate risk assessments and for identified risks;
- Ensure contingency measures are in place.

23. CONTRACT MONITORING, EVALUATION AND REVIEW

23.1 All contracts which have a value higher than **£200,000** limits, or which are *High Risk*, are to be subject to monthly formal review by the **Head of Service**. The review may be conducted quarterly if agreed by the **Director of Finance**.

23.2 For all contracts with a value higher than **£500,000**, or which are *High Risk*, an annual report must be submitted to the **Portfolio Holder** the responsible **Officers** having submitted for consideration a formal “Gate Report”, covering, as appropriate, the matters identified in the Council’s standard “Gate Reporting Template for consideration as part of Contract Monitoring/Management requirements.

23.3 For all contracts with a value higher than **£1,000,000**, or which are *High Risk*, an annual report must be submitted to the **Executive** the responsible **Officers** having submitted for consideration a formal “Gate Report”, covering, as appropriate, the matters identified in the Council’s standard “Gate Reporting Template for consideration as part of Contract Monitoring/Management requirements.

23.4 A Council agreed *Gateway Review* process must be applied to all contracts deemed to be *High Risk*, *High Value*, or *High Profile*. This process must be applied at key stages of major procurements.

23.5 During the life of the contract, the **Officer** must monitor in respect of:

- Performance;
- Compliance with specification and contract;
- Cost;
- Any *Value for Money* requirements;
- User satisfaction;
- Risk management.

23.6 Where the *Total Value* of the contract exceeds **£500,000**, the **Officer** must make a written report to the relevant **Portfolio Holder** evaluating the extent to which the *Procurement* need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract and the authorisation requirements identified in Rule 5.1 and 16.5 above.

23.7 *Variations and Extensions*

23.7.1 No *Variation* should be issued or *Extension* agreed unless there is sufficient budgetary provision for each contract or where it is permitted under the Council’s *Capital Programme Procedures* and related responsibilities for financial control of capital projects.

23.7.2 All *Variation* Orders must be issued promptly and authorised before the work is undertaken. All variations will be contained within agreed limits for each contract and made within the authorised limits determined by the **Chief Officer** as provided for in *Financial Regulations* and the *Capital Programme Procedures*.

23.7.3 Subject to any requirements of *Financial Regulations*, statutory restrictions and compliance with any provisions of the Public Procurement Regulations (particularly those relating to negotiation; modifications and extensions and any limitations imposed by Clause 72 of the Regulations above), a **Chief Officer** may authorise the following extension to an existing contact:

- An extension for a particular period provided for within the terms of the contract (but subject to satisfactory outcomes of contract monitoring, such information having been provided to where required in these Rules to the relevant **Portfolio Holder** and/or **Executive**); or
- A single extension of the contract by up to one year; or
- An increase in the scope of activities being undertaken.

Providing that where the value of any single and/or all extensions granted is greater than **£50,000** the processes and authorisation procedures required shall be the same as those identified in Rule 13 above.

23.7.4 The **Chief Officer** shall consult with the **Head of Procurement** and **Director of Corporate Services** on any need to issue a *Modification Notice* or take other action required by Cl.72 of the *Public Contract Regulations*.

DEFINITIONS APPENDIX (Needs to be update to amend/add 2015 review requirements)

Agent - A person or organisation acting on behalf of the Council or on behalf of another organisation.

Agree / Agreement – the process whereby a written record of the agreement of the relevant officer/Member is produced. For the Purpose of the operation of Contract Procedure Rules, the evidence of agreement required in writing can either be the physical endorsement /signature of a prepared document or an Email sent from a Council E mail Address associated with the Authorising Officer, providing the necessary records are maintained either in a soft or hard format.

Approval – the process whereby a formal report is submitted to and written approval obtained from the relevant officer/Member/Committee/Council.

Approved List - A list drawn up in accordance with Rule 7.2.

Award Criteria - The criteria by which the successful *Quotation* or *Tender* is to be selected (see further Rules 10 and 11.2e).

Audit Sub Commiitie – A Sub Committee of General Purposes and Licensing Committee having the role and responsibilities described within the Council’s Constitution.

Award Procedure - The procedure for awarding a contract as specified in Rules 8, 10 and 15.

Best Value - The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. Value for Money has now in many instances superseded this terminology.

Bids – oral or written quotations or written tenders as the context required or demands.

Bond - An insurance policy: if the contractor does not do what it has promised under a contract with the council, the council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the council against a level of cost arising from the contractor’s failure.

Business Continuity Plan – A plan compiled and included within the Council’s Business Continuity arrangements in compliance with and support of its responsibilities and duties as identified in the Civil Contingencies Act.

Call In Procedure – The procedure whereby 5 or more Members of the Council can require any decision of the Executive, Portfolio Holder, or Committee of the Executive or any decision mad by an officer under delegated authority from the Executive to be subject of scrutiny by the relevant PDS Committee as set out of Part 4 of the Constitution (see Annex D).

Candidate - Any person who asks or is invited to submit a *Quotation* or *Tender*.

Capital Programme (Control) Procedures – as set out and included in the Capital Programme/Budget book

Central Purchasing Organisation (CPO) – A Central Purchasing Body (CPB) as defined in the Public Contracts Regulations which acquires or concludes arrangements for works, goods and services, in compliance with the Regulations and which is intended for the use of one or more contracting authorities.

Chief Executive – the Council’s Head of Paid Service as defined in the Scheme of Delegation

Chief Finance Officer – the Council’s *Director of Finance* or their nominee or such other officer as may be designated Chief Finance Officer by the Council.

Chief Officer - The officers defined as such in the *Constitution*.

Code of Conduct - The code regulating conduct of *Officers* issued by the *Director of Corporate Services*.

Committee - A committee, which has power to make decisions for the Council, for example a joint committee with another local authority, but not a scrutiny committee.

Constitution - The constitutional document approved by the council which:

- allocates powers and responsibility within the council and between it and others
- delegates authority to act to the *Cabinet, Committees, Portfolio Holders* and *Officers*
- regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

Consult /Consultation - A process whereby the advice and necessary input to any particular contracting process is obtained and properly considered

Consultant - Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to employees with the skills, experience or capacity to undertake the work.

Contract - A "contract" is an agreement between two or more parties which is intended to give rise to legal relations.

The Council will accept tender documents supported by electronic signature, which have been submitted through the mandated E Procurement System, providing that where the value is £100k+ the contract document is formally compiled and signed with Legal input and overview. Those over £200k are required to be signed under seal as per CPR 17.3.

Contractor - A person or entity that enters into a contract.

Contracting Decision - Any of the following decisions:

- composition of *Approved Lists*
- withdrawal of *Invitation to Tender*
- whom to invite to submit a *Quotation* or *Tender*
- *Shortlisting*
- award of contract
- any decision to terminate a contract
- any resulting amendments of the Councils Pensions Scheme.

Contracts Manager – The officer within a service or client department of the Council with principle responsibility for the letting and management of any contract for the supply of *Goods, Services or Works* on behalf of the Council.

Contract Monitoring Summary Template - A Document held and maintained by the designated **Contract Manager** to accurately record pertinent Contract information on a standard basis, to better inform management, members and other interested parties on the particular circumstances and requirements of Contracts placed.

Contract Notice – The notice published in the Official Journal of the Economic Union advertising the Council's intention to seek tenders or expressions of interest in a contract for the supply of *Goods, Services and Works*.

Corporate Contract - A contract placed by the *Corporate Procurement Division* or endorsed by the *Head of Procurement* for Corporate use.

Corporate Contracts Register - A record of contracting activity maintained by the *Council's Corporate Procurement Group* which records all contracts placed with an estimated value of **£200,000** and above.

Corporate Procurement Group -The council's central procurement unit charged with providing strategic direction and advice to secure *Value for Money* in the Council's procurement activities.

Director of Corporate Services - As defined in the *Constitution*.

Estimated Cost (or Value) - The expected value of *Goods, Services and Works* to be purchased by the Council including any which may be acquired during any optional extension to the term of the contract.

EU Procedure - The procedure required by the EU where the *Total Value* exceeds the *EU Threshold*.

EU Procurement Regulations – Requirements as set out in the “Public Procurement Regulations 2006 (SI 2006/5) as may be amended from time to time.

EU Threshold - The contract value at which the EU Public Procurement Directives apply – as advised from time to time by the **Head of Procurement** and detailed in the Procurement Tool Kit:

Executive (of the Council) - As defined in the Council's *Constitution*.

Exemptions – the specific waiver of a requirement for securing competitive *Bids*.

Extensions – The provision whereby an additional period of time is included and/or authorised to allow for continued performance of the contract or the scope of the arrangement and /or requirement carried out is increased.

Extreme Urgency – events unforeseeable by, and not attributable to, the Council which preclude compliance with time limits for tendering contracts in accordance with the *EU Procurement Regulations*.

Director of Finance - – As defined in the *Constitution*

Financial Officer - The most senior *Officer* representing the or designated by him to provide financial advice to the *Chief Officer*.

Financial Regulations - The financial regulations outlining *Officer* responsibilities for financial matters issued by the **Director of Finance** in accordance with the *Constitution*.

Formal Consultation / Formally Consult – A process where a written record and response/acknowledgement of the document considered is produced.

Framework Agreement - An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Gateway Review – A review process completed using the Council's Programme and Project Management guidance or similar best practice, such as that identified in the Cabinet Office / GPS Gateway process, to overview and validate the direction and outcomes from any particular contracting arrangement.

Goods – A physical asset or consumable such as materials, products or equipment and can include a commodity such as Gas, Water or electricity.

Government Procurement Agreement - The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the *European Economic Area* are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

Grant Payments - are a means of providing financial assistance to third sector organisations for a special purpose, for example to support the wider objectives of the local authority in promoting the social, economic or environmental well being of the area. Grant funding is usually preceded by a call for proposals. The grant offer letter will normally set out general instructions as to how the special purpose is to be achieved (i.e. through conditions that limit or guide the behaviour of the third sector organisation).

Head of Finance – An Officer designated by the **Director of Finance** – As defined in the *Constitution* as having responsibility for financial matters within a particular Directorate, Department or part thereof.

Head of Procurement – The Officer, appointed from time to time, with a “Head of Profession” responsibility for overseeing the Council’s Procurement activity.

Head of Service (HOS) – The Officer identified in the departmental structure as having responsibility for a particular activity or service below Chief Officer Level

High Profile - A high-profile purchase is one that could have an impact on functions integral to council service delivery should it fail or go wrong.

High Risk - A high-risk purchase is one which presents the potential for substantial exposure on the Council’s part should it fail or go wrong.

High Value - A high-value purchase is where the value exceeds the *EU Threshold* values.

Invitation to Tender - Invitation to tender documents in the form required by these contract procedure rules.

Key Decision - Decisions that are defined as key decisions in the *Constitution*.

Line Manager - The *Officer’s* immediate superior or the *Officer* designated by the *Chief Officer* to exercise the role reserved to the line manager by these contract procedure rules.

Nominated Suppliers and Sub-contractors - Those persons specified in a main contract for the discharge of any part of that contract.

Nominee(s) – A named individual to whom a *Chief Officer* has delegated certain of his/her specific duties, powers and functions in writing.

Non-commercial Considerations -

(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces (‘workforce matters’).

(b) Whether the terms on which contractors’ contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.

(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.

(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons (‘industrial disputes’).

(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.

(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.

(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.

(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (*TUPE*) may apply.

Officer - The officer designated by the *Chief Officer* to deal with the contract in question.

Official Order – as provided for in Financial Regulations

Parent Company Guarantee - A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the council, the council can require the parent company to do so instead.

Portfolio Holder - A member of the *Cabinet* to whom political responsibility is allocated in respect of specified functions.

Priority Services - Those services required to be tendered as defined in the EU public procurement directives.

Procurement - The process of acquiring goods, works and services from suppliers. The process spans the whole *Procurement* cycle from the identification of the need through to the end of the service contract or the end of the useful life of an asset. It therefore covers everything from “paper clips” to PFI”.

Procurement Strategy - The document setting out the Council’s approach to *Procurement* and key priorities for the next few years.

Quotation - A quotation of price and any other relevant matter (without the formal issue of an *Invitation to Tender*).

Relevant Contract - Contracts to which these contract procedure rules apply (see Rule 4).

Service Contracts Register – A sub set of the Corporate Contracts Register recording contracting activity required to be subject to competitive tendering and /or valued **£50,000** or above estimated value.

Service Level Agreement (SLA) - An arrangement with a VSO (or similar organisation) which provides the cost and outcome of any given service provision.

Services – An intangible asset, activity or facility provided by a third party (e.g. advertising space).

Scheme of Delegation – The arrangements made by the Council to delegate parts of its decision making processes, as provided for by its *Constitution*.

Shortlisting - The process of selecting *Candidates* who are to be invited to quote or bid or to proceed to final evaluation, including tender lists compiled under a two stage tender process.

Supervising Officer - The *Line Manager's* immediate superior.

Supplies – Generally relates to a purchase or hire of goods (including electricity, gas etc.).

Sustainable Procurement – A process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only for the organisation, but also society and the economy while minimising damage to the environment.

Tender - A *Candidate's* proposal submitted in response to an *Invitation to Tender*.

Tender Record Log - The log kept by the Relevant *Officer* to record details of *Tenders* (see Rule 14.5).

Total Value - The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:

(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period

(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months

(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48

(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result

(e) for *Nominated Suppliers and Sub-contractors*, the total value shall be the value of that part of the main contract to be fulfilled by the *Nominated Supplier or Sub-contractor*.

TUPE - Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246) - Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (eg following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Value for Money – The optimum combination of *Whole Life Costs* and benefits to meet the service requirements.

Variation – Any amendment to a contract agreed in writing by the parties in accordance with its terms or by means of negotiation. Where *Extension* to the duration of a contract are considered the provisions of Para. 23.7 of these Rules apply.

Voluntary Sector Organisation (VSO) – Also known as the “third sector” it includes a range of organisations from unincorporated associations to companies limited by guarantee with

charitable status. Generally, but not always, they funded by grant and contract with the Council by way of a *Service Level Agreement, Note* - the same organisation may have separate funding arrangements for different elements of the activity required.

Waive or Waiver – the dispensation of the need for compliance with a particular requirement of these *Contract Procedure Rules*.

Whistle Blowing – The raising of concerns under the Public Interest Disclosure Act 1998, in accordance with the Council’s Whistleblowing policy, about some danger or illegality arising or potentially arising from performance (or non performance) of its function.

Whole Life Costs – The consideration of all costs incurred during the life cycle of the work, goods, service or utility purchased, including those identified by adopting good *Sustainable Procurement* practice.

Work or Works – Those activities listed as Schedule 2 of the *EU Procurement Regulations* being, in general terms, construction, engineering or building works.

Procurement Guidance and Practice Notes – see

<http://onebromley/HDol/ManKit/wikisite/Wiki%20Pages/Procurement.aspx>

on the Procurement Pages on the Mangers Toolkit

EU Contracting Values and Summary of Contracting Arrangements



Crown
Commercial
Service

A BRIEF GUIDE TO THE EU PUBLIC CONTRACTS DIRECTIVE (2014)

October 2015

Crown Commercial Service, Customer Service Desk: 0345 410 2222 | www.gov.uk/ccs | follow us on [Twitter](#) | connect with us on [LinkedIn](#)

Introduction

- 1.1 **The Public Contracts Directives set out the legal framework for public procurement. This guidance note covers the new Public Contracts Directive which will apply when contracting authorities seek to acquire supplies, services, or works (e.g. civil engineering or building). Separate information will be provided to cover new directives on contracts awarded by utilities bodies (e.g. water companies) and concessions contracts. This note does not cover the procurement of contracts for defence and security requirements¹.**
- 1.2 **The Public Contracts Directive sets out procedures which must be followed before awarding a contract to suppliers (i.e. providers of works, supplies or services) when its value exceeds set thresholds, unless it qualifies for a specific exclusion -- e.g. on grounds of national security. Details of the current thresholds can be found at: <https://www.gov.uk/transposing---eu---procurement--directives>.**
- 1.3 **This guidance summarises the main provisions of the Public Contracts Directive. It does not set out all the relevant rules. It is not intended as a substitute for project specific legal advice, which should always be sought by a contracting authority where required. This guidance may not apply to contracting authorities in Scotland**
- 1.4 **The EU procurement regime, based on the Treaty principles of transparency, non---discrimination, equal treatment and proportionality and described by the Public Contracts Directive and Regulations referred to in this guidance, is not static. It is subject to change, driven by evolving European and domestic case law, European Commission communications, new and revised Public Contracts Directives and amendments to the existing UK Regulations.**

2. Public Contracts Directives in national law

- 2.1 Public Contracts Directive 2004/18/EC on public procurement was implemented into national law in the UK by the Public Contract Regulations 2006 (with separate transposition in Scotland). These Regulations came into force on 31 January 2006 and have been amended a number of times. New UK Regulations, which will supersede the 2006 Regulations, will implement the new procurement Directives. This guidance is based on the published text of the new Public Contracts Directive (2014/24/EU) which can be viewed at <https://www.gov.uk/transposing---eu---procurement---directives#the---directives>

3. Purpose

- 3.1 The purpose of the EU procurement rules, underpinned by the Treaty principles, is to open up the public procurement market and to ensure the free movement of supplies, services and works within the EU. In most cases they require competition. The EU rules reflect and reinforce the value for money (vfm)² focus of the Government's procurement policy. This requires that all public procurement must be based on vfm, defined as "the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought", which should be achieved through competition, unless there are compelling reasons to the contrary.

¹ More details at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35925/dsd_govt_awareness_guide.pdf

² See Managing Public Money at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212123/Managing_Public_Money_Av2---chapters_annex_web.pdf.

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4. Reform of the EU rules – The 2014 Public Contracts Directives

- 4.1 On 20 December 2011 the European Commission published proposals to revise and update the public sector and utilities procurement Directives (2004/18/EC and 2004/17/EC respectively) plus a proposed new directive on the award of concession contracts³.**
- 4.2 Following negotiations between Member States, the European Parliament and the Commission the texts of the Public Contracts Directives have been agreed and came into force on 17 April 2014. Member States must transpose the Public Contracts Directives into national law within 24 months of that date.**
- 4.3 The new rules support UK Government priorities of economic growth and deficit reduction by making the public procurement process faster, less costly, and more effective for business and procurers alike. They represent an excellent outcome from the UK's extensive negotiations in Brussels.**
- 4.4 These changes provide a much more modern, flexible and commercial approach compared to the existing regime. Outdated and superfluous constraints have been removed, and many new features have been added to streamline and modernise public procurement. For contracting authorities, this means being able to run procurement exercises faster, with less red tape, and more focus on getting the right supplier and the best tender. And for suppliers, the process of bidding for public contracts should be quicker, less costly, and less bureaucratic, enabling suppliers to compete more effectively.**
- 4.5 The Minister for the Cabinet Office has asked the Crown Commercial Service to prepare the transposition of the new rules earlier than the time allowed, to take advantage of the improvements in the rules as soon as possible.**

5. New provisions

- 5.1 This note outlines the requirements of the new Public Contracts Directive, drawing attention to a number of changes to procedures and requirements for public procurement. More detailed guidance on some of the changes described will follow in due course.**
- 5.2 A list of the key changes follows immediately below, with additional detail in the subsequent sections:**

General

- 5.3 Contracting authorities will be able to reserve the award of certain services contracts to mutuals/social enterprises for a time---limited period**

- 5.4 **Although the thresholds of application of the rules will not change immediately, the Public Contracts Directive includes a binding commitment on the Commission to review the economic effects of the thresholds on the internal market. This review must be completed by 2019.**

Facilitating SME involvement

- 5.5 **Contracting authorities are encouraged to break contracts into lots to facilitate SME participation.**

³ Concessions contracts are currently subject to minimal EU regulation; the proposed new legislation aims to ensure that concessions are competed effectively. Concessions contracts involve giving exploitation rights as part of the supplier's reward for delivering a public service or building – examples include toll bridges and car parks built on public--authority--owned land. Risk--transfer is also a significant feature of concessions.

- 5.6 **A turnover cap has been introduced to facilitate SME participation. Contracting authorities will not be able to set company turnover requirements at more than two times contract value except where there is a specific justification.**
- 5.7 **A central, on-line point called “E-certis” where suppliers can find out the type of documents, certificates etc which they may be asked to provide in any EU country, even before they decide to bid. This should help suppliers to bid cross-border, if they are unfamiliar with these requirements.**

Selection of Suppliers

- 5.8 **A much simpler process of assessing bidders’ credentials, involving greater use of supplier self-declarations, and where only the winning bidder should have to submit various certificates and documents to prove their status.**
- 5.9 **Poor performance under previous contracts is explicitly permitted as grounds for exclusion.**
- 5.10 **Various improved safeguards from corruption:**
- **Requirements on contracting authorities to put in place appropriate safeguards against conflicts of interest. The rules are not prescriptive on what the safeguards should be, but compliance could be achieved, for example, through a common current practice amongst many UK contracting authorities, where declarations are signed by procurement staff to confirm they have no outside interests with bidders etc;**
 - **Time limits for the exclusion of suppliers (not more than 3 or 5 years depending on the reason for the exclusion);**
 - **Suppliers who have been excluded from public procurement for bad practice can have the exclusion ended if they effectively “self clean”.**

Procedure changes

- 5.11 **Preliminary market consultations between contracting authorities and suppliers are encouraged, which should facilitate better specifications, better outcomes and shorter procurement times.**
- 5.12 **More freedom to negotiate. Constraints on using the competitive procedure with negotiation have been relaxed, so that the procedure will generally be available for any requirements that go beyond “off the shelf” purchasing.**
- 5.13 **The distinction between Part A and Part B Services has been removed, and a new light-touch regime introduced for social and health and some other services. There is an OJEU advertising requirement and other specific**

obligations for this new light-touch regime, but a much higher threshold has been agreed (EUR 750,000).

- 5.14 A new procedure, the “Innovation Partnership” procedure, has been introduced. This is intended to allow scope for more innovative ideas. The supplier bids to enter into a partnership with the authority, to develop a new product or service.
- 5.15 The statutory minimum time limits by which suppliers have to respond to advertised procurements and submit tender documents have been reduced by about a third. This flexibility could be helpful for speeding up simpler or off-the-shelf procurements, but still permits longer timescales for requirements where suppliers will need more time to respond.

Electronic procurement

- 5.16 Electronic versions of the procurement documentation must be available through an internet URL immediately on publication of the OJEU contract notice.
- 5.17 Full electronic communication (with some exceptions) will become mandatory for public contracts 4.5 years after the Public Contracts Directive comes into force (i.e. October 2018). For central purchasing bodies the deadline is three years (April 2017).
- 5.18 The rules on “Dynamic Purchasing Systems” (DPS) have been greatly simplified, with the removal of the onerous obligation to OJEU-advertise call-off contracts made under the DPS.
- 5.19 Electronic catalogues for public procurement are expressly permitted, removing any doubt as to their legality.

Contract award

- 5.20 Improved rules on social and environmental aspects, making it clear that:
- social aspects can now also be taken into account in certain circumstances (in addition to environmental aspects which have previously been allowed);
 - contracting authorities can require certification/labels or other equivalent evidence of social/environmental characteristics, further facilitating procurement of contracts with social/environmental objectives;
 - contracting authorities can refer to factors directly linked to the production process.

- 5.21 **The full life-cycle costing can be taken into account when awarding contracts; this could encourage more sustainable and/or better value procurements which might save money over the long term despite appearing on initial examination to be more costly.**
- 5.22 **Legal clarity that contracting authorities can take into account the relevant skills and experience of individuals at the award stage where relevant (e.g. for consultants, architects, etc).**

Other

- 5.23 **Contracting authorities no longer have to submit detailed annual statistics on their procurement activities. The Commission will collect this information directly from the online system, thereby freeing up valuable time and resources for contracting authorities.**
- 5.24 **Works concessions contracts are excluded from the Public Contracts Directive. The new Concessions Directive will apply to both works and services concessions when it is transposed into UK law.**

6. Training

- 6.1 **The EU procurement rules are detailed and technical and to assist in their understanding the Crown Commercial Service has prepared a training package for contracting authorities (though its contents may also be of interest to suppliers, advisers and other interested parties). This document is a part of that package, which is being rolled out across the public sector.**
- 6.2 **This section of the guide describes briefly the provisions of the EU procurement regime and in particular the new Public Contracts Directive. Where the Public Contracts Directive introduces major changes to the current regime these are highlighted in bold.**
- 6.3 **The training package will be available for free download from <https://www.gov.uk/transposing-eu-procurement-directives> and is also the subject of an electronic learning package which will be available to contracting authorities shortly.**

7. Geographical coverage – which countries have access to the EU rules?

- 7.1 **In addition to the 28 EU Member States and the 3 states of the European Economic Area (Iceland, Liechtenstein and Norway) the benefits of the EU public procurement rules also continue to apply to suppliers from a number of other countries where the EU has entered into an agreement. The main agreement is the one negotiated through the World Trade Organisation**

(WTO) titled the Government Procurement Agreement (GPA) http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm10_e.htm#govt.

7.2 Compliance with the EU rules ensures compliance with the GPA, where it applies, and suppliers from GPA countries have the same rights as EU suppliers. The non-EU countries who are signatories to the GPA are:

- Armenia; Aruba; Canada; Hong Kong, China; Iceland; Israel; Japan; Liechtenstein; Montenegro, New Zealand; Norway; Republic of Korea; Singapore; Switzerland; Taipei; and the USA.

7.3 The EU has similar Free Trade Agreements with some other countries, and contracting authorities should check to see if any of these apply if they receive expressions of interest or bids from suppliers in other, non-GPA countries. A Commission list of such agreements can be found at:

http://ec.europa.eu/internal_market/publicprocurement/rules/free_trade_agreements/index_en.htm

8. Contracts outside the scope of the Public Contracts Directives

8.1 Even when a tender process is not subject to the Public Contracts Directives, (for example because the estimated value of a contract falls below the relevant threshold), EU Treaty-based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality apply. Where the authority considers that a contract is likely to attract cross-border interest it is obliged to publish a sufficiently accessible advertisement to ensure that suppliers in other Member States can have access to appropriate information before awarding the contract. This is in line with the UK objective of achieving value for money in *all* public procurement -- not just those covered by the Public Contracts Directives. Some degree of advertising, (appropriate to the scale of the contract), is likely to be necessary to achieve transparency where the contract is likely to attract cross-border interest.

8.2 The UK regulations will also include some specific UK rules to support growth by improving suppliers' access to public contracts below the EU thresholds ("sub-threshold contracts"). These rules include requirements for advertising all public contracts below the EU thresholds, but over certain other threshold values, on Contracts Finder. They also include a requirement for contracting authorities to have regard to Crown Commercial Service guidance on the selection of suppliers and the award of contracts and to ensure that suppliers pay their sub-contractors within 30 days (as is already required of contracting authorities).

9. Does the Public Contracts Directive apply to the contract?

9.1 The Public Contracts Directive applies in principle to all contracts awarded by a contracting authority.

However, there are some specific exclusions where there is a relevant defence or security dimension, see Annex A, Flowchart 1. **The Public Contracts Directive also exempts certain contracts between contracting authorities where they are effectively meeting genuine ‘in-house’ requirements within a number of contracting authorities.** This could be through the form of a ‘vertical’ arrangement under shared control (so-called ‘Teckal bodies’ from the lead case in the European court, Case C-107/98). Or it might be through a ‘horizontal’ arrangement, where a number of contracting authorities genuinely co-operate with each other to meet a shared legal obligation (as in the *Hamburg* case in the European court, Case C-480/06).

10. Mixed contracts

10.1 **In some cases contracts awarded by contracting authorities will contain elements that are covered under the rules in the new public sector regulations, the new utilities regulations, the new concessions regulations and/or the Defence and Security Public Contracts Regulations. These issues are complex and will be the subject of separate guidance. See Annex A, Flowchart 2 for mixed procurements involving the new public sector regulations, the Defence and Security Public Contracts Regulations and/or Article 346 of the Treaty.**

11. Reservation of certain contracts: mutuals and sheltered workshops

11.1 Mutuals

11.2 **One of the UK priorities in the negotiations was to secure flexibility to enable fledgling public service mutuals to gain experience of delivering services before being exposed to EU-wide competition.** The new Public Contracts Directive permits competition for certain contracts, listed by CPV code, mainly in the social and health sectors, to be “reserved” to organisations such as mutuals and social enterprises meeting certain limited criteria described in Article 77 of the Public Contracts Directive. The reservation works in practice by requiring an OJEU competition for those services using the ‘light touch regime’ referred to at paragraph 12.1 below but only allowing bids from organisations meeting the mutual or social enterprise criteria.

11.3 **The reservation has time-based conditions to prevent misuse, so contracting authorities cannot reserve contracts for organisations that have been awarded contracts within the last 3 years, and contracts cannot be longer than 3 years.**

11.4 Sheltered workshops

11.5 **The Public Contracts Directive also expands the scope of the existing reservation for sheltered workshops/employment programmes** by allowing reservation of any contract for disadvantaged as well as disabled workers, and reducing the minimum proportion of those workers in the supplier’s workforce required for a supplier to be eligible to bid for a reserved contract. The reservation works in practice by requiring an OJEU competition for those services but only allowing bids from organisations meeting the criteria.

12. The ‘light touch regime’ for certain services

12.1 Under the 2006 Regulations there are different rules for so-called 'Part A and Part B' services. In the new Public Contracts Directive, the position for services contracts has changed significantly.

12.2 The main changes include:

- A new “light-touch regime” for a smaller number of categories of services contracts in the health and social service areas listed at Annex XIV to the Public Contracts Directive. Some contracts that were formerly “Part B” but are not listed in the Annex, will be subject to the *full* EU procurement rules;
- A significantly higher threshold than for supplies and for other services (EUR 750,000 for public sector authorities);
- A new obligation on contracting authorities to publish a call for competition in the OJEU, as well as a contract award notice, for above-threshold contracts covered by the light-touch regime.

12.3 Member States have flexibility to design their light touch rules. To preserve as much of the existing flexibility as possible the UK rules will be much less stringent than the full EU rules regime. As well as the OJEU advertising requirements the UK rules will require compliance with the basic Treaty principles (transparency, equal treatment, non-discrimination) and publication in OJEU of contract award notices. Otherwise, there will be considerable flexibility for contracting authorities to use procedures, tools and techniques of their own choosing, whether analogous to those in the main rules or not. More detailed information will be released by the time the UK Regulations come into effect.

13. Aggregation rules and thresholds

13.1 The threshold levels for the application of the Public Contracts Directives (which can be found using the links at: <https://www.gov.uk/transposing-eu-procurement-directives>) will be unchanged because of GPA commitments but the Commission has made a commitment to review, by 2019, the economic effects of the thresholds on the internal market. The Public Contracts Directive's rules on determining the value of a contract are unchanged.

13.2 Where a single work involves more than one contract, the estimated value of all the contracts must be aggregated to decide whether the threshold is reached. Where the threshold is reached, each of the works contracts will be covered by the rules except small contracts (known as small lots) the value of which falls below the de minimis level provided for in the Public Contracts Directive.

13.3 In determining whether the threshold has been or is likely to be reached for public supplies or services contracts, the rules require aggregation:

- of the estimated value of separate contracts for meeting a single requirement; and

- where a series of contracts or a renewable contract is entered into for supplies/services of the same type during a twelve month period.

13.4 Where an authority is divided into a number of separate operational units (SOUs) with authority to decide independently whether to enter into procurement contracts, then aggregation need only be applied to each unit. In other cases the authority as a whole must be considered for aggregation purposes. The Public Contracts Directive provides greater detail as to when aggregation can be carried out at the SOU level.

14. Electronic procurement

14.1 The Public Contracts Directive requires electronic submission of OJEU notices, electronic availability of procurement documents at the time of notice publication, and electronic communication and information exchange for all communication under the Public Contracts Directive, subject to specified exclusions. Contracting authorities must ensure that the tools and devices used for electronic communication meet certain requirements set out in the Public Contracts Directive. Contracting authorities must decide and apply to these communications, appropriate electronic security, guided by a high level framework in the Regulations.

14.2 **The Public Contracts Directive reforms the DPS to remove the previously burdensome need for OJEU**

advertising of “call-off” contracts to be awarded using the system. Under the new rules, only the DPS itself will need to be OJEU-advertised, with call-off contracts being subject to much more straightforward procedures, similar to the established process for awarding call-off contracts under a framework agreement by mini-competition. A key advantage of a DPS compared to a framework, which it resembles, is that suppliers can be added at any time to a DPS provided that they pass the exclusion criteria and minimum capacity requirements. This will greatly streamline the system and allow greater competition to be maintained.

14.3 The Public Contracts Directive also provides helpful confirmation that electronic catalogues can be used as a basis for tenders for contracts or frameworks. Some safeguards are required where contracting authorities intend to compare offers without seeking re-submission of catalogues by suppliers.

15. Central purchasing bodies

15.1 As now contracting authorities may purchase through Central Purchasing Bodies (CPBs). CPBs may act as a ‘wholesaler’ – supplying an authority on the basis of contracts it has itself awarded and/or provide contracting authorities with access to framework deals or dynamic purchasing systems it has established.

16. Frameworks

16.1 **The Public Contracts Directive introduces minor clarifications of the rules on frameworks relating mainly to transparency. Thus contracting authorities must not use a framework unless clearly identified in the notice as permissible users and contracting authorities must be transparent about the methods of call off to be used. It does however confirm that a contract awarded under a framework may have a completion date after the end of the framework.**

17. OJEU advertising requirement

17.1 As now, generally contracts covered by the Regulations must be the subject of a 'call for competition' published in the OJEU. **In most cases this will be a Contract Notice but in a change from the current rules contracting authorities other than central government (e.g. local authorities) will also be able to use the Prior Information Notice (PIN) for this purpose in certain defined circumstances.** A number of detailed changes have also been made to the information that must be included in the notice forms.

17.2 **The Commission is preparing revised versions of its Standard Forms to accommodate these changes. We hope these will be available in time for the UK and other Member States proposing to implement the Public Contracts Directives early. The Crown Commercial Service is considering the most appropriate way to proceed if they are not available and if necessary will issue guidance in due course.**

18. Shorter minimum time limits

18.1 **The minimum time allowed for responses or tenders is reduced to allow flexibility where the current minimum time limits are unnecessarily long.** In certain circumstances these can be shortened further where the requirement is urgent or where sufficient information has already been provided by a prior information notice to allow suppliers to respond quickly. See Annex B for a summary of the time limits in the new Public Contracts Directive.

19. Choice of procurement procedure

19.1 **The new Public Contracts Directive provides for five award procedures, rather than the existing four:**

- **the open procedure, under which all those interested may respond to the advertisement in the OJEU by submitting a tender for the contract;**
- **the restricted procedure, under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender for the contract.**
- the competitive dialogue procedure, under which a selection is made of those who respond to the advertisement and the contracting authority enters into dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender. **The new Public Contracts Directive provides greater freedom to use this procedure than do the existing rules (see below);**
- the competitive procedure with negotiation under which a selection is made of those who respond to the advertisement and only they are invited to submit an initial tender for the contract.

The contracting authority may then open negotiations with the tenderers to seek improved offers. The new Public Contracts Directive provides greater freedom to use this procedure than the existing rules (see below).

- **the innovation partnership procedure, under which a selection is made of those who respond to the advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing ‘product’ on the market. The contracting authority is allowed to award partnerships to more than one supplier.**

19.2 **In certain narrowly defined circumstances the contracting authority may also award a contract using the ‘negotiated procedure without prior publication’. Here the contracting authority would approach one or more suppliers seeking to negotiate the terms of the contract. One of the permitted circumstances is where, for technical or artistic reasons or because of the protection of exclusive rights, the contract can only be carried out by a particular supplier.**

19.3 Contracting authorities have a free choice between the open and restricted procedures. **The competitive dialogue procedure and the competitive procedure with negotiation are available where certain criteria are met, including where the contract is complex or cannot be purchased ‘off the shelf’.** The ‘negotiated procedure without prior publication’ may only be used in the limited circumstances described in the Public Contracts Directive.

19.4 **Contracting authorities using the restricted procedure, competitive dialogue procedure and the competitive procedure with negotiation must aim to select a number of suppliers sufficient to ensure genuine competition. Provided there are sufficient suitable candidates, the Public Contracts Directive requires a minimum of five for the restricted procedure, and three for competitive dialogue and competitive procedure with negotiation.**

20. Stages in the procurement process

20.1 **The Public Contracts Directive includes procedural requirements designed to ensure all suppliers established in countries covered by the rules are treated on equal terms, to avoid national discrimination. The rules in particular cover the following:**

- Specification stage -- how requirements must be described, avoiding brand names and other references which would have the effect of favouring or eliminating particular providers, products or services and the requirement to accept equivalence. The use of performance specifications is encouraged. **The new Public Contracts Directive also makes clear that there is some scope for building into the specification equality issues (e.g. access issues for the disabled) and social/environmental issues (e.g. a requirement to conform to social or environmental labels).** Regarding social/environmental issues, contracting authorities also may specify production processes and methods as long as they are linked to the

subject matter of the contract.

- Selection stage -- there are a number of grounds for the exclusion of suppliers based on evidence of unsuitability, some of which are mandatory. Reasons include criminal conviction for certain offences (mandatory), failure to pay taxes (mandatory) and **previous poor performance which has led to early termination, damages or other comparable sanctions (discretionary)**. Some of the grounds for mandatory exclusion are subject to account being taken of remedial action by the supplier, e.g. organisational changes. **There are statutory limits to the duration of any exclusion period.**
- **Those suppliers not excluded can then be assessed on the basis of their economic and financial standing,**
e.g. whether they meet proportionate levels of financial soundness. **The Public Contracts Directive requires that where this is judged on the basis of turnover this should not normally exceed twice the value of the contract.**
- **Suppliers may also be assessed on their technical capacity and ability e.g. that they will be adequately equipped to do the job and that their track record is satisfactory.**
- **Award stage -- the award of contract must be based on the tender most 'economically advantageous' to the authority (MEAT).** This can however include assessment on the basis of price/cost only as well as other methods including the 'best price/quality ratio' (equivalent to value for money), which can include social and environmental requirements provided they relate to the contract.

20.2 **The Public Contracts Directive also places a duty on the contracting authority to investigate tenders it considers abnormally low and to disregard those that are based on approaches in breach of international environmental or social law.**

20.3 **To allow suppliers to seek effective review of contracting authorities' decisions, contracting authorities will as now be required to include a 10--15 day standstill period⁴ between the point when the decision on the award of the contract is made and the signature of the contract. The standstill letter must provide certain information about the contracting authority's decision. There are detailed requirements for this process, which are set out in the Public Contracts Directive.**

21. Changes to contracts once awarded

21.1 **The Public Contracts Directive provides useful clarity about the extent to which a contract can be changed after award without the need to re--advertise in OJEU.** Permissible grounds for modification include the existence of suitable "clear, precise and unequivocal" review clauses in the contract; or a need for additional supplies or services where a change of supplier is impossible or would cause significant inconvenience or a need for additional deliveries due to unforeseen circumstances (both subject to 50% maximum increase in contract value); or where a new supplier replaces the existing supplier because of insolvency, genuine restructuring etc.

22. Termination of contracts

22.1 **The Public Contracts Directive contains provisions to ensure that Member States' contracts allow termination in circumstances where there has been a breach of EU law on public procurement, particularly where this results from a change in an awarded contract.**

22.2 **The contracting authority must be able to terminate a contract should any of the following three grounds occur:**

⁴ At least 10 days, when the notice is communicated using electronic means, or when using non-electronic means, there is a choice between either 15 days from date of sending; or 10 days from date of receipt

- Where the contract has been subject to a substantial modification that constitutes a new award;
- Where it is discovered after contract award that the contractor should have been excluded on mandatory exclusion grounds;
- Where the Court of Justice of the European Union (CJEU) has declared a serious infringement by the contracting authority of its obligations, meaning the contract should not have been awarded to the contractor.

22.3 The Regulations will specify that contracting authorities must include a condition in contracts allowing them to terminate if any of the grounds are found to apply. As a fallback, the Regulations will also include a deeming provision to ensure this possibility exists where a contract fails to include a termination condition.

23. Enforcement

23.1 The enforcement regime will be included in the Regulations, and derives from the Remedies Directives, which have not changed. The principal means of enforcement for a breach of the Regulations and other enforceable EU law such as the Treaty are:

- action by suppliers against individual contracting authorities in the High Court; and
- action by the Commission against the Member State in the Court of Justice of the European Union (CJEU).

23.2 The High Court's powers include both pre-contractual remedies (i.e. those that can be imposed before the contract is entered into) and post-contractual. Pre-contractual remedies include the power to suspend an incomplete contract award procedure (an injunction) or the setting aside of a decision in an incomplete contract award procedure. The High Court also has powers to award damages as a pre-contractual remedy.

23.3 Post-contractual remedies (for contracts that have already been awarded) include contractual ineffectiveness

(i.e. cancellation, but only for very serious rule breaches,) contract shortening, and civil financial penalties (fines). A properly applied standstill period gives good protection against post-contractual remedies.

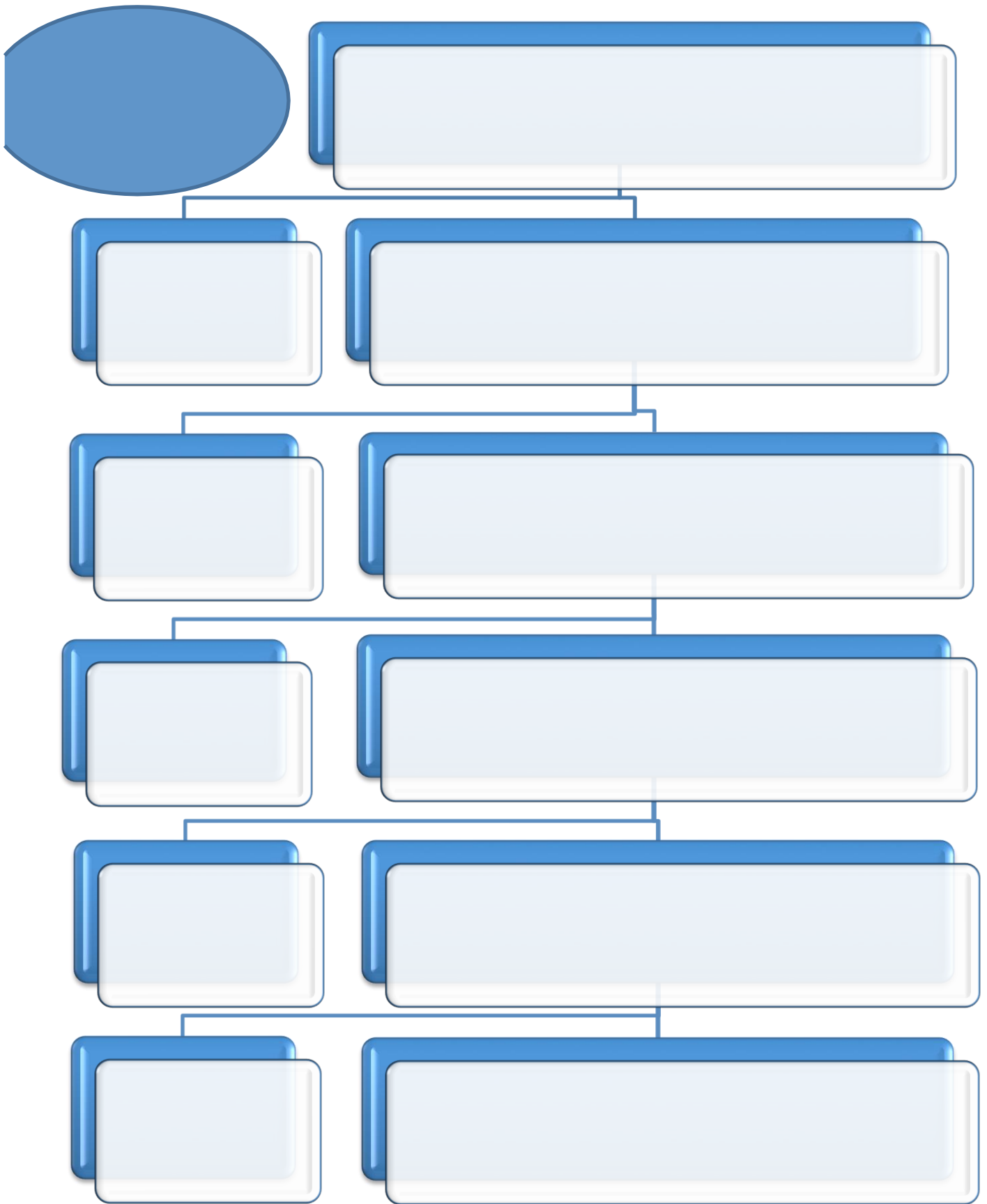
23.4 Cases can also be pursued via the European Commission, for breach of the relevant European Directive and/or the EU Treaties. These cases, where accepted by the Commission, trigger infraction proceedings against the Member State, and can lead to a CJEU hearing, substantial fines, and potentially other CJEU imposed orders against the Member State if the breach is not satisfactorily resolved by other means.

24. Further information

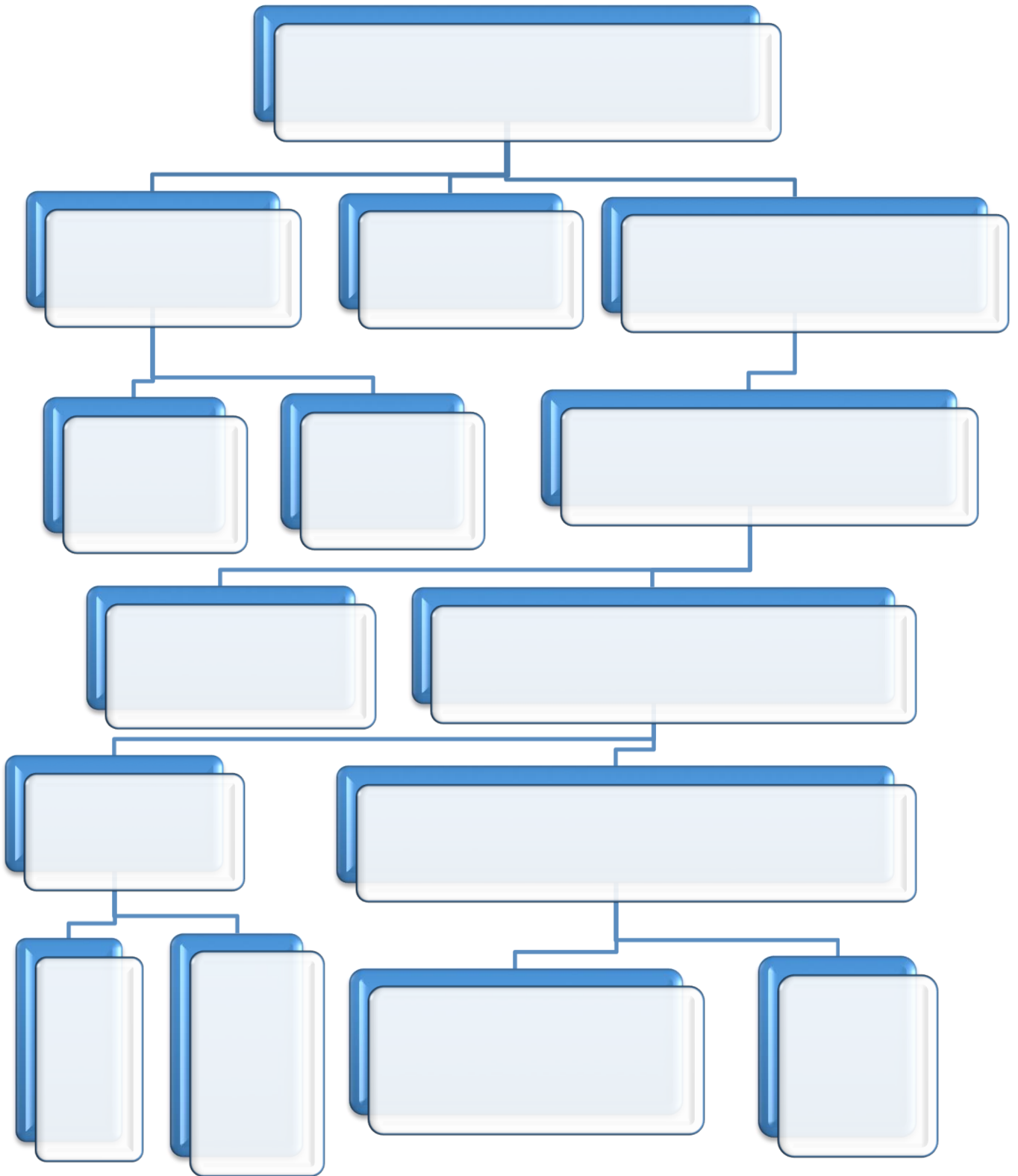
24.1 For further detailed information, including the training materials, see <https://www.gov.uk/transposing-eu-procurement-directives>. More detailed information on certain aspects of the legislation will also be made available in due course.

24.2 Enquiries should be addressed to: Crown Commercial Service, Customer Service Desk:
0345 410 2222

info@ccs.gsi.gov.uk



Annex A



Annex B

OJEU advertising time limits

Minimum OJEU time limits for the Public Contracts Directive

NORMAL MINIMUM TIME	IF ELECTRONIC TENDER PERMITTED	IF URGENT+	WHERE PIN PUBLISHED*	IF SUB CENTRAL AUTHORITY**
Open procedure				
Minimum time limit for receipt of tenders 35 days	Minimum time limit for receipt of tenders 30 days	Minimum time limit for receipt of tenders 15 days	Minimum time limit for receipt of tenders 15 days	..
Restricted procedure				
Minimum time limit for requests to participate 30 days	..	Minimum time limit for requests to participate 15 days	Minimum time limit for requests to participate 30 days	Minimum time limit for requests to participate 30 days
Minimum time limit for tenders 30 days	Minimum time limit for receipt of tenders 25 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders to be set by agreement with tenderers. In the absence of agreement minimum time limit 10 days
Competitive procedure with negotiation and innovation partnerships				
Minimum time limit for requests to participate 30 days	..	Minimum time limit for requests to participate 15 days	Minimum time limit for requests to participate 30 days	Minimum time limit for requests to participate 30 days
Minimum time limit for initial tenders 30 days	Minimum time limit for receipt of initial tenders 25 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders 10 days	Minimum time limit for tenders to be set by agreement with tenderers. In the absence of agreement minimum time limit 10 days
Competitive dialogue				
Minimum time limit for requests to participate 30 days

No explicit time limits for submission of initial/subsequent tenders	--	--	--	--
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Notes

These are minimum time limits. When fixing the time limits for the receipt of tenders and requests to participate, contracting authorities must take account of the complexity of the contract and the time required for drawing up tenders

+ This shorter time limit is allowed where a state of urgency duly substantiated by the contracting authorities renders the minimum impracticable

* This shorter tendering time limit is allowed where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, provided that all of the following conditions are fulfilled:

- (a) the prior information notice included all the information required in section I of the PIN notice referred to in the Public Contracts Directive, insofar as that information was available at the time the prior information notice was published;
- (b) the prior information notice was sent for publication between 35 days and 12 months before the date on which the contract notice was sent.

** ‘ sub---central contracting authorities’ means all contracting authorities which are not central government authorities

ANNEX C

Contracting Extract - Officer Scheme of Delegation

PART I

GENERAL CONDITIONS GOVERNING DELEGATION OF FUNCTIONS TO CHIEF OFFICERS

	Responsibility Delegated from
1. These General Conditions and any amendment of or addition to made by the Council, shall apply to the delegation of functions specified in Part II of this document, and to any amendment of or addition to made by the Council or the Leader or the Monitoring Officer under paragraph 12 of this Part.	-
2. Powers delegated shall be exercised in conformity with the Constitution, Standing Orders, Financial Regulations and other directives of the Council in force from time to time, and in accordance with the expressed policies and objectives of the Council, the Executive or Committees relevant to the matter upon which action is to be taken.	-
3. The delegation of authority to deal with any matter shall not derogate from the power of the Council, the Executive, or Committee, Sub-Committee or Panel to call for a report on any decision or action taken, or to require any such matter under consideration to be referred to the Council or to the appropriate Executive body or Committee Sub-Committee or Panel for determination so far as this accords with the law.	Council/Leader
4. A Chief Officer may refer a matter to the Executive, the appropriate Executive Portfolio Holder or to the Chairman of an appropriate Committee and will, in any event, ensure that care is taken to identify any case within his delegated authority where unusual circumstances or other reasons suggest the desirability of Member consideration.	Council/Leader
5. If a matter involves considerations not within the purview of the Chief Officer primarily concerned, he shall consider whether it is necessary to consult any other Chief Officer concerned before authorising action, shall do so if he concludes it is necessary and shall take due account of any views that are expressed.	Council/Leader
6. When the implementation of a decision taken under the delegated authority by a Chief Officer requires the preparation of formal documents, legal proceedings or other legal process or advice, the Chief Officer concerned shall refer the matter to the Director of Corporate Services for appropriate action.	Council

<p>7. Authority to take decisions and other action including but not limited to the signing of documents and the requirement to arrange consultations shall be exercised and undertaken on behalf of the Council in the name of the Chief Officer to whom the authority to act is given, but not necessarily personally by him.¹ Therefore, under this condition each Chief Officer has power to authorise others to exercise any power conferred on him provided that any such authorisation shall be subject to these General Conditions and be commensurate with the nature of the matters to be dealt with. Further, the Chief Executive may authorise any other Chief Officer to exercise any power delegated to him in this scheme which in his judgement is consistent with that other officer's responsibility. Authorisations given by Chief Officers to others to exercise powers delegated under this scheme should be recorded in writing in a list maintained by each Chief Officer. This shall be taken to mean that, provided a Chief Officer has authorised the person making a decision on his behalf to act, that person may sign in his own name or in his Chief Officer's name when he makes that decision.</p>	<p>Council/Leader</p>
<p>8. The Chief Executive may, after consultation with any Chief Officer, refer to the Executive, the appropriate Executive Portfolio Holder, or appropriate Committee for decision any matter which has been brought to his notice and which, in his opinion, because of special difficulty or otherwise, warrants such reference.</p>	<p>Council/Leader</p>
<p>9. For the purposes of these General Conditions and the general and specific authorities to act to which they apply, the expression 'Chief Officer' shall mean:- e Chief Executive, the Director of Corporate Services, the Director of Education and Care Services, the Director of Environmental Services, the Director of Renewal and Recreation, the Assistant Chief Executive, Human Resources, the Director of Finance and the Chief Planner.</p>	<p>Council</p>
<p>10. Reference to an enactment in a grant of delegation shall be deemed to extend to and include reference to any subsequent enactment having like or similar effect as though the delegation had been granted under the subsequent enactment.</p>	<p>Council/Leader</p>
<p>11. An officer exercising any power under this scheme of delegation shall ensure that some written or other permanent record is made of his decision and, in cases where a range of alternative decisions presented themselves, shall record why he made the particular decision.</p>	<p>Council/Leader</p>

¹ This shall be taken to mean that, provided a Chief Officer has authorised the person making a decision on his behalf to act, that person may sign in his own name or in his Chief Officer's name when he makes that decision.

<p>12. For the avoidance of doubt, the Council and the Leader hereby declare that any exercise of a power by a Chief Officer, or an officer authorised by him and which, if expressly provided for by this Scheme of Delegation, could have been lawfully exercised by an officer under powers delegated to him by the Council or a Committee, shall be deemed to be authorised by this Scheme notwithstanding such express provision may not have been made in it; PROVIDED THAT, where an officer relies on this paragraph, the Monitoring Officer shall be informed by the officer of this action and the Monitoring Officer shall make a report on the matter to the next ordinary meeting of the Council.</p>	<p>Council/Leader</p>
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PART II

Subject to the foregoing, and without derogation from the powers or duties now or hereafter conferred or imposed upon officers of the Council, by statute or by any statutory instrument or regulation, authority to act for and on behalf of the Council without reference to the Council or Executive body or any Committee shall be delegated as follows:-

A. GENERAL AUTHORITIES	Responsibility Delegated from
<p>1. To each Chief Officer Authority to:-</p> <p>(i) Take all necessary action for the effective day-to-day management, administration and supervision of their Department and of the services for which they are responsible, and for the efficient discharge of the professional responsibilities of their office.</p> <p>(ii) Within budgetary provision, take all necessary action for the effective day-to-day management, administration and supervision of the land and buildings for which they are responsible, such action to include for each property concerned and as far as practicable</p> <ul style="list-style-type: none"> (a) proper documentation; (b) appropriate occupation; (c) maintenance to retain value; (d) security and satisfactory appearance; (e) an annual review to ensure property is still required; and (f) prompt release if surplus to requirements. <p>(iii) That all powers delegated to Chief Officers include authority to take action in respect of any London Residuary Body matter transferred to Bromley by virtue of the London Residuary Body (Transfer of Property etc) Order 1990 in the same way and to the same extent that they have delegated powers in respect of any</p>	<p>Council/Leader</p> <p>Council/Leader</p> <p>Leader</p>

equivalent Bromley matters.	
(iv) Incur expenditure and accept tenders for items provided for in the approved revenue estimates or approved capital programme, in accordance with the Council's Contract Procedure Rules.	Council/Leader
(v) Select quotations and tenders for works, services and/or goods within approved budgetary provision on all contracts in accordance with the Council's Contract Procedure Rules.	Council/Leader
(vi) On the best terms obtainable, dispose of stores, plant, vehicles, equipment, furniture or other such items which are obsolete, or are unusable for or surplus to the Council's requirements, subject to the Director of Finance's prior agreement to any consequential writing off of balances of book value.	Leader
(vii) Make adjustments of stock ledgers and accounts following stocktaking, subject to the Director of Corporate Services' prior agreement.	Leader
(viii) Authorise officers under their control to attend conferences, courses and similar events appropriate to their personal, official responsibilities and to the work of the particular Department, in accordance with an approved list or agreed code of practice.	Council/Leader
(ix) Vary annually fees and charges (except car parking) within policy established by an Executive body or Committee.	Council/Leader
(x) Deal with applications for re-grading in accordance with the Council's agreed procedures.	Council
(xi) Sign authorisation documents, with the exception of the Chief Officer's own personal authorisation, which shall be signed by the Director of Corporate Services.	Council
(xii) Where a complaint has been made through the Council's complaints system, decide whether there is a justifiable case for which the Council should apologise and pay compensation, up to a limit of £5,000 in any one case (or, in the case of the Chief Executive, £10,000).	Council/Leader
(xiii) Approve trips to EU countries made on Council business subject; in each case, to a subsequent report to the appropriate Executive body or Committee on the action taken.	Leader
(xiv) Enter into contracts with any voluntary sector organisation (VSO) for the provision of services by way of a service level agreement (SLA) without the necessity of competition, provided that:	Council/Leader

<p>(1) the Chief Officer is satisfied that the VSO is able to provide a satisfactory quality of service and that the sums payable under the SLA represent best value;</p> <p>(2) the relevant Portfolio Holder is notified of any new SLAs being entered into;</p> <p>(3) any approval, extensions or renewals of such SLAs comply with the provisions of rule 13.1 of the Contract Procedure Rules;</p>	
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<p>3. To the Director of Corporate Services Authority to:-</p> <p>(i) authorise proceedings before any Court of Summary jurisdiction in respect of any offence for which the Council by virtue of any Act of Parliament; , regulation, order or bye-law, is now or may hereafter be empowered to prosecute or to authorise the institution of such proceedings; except in cases where some other officer is specifically authorised to act;</p> <p>(ii) authorise proceedings for the recovery of debts of all kinds due to the Council (other than rates) and for the recovery of possession of premises;</p> <p>(iii) authorise the institution or defence of proceedings in the Courts to safeguard the Council's interest;</p> <p>(iv) obtain Counsel's Opinion to ensure adequate advice to the Council or Committees;</p> <p>(v) in accordance with instructions given, institute or defend any legal proceedings authorised to be taken or defended on behalf of the Council, or serve notices, including directions under section 77 of the Criminal Justice and Public Order Act 1994;</p> <p>(vi) take any action urgently required to settle legal proceedings during the course of a trial or other hearing;</p> <p>(vii) authorise permanent or temporary members of staff to represent the Council under Section 223 of the Local Government Act 1972 in proceedings before a Magistrates' Court or a Juvenile Court or Family Proceedings Court and under Section 60(2) of the County Courts Act 1984 to represent the Council in the County Court;</p> <p>(viii) issue written authorities to individual officers to act as the Council's authorised officers in the performance of their statutory or other duties (as evidence of their bona fides); provided that any written authority to enter upon land or premises is in pursuance of a statutory power of entry or inspection;</p> <p>(ix) sign and serve on behalf of the Council notices authorised by statute to ascertain ownership and other interest in land;</p> <p>(x) sign and approve service of Notices to Treat in pursuance of confirmed compulsory purchase orders and, where possession is required without waiting for settlement of terms of acquisition, sign and approve the service of Notices of Entry;</p>	<p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council</p> <p>Council/Leader</p> <p>Council</p> <p>Leader</p>
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(xi) approve the assignment of contracts;	Council/Leader
<p>4. To the Director of Education and Care Services , authority to:-</p> <p>Negotiate schedules of rates and other contractual provisions with registered residential and nursing home providers and/or care service providers to facilitate client choice within community care legislation. Clients should be directed to providers on such Approved Lists although the Director may agree to placement with a non approved provider provided that</p> <p>(i) the clients' choice is appropriate to their needs and</p> <p>(ii) the client meets the relevant eligibility criteria</p> <p>(iii) the costs fall within the rates accepted by the Council for accommodation and/or care for clients with their specific eligibility or a third party has entered into a binding contract with the provider and Council to meet any difference</p> <p>(iv) as far as possible inflationary increases in such rates should be negotiated at the outset.</p>	Leader

AUTHORITIES RELATED TO THE FUNCTIONS OF INDIVIDUAL PORTFOLIO HOLDERS AND COMMITTEES

DECS	(27)	Approve the placing of children with special educational needs in suitable schools as specified in a statement and including day, residential, independent and non-maintained special schools and special schools maintained by other authorities.	Leader
DECS	(28)	Arrange for home or hospital tuition in appropriate cases.	Leader
DECS	(30)	Make arrangements for transport of pupils.	Leader
DECS	(31)	Provide support services as requested by establishments.	Leader
DECS	(41)	In cases of urgency seek planning permission for mobile accommodation at primary and secondary schools in accordance with Regulation 3 of the	Leader

Town & Country Planning General Regulations Act 1992 on the understanding that a full explanation for the need will accompany each application.

Minor Improvement Budget Schemes

DES (62) Approve expenditure on schemes from within the minor improvement budget. Leader

Traffic Management Schemes – Civil Engineering Costs

DES (63) Following agreement in principle to traffic management schemes by the Council, approve the detailed civil engineering element costs. Leader

Contractors Bonds

All (44) Allow contractors to obtain their own bonds for due performance of any proposed contract, subject to the nominated bondsman being acceptable to the Director of Corporate Services and to any additional cost being met by the contractor. Leader

FD (46) The Director of Finance shall be the Chief Finance Officer for the purposes of Section 114 of the Local Government Finance Act 1988. Council

Energy Contracts

FD (51) In consultation with the DECS and relevant Executive Portfolio Holders, to accept energy tenders for gas and electricity for those schools which have opted into a corporate contract (in accordance with the decision of the Executive on 21st July 2008). Leader

FD (52) To accept energy tenders for gas and electricity for the remainder of the Council (in accordance with the decision of the Executive on 21st July 2008). Leader

DECS (18) Authority to allocate Housing Association Programme funds in accordance with the criteria contained in Social Services and Housing Committee Minute 232(g) (21st July 1997). Leader

Libraries

DRR (2) Select and purchase books and other library and museum materials and arrange loan exhibitions. Leader

KEY DECISIONS, MEMBER AUTHORISATION AND DELEGATION

GUIDELINES FOR KEY DECISIONS MADE BY OFFICERS

Where a Chief Officer is taking a Key Decision it must in most respects be dealt with in a similar way to a Key Decision being made by a Portfolio Holder or the full Executive at a meeting. The following guidelines explain what action is required to comply with the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 and the Council's Constitution.

What is a Key Decision?

A Key Decision is an executive decision which

(a) results in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or the function to which the decision relates – the thresholds for the various portfolios are set out below –

Adult & Community Services/Children & Young People/Environment & Leisure Resources	£500,000
Public Protection & Safety/Local Economy	£250,000
	£50,000

(b) is significant in terms of its effects on communities living or working in an area comprising two or more wards. Any decision likely to have an impact on the amenity of a community or quality of service provided by the authority to a significant number of people should be regarded as key.

A Key Decision may be taken by the Council, the Executive, an individual Executive Portfolio Holder or by an officer using delegated powers. Decisions made by Chief Officers concerning the award of contracts will be key decisions where the total value of the contract is likely to be above the relevant portfolio threshold.

Before a Key Decision is made -

- it must be included up to four months beforehand in the monthly **Forward Plan of Key Decisions** issued by Democratic Services.

(The Forward Plan is updated in the middle of each month and a request for new items for inclusion is issued by Democratic Services* at the beginning of each month.)

- a **report** should be prepared by the officer dealing with the matter and issued to the decision taker five clear days** before the decision is to be taken. *The report must be supplied to Democratic Services to be copied to Members. The report need not follow the corporate Committee report format in all respects, but it should set out clearly the recommended decision and the reason for the decision. The report should also include a section for the decision taker to sign and date after the five clear days have expired signifying their agreement.)*

After a Key Decision has been made -

- a **statement of decision** must be issued to all Councillors by Democratic Services
(This must state who has taken the decision, what the decision is and give a statement of reasons - a blank example is attached. Democratic Services will draft the statement of decision from the recommendations and reasons contained in the report.)
- A further period of five calendar working days is allowed during which time the decision may be called in by any five Members (unless reasons of urgency determine that the decision must be implemented immediately.) Only after the call-in period has expired can the decision be implemented. This means that you may need to build in extra time to allow not only for this period, but for the possibility of a call-in. If a decision is called in it will need to be considered by a relevant PDS Committee, which may decide to refer it to the Executive for re-consideration.

Where a matter for decision qualifies as exempt/part 2, no exempt information will be disclosed to the public, but it will still be necessary for the matter to be included in the Forward Plan and for a Part 1 summary of the statement of decision to be available for the public.

* *Democratic Services Contact = Graham Walton, tel. 020 8461 7743*

**** Five clear days excluding the day the report is issued, the day the report is signed and any intervening weekends, public holidays etc**

Updated 15/8/06

LONDON BOROUGH OF BROMLEY
STATEMENT OF KEY DECISION

SUBJECT:

Notice is hereby given that the following Key Decision on the above mentioned subject has been taken by

.....

for the reason(s) set out below.

Summary of Decision:

.....
.....
.....
.....
.....
.....

Reason(s) for Decision:
(to include details of any alternative options considered and rejected)

.....
.....
.....
.....
.....
.....
.....

Mark Bowen
Director of Corporate Services

Publication Date:

Decision Ref: 2006/.....

(This decision will come into force, and may then be implemented on the expiry of 5 working days after the publication of the decision, unless it is subject to call-in.)

SUMMARY OF THE COUNCIL'S "CALL IN" REQUIREMENTS

Holding the Executive to Account

Moving to an Executive decision making model should mean that decision-making is quicker and more efficient but to ensure that decisions made are effective, the Executive and individual Portfolio Holders must be held to account.

This role involves scrutinising Executive and Portfolio Holder decisions at a number of different stages of the decision-making process: before decisions are made, before they are implemented and after they are implemented.

There are a number of ways in which the Executive can be held to account:

- ❑ Examining Executive and Portfolio Holder minutes and agendas
- ❑ Using call-in procedures
- ❑ Attending Executive and Portfolio Holder meetings
- ❑ Examining the Forward Plan of Key Decisions
- ❑ Calling the Portfolio Holder as a witness
- ❑ Meetings with Portfolio Holders
- ❑ Officer briefings

Call-in Procedure

When a decision is made by:

- ❑ the Executive,
- ❑ an individual member of the Executive,
- ❑ a Committee of the Executive or
- ❑ an officer with delegated authority from the Executive;

the decision will be published and sent to all Members of the Council normally within two working days. The decision will come into force, and may then be implemented, five working days from the date of publication.

During that five-day period the decision can be 'called-in'. This procedure allows executive decisions to be scrutinised before they are implemented - an important part of the PDS process. Requests for call-in must be submitted to the Director of Legal, Democratic and Customer Services during this five-day 'call-in' period. Requests should be made, in writing, detailing the reasons for the call-in. Each call-in needs to be supported by five Members of the Council.

The relevant PDS committee will then meet within a time period agreeable to all parties of the call-in. Having considered the decision, the PDS Committee has three options –

- (i) if it decides that the decision is correct, no further action is taken on the call-in and the decision may then be implemented;
- (ii) if it decides that the decision should be reconsidered it may refer it back to the Executive, giving its reasons. The Executive (not just a single Portfolio Holder) must reconsider the matter;
- (iii) in exceptional circumstances, if the Committee considers that the decision contradicts the Council's policy and financial framework, it can refer the matter to a full Council meeting for reconsideration.

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LONDON BOROUGH OF BROMLEY
A GUIDE TO CHANGES IN CONTRACT PROCEDURE RULES

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All costs stated in these contract procedure rules are exclusive of VAT, staff costs and fees.

Terms appearing in the definitions appendix are italicised and capitalised.

Further advice on the interpretation of these requirements can be obtained from the following;

Director of Corporate Services

Director of Finance

Head of Procurement

To aid use of these Contract Procedure Rules the following Colour Coding has been used for those associated with various actions and requirements;

Council /Executive	
Portfolio Holder	
Audit Sub Committee	
Chief Executive	
Director of Corporate Services	
Director of Finance /Head of Finance	
Chief Officer	
Heads of Service	
Head of Procurement	
Contract Manager	
Line Manager	
Officer / Initiating Officer	
Values/Amounts	£

<u>Current EU Limits</u>	£
For Works –	4,322,012
For Supplies and Services (other than Light Touch) -	172,514
For the Specific Services Covered by the “Light Touch” Regime –as identified in Schedule 3 of the Public Contract Regulations	625,050
<u>Current UK Limits</u>	
Additional UK Limits – Publication in Contract Finder	25,000 – 172,514
Permissible LBB CPR Set aside Limit	100,000
Current (additional) UK Limits – Local Government Transparency Code – Mandatory Publication of Procurement Information	5,000
Current (additional) UK Limits – Local Government Transparency Code – Mandatory Publication of Expenditure Information	500

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

INTRODUCTION

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act), which form part of the Council's Standing Orders, are intended to promote good *Procurement* practice, establish *Value for Money*, enhance public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently and protects the Council from challenge on the arrangements used for its contracting activity. They reflect the requirements of the 2015 Public Contract Regulations, which set out the statutory requirements for Public Sector Procurement with a value of £25,000 and above and the Local Government Transparency Code 2015. Further descriptions of these requirements, together with associated Policy, Guidance and Practice Notes can be found the Council's Intranet Site in the Procurement element of the "Manager Toolkit".

VFM/Best Value

All **Officers** responsible for *Procurement* activity or disposal must comply with these Contract Procedure Rules. They lay down minimum requirements only; a more thorough procedure may be appropriate for a particular contract.

(For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rule 3 even if one might apply or be granted.)

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy documents or information issued via a Council E Procurement System.

- Follow the rules if you purchase goods or services or order construction work of any type;
- Take all necessary legal, financial, *procurement* and professional advice;
- Declare any personal financial interest in a contract. Corruption is a criminal offence;
- Conduct a *Service Best Value* review to establish *Value for Money* and *appraise inform* the *Procurement* need;
- Check whether there is an existing *Corporate Contract or appropriate framework* you can make use of before undergoing a competitive process;
- Normally allow at least *30 days four weeks* for submission (more *as required*, if above EU Threshold) of bids. (*where not being submitted by fax or e-mail – slightly less if they are*);(unless there are good reasons not to);
- Keep bids confidential;
- Complete a written contract *and / or Council Purchase Order* (using its E Procurement Systems where possible) before the supply, *service* or works begin (*unless otherwise agreed by the Director of Corporate Services*);
- Identify a contract manager with responsibility for ensuring the contract delivers as intended;
- Keep records of dealings with all tenderers and contractors;

- Assess each contract afterwards to see how well it met and continues to meet the *Procurement* need and *Value for Money* requirements.

In accordance with the *Constitution*, the *Director of Corporate Services*, in agreement with the *Director of Finance* shall have the power to make amendments from time to time to these Contract Procedure Rules *subject to a report being made to the Council within 3 months of any amendment being made*. The Chief Executive, in agreement with the *Director of Corporate Services*, and the *Director of Finance* shall have the power to amend the titles of the responsible officers identified within these Contract Procedure Rules where these result from changes in organisational structure and/or other amendments to roles and responsibilities of the *Officer* concerned.

The *Head of Procurement* will make the latest version of these Contract Procedure Rules and its associated Guidance Notes available to all officers and members as necessary and be responsible for its circulation and communication

The Council's "*Guide to Successful Procurement*" *Various Practice Notes and Best Practice Guidance Notes and associated processes*, which can be found on the Council's Intranet *Site* in the *Procurement* element of the "*Manager Toolkit*". These complement these Procedural Rules and have been prepared to assist those involved in the *Procurement* process to identify and use best practice. The practices identified should be used by those involved in contracting processes and arrangements unless an alternative course of action has been agreed by the *Head of Procurement* in consultation with the *Director of Corporate Services* as necessary. In any case the requirements set out in these *Contract Procedural Rules* must be followed unless a general or specific derogation has been agreed by the Council.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

1.1 All *Procurement* and disposal procedures must:

- Achieve *Best Value* for public money spent;
- Enable a Value for Money *Procurement* decision based on *Whole Life Costing* and the consideration of *Sustainable Procurement* practice and any associated *Life Cycle Costings*.
- Support Local Business to the maximum extent permitted by law and the duty to demonstrate value for money;
- Be consistent with the highest standards of integrity;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Ensure that *Non-Commercial Considerations* do not influence any *Contracting Decision*;
- Support the Council's Corporate and Departmental Aims and Policies;
- Comply with the Council's *Corporate Procurement Strategy*.

1.2 In determining the estimated cost (or value) identified in these Rules the following shall apply:

- **Officers** shall not sub-divide work which could reasonably be treated as a single contract;
- The total estimated value of orders for a given type of goods, services or work should wherever practicable be amalgamated for the purpose of determining *Procurement*, in any case due regard should be given to the "Method for Calculating the Estimated Value of Procurement" identified in Regulation 6 of the *Public Contract Regulations*. This will also apply to *Framework Agreements* or *Draw Down Facilities*;
- If a contract/arrangement is for a period greater than one year then the estimated value of orders to be placed over the full period (including any identified extensions) should be used to determine the appropriate procedure inclusive of any allowance for inflation;
- Where contracts run year to year with the Council or Contractor having the option to terminate on notice the value of the contract shall be calculated over the period prior to the date when the break clause may first be exercised. Unless otherwise agreed by **Director of Corporate Services** in consultation with **Head of Procurement** the contract term should not exceed 4 years in total (including any optional extension period(s));
- Where leasing arrangements are used, the total amount payable over the life of the lease shall determine the appropriate procedure;
- Where contracts entail both revenue and capital costs (e.g. acquisitions and support for IT systems) the value of the contract shall be calculated by the aggregation of the total estimated capital cost and the estimated revenue costs calculated as identified above;
- If the lowest quote/tender obtained exceeds the upper limit applicable to the procedure selected, the **Chief Officer** should consider (and record the reason) whether the procedures for the higher category should be applied.

1.3 The formal advice of the **Director of Corporate Services** and the **Director of Finance** (or their **nominees**) must be sought for the following contracts:

- Where the *Total Value* exceeds **£100,000**;
- Those involving leasing arrangements;
- Where it is proposed to use a supplier's own terms;
- Those involving the purchase of application software with a *Total Value* of more than **£50,000**;
- Involve the placement of a *Contract* with another *Public Sector Organisation*, other than through a *Framework Agreement*, authorised as required in these Contract Procedure Rules;
- Arrangements which require the provision of a formal Gate Report to be made to Members during any stage of the contracting process;
- Those that are complex in any other way.

1.4 The *Public Contract Regulations* (see Annex B of these *Contract Procedure Rules*) provide for five (5) main processes under which *Works, Services and Supplies*, that fall within their provisions can be placed. These are identified as being the (1) “*Open Procedure*”; the (2) “*Restricted Procedure*”; the (3) “*Competitive Dialogue Procedure*”; (4) “*Competitive Procedure with Negotiation*” and (5) the “*Innovation Partnership Procedure*”. In addition, but only in very limited circumstances, (6) a “*Negotiated Procedure without Prior Publication*” may be used. However, unless the formal Advice of the **Head of Procurement** has been obtained, and the Agreement of the **Director of Corporate Service** and the **Director of Finance** given, only the first two of these options may otherwise be used.

1.5 Provision is also within the *Regulations* for the placement of those activities identified in Schedule 3 – “*Social and Other Specific Services*” – to which a “*Light Touch Procurement Regime*” may be applied, which differs from those for other *Works Services and Supplies*, and provide for differing arrangements above and below a threshold of **£625,050**, as identified in Section 7 of the *Public Contract Regulations*, which must be followed in the placement of requirements under this provision.

1.6 For all activities, UK specific requirements as set out in Part 4 of the *Public Procurement Regulations*; apply to any arrangements made with a value greater of **£25,000** and above.

Further detailed *Procurement Guidance* on the requirements around the contracting arrangements for contract valued at, **£25,000; £50,000; £100,000; £172,514 £500,000; £625,000 and £1,000,000** are provided in the *Best Practice Guidance Notes* which can be found on the Procurement Site in the *Managers Toolkit*.

1.7 Where the estimated value of any intended Contract, either singly or in aggregate, or as otherwise identified in the *Public Contract Regulations*, identifies the Contract as being subject to its requirements, the formal advice of the **Head of Procurement** must be obtained, Any required Notice or details issued under these *Regulations* must be agreed with and issued, as required, by the **Head of Procurement**.

1.8 The Council must ensure that it treats all economic operators equally and without discrimination and must act in a transparent and proportionate manner in its contracting arrangements.

1.9 Unless agreed by the **Director of Corporate Service**, following Consultation with the **Head of Procurement**, the Council's Standard Contract and Tender Process Forms (which are embedded in its *E Procurement System* and/or included within the *Procurement Toolkit*), together with the identified methodologies for their assessment and evaluation, must be used.

1.10 The authorisation of matters which have implications for the Council's Pension Fund, which result from any Contracting Decision, must be Authorised by GP&L Committee (or the Council), acting on recommendations made by the Pensions Sub-Committee.

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 **Officers** responsible for *Procurement* or disposal must comply with these Contract Procedure Rules, *Financial Regulations*, the Officers Code of Conduct and with all UK and **Public Contract European Union** binding legal requirements. **Officers** must ensure that any *Agents*, *Consultants* and contractual partners acting on their behalf also comply with these requirements.

2.1.2 **Officers** must:

- Have regard to the *Best Practice Guidance* identified above in guidance the **Council's "Guide to Successful Procurement"**;
- Check whether a suitable *Corporate Contract* exists before seeking to let another contract; where a suitable *Corporate Contract* exists, this must be used unless there is a justified and auditable reason not to;
- Keep the records required by Rule 6;
- Take all necessary legal, financial, **procurement** and **other** professional advice;
- Estimate the cost (or value) of the **Supply Goods**, *Service or Work* required in accordance with Rule 1.2 above.

2.1.3 No *Order* or *Contract* shall be raised or placed unless there is uncommitted budgetary provision (revenue estimate and/or Capital Programme) to meet the estimated cost (or value) unless it relates to matters undertaken (and reported as required) for reasons of *Extreme Urgency*.

2.1.4 The *Estimate Cost (or Value)* calculated as provided for above will be used to determine the arrangements to be followed in seeking and agreeing quotations and tenders for the Council.

2.1.5 When any employee either of the Authority or of a service provider may be affected by any transfer arrangement, **Officers** must ensure that the Transfer of Undertaking (Protection

of Employment) (*TUPE*) issues and any Pensions matters are considered and obtain legal and financial advice before proceeding with inviting *Tenders* or *Quotations*.

2.2 Chief Officers

2.2.1 The *Head of Procurement* *Director of Finance* will maintain a Register of all Contracts with a value of **£200,000** and above. Directorates are required to use the Corporate System to record contracts with an estimated value of **£50,000** and above, in the detail it requires and provide for its update on a quarterly basis.

2.2.2 *Chief Officers* must:

- Ensure that their staff comply with Rule 2.1;
 - Keep registers of:
 - Contracts completed by signature, rather than by the Council's Seal (see Rule 17.3) and arrange their safekeeping on Council premises;
 - Exemptions recorded under Rule 3.2.
-

3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

3.1 The Council and its Executive have power to Waive any requirements within these Contract Procedure Rules for specific projects, and any such decision may be a Key Decision.

3.2 Where there is the need to Waive the requirements for Competitive Bids pursuant to rule 13.1 or any other provision of these Contract Procurement Rules because of an unforeseeable emergency involving immediate risk to persons or property or serious disruption to Council services or significant damage or potential damage to the image or reputation of the Council (including circumstances which require a Head of Service to invoke a Business Continuity Plan) a Chief Officer may exercise such Exemption or Waiver subject to the following:

- (i) Where the value of a relevant contract (or proposed contract) exceeds £50,000 the Agreement of the Director of Corporate Services shall be obtained.
- (ii) Where the value of a relevant contract (or proposed contract) exceeds £100,000 the Agreement of the Director of Corporate Services, the Director of Finance and the Agreement of the relevant Portfolio Holder shall be obtained. A report advising on the action taken shall be submitted to the Audit Sub Committee on a bi-annual basis.
- (iii) Where the value of a relevant contract (or proposed contract) exceeds £1 million the Agreement of the Director of Corporate Services, the Director of Finance and the Agreement of the relevant Portfolio Holder shall be obtained. A report advising on the action taken shall be submitted to the next meeting of the Executive and to the Audit Sub Committee on a bi-annual basis.

3.3 All exemptions (as identified above and in Rule 13.1), and the reasons for them, must be completed in writing and recorded using the form in the Council's "Guide to Successful Procurement". Exemptions shall be signed by the Officer and countersigned by the Director of Finance and Director of Corporate Services. For the purpose this and associate CPR requirements an exchange of e mails or correspondence via similar electronic mediums can be taken to evidence such action.

3.4 Heads of Finance must hold a record and monitor the use of all exemptions granted.

3.5 Use of Framework Type Arrangements

3.5.1 In seeking to demonstrate Value for Money, the Head of Procurement must be consulted and the agreement of the Director of Finance obtained prior to commencing any Procurement process using any Framework Contract, Dynamic Purchasing System arrangement or Catalogue provided by "Crown Commercial Services Office of Government Commerce (OGC) Buying Solutions or a similar Central Purchasing Organisation Contracts, or Joint Contracts with another Authority. The terms and conditions of contract applicable to any such arrangement, including the requirement to undertake competition between providers, must be fully complied with and agreed by the Director of Corporate Services.

3.6 All Any purchases proposed to be made via any of the entities identified in CPR3.5.1 above *Central Purchasing Organisation, the Office of Government Commerce, a local authority or similar consortium* are deemed to comply with these *Contract Procedure Rules* and no exemption is required. However, purchases above the *EU Threshold* must be let placed under an *EU compliant process Procedure*, unless the consortium has satisfied this requirement already by letting their contract in accordance with the *EU Procedures* on behalf of the authority and other consortium members, however, advice must be sought from the *Head of Procurement*. *as the Council* has a legal responsibility for their proper use of such arrangements and any necessary standstill requirements for an above threshold call off observed.

3.6.1 In order to secure *Value for Money*, the authority may Before entering into any collaborative procurement arrangements, joint contracts or shared service arrangements with another Public Body or Private Entity, other than those identified in 3.5 above, the *Officer* must consult with the *Director of Finance* and the *Director of Corporate Services*. *where the purchase is to be made using collaborative Procurement arrangements including a local authority, government department, statutory undertaker or public service purchasing consortium.*

3.6.2 All *Contracts* placed under these types of arrangement will be reported as required in these *Contract Procedure Rules*

3.7 Where a *Service* is to be provided by a *Voluntary Sector Organisation* through an external *Service Level Agreement* and providing such *Service(s)* is amongst those covered within the arrangements identified in the “*Light Touch Regime*” provided for under Section 7 of the *Public Procurement Regulations*, the relevant *Chief Officer*, in consultation with the *Director of Corporate Services*, can decide not to obtain competitive tenders or quotations provided that:

- The *Chief Officer* is satisfied that the *Voluntary Sector Organisation* is, or will be able to provide a satisfactory quality of *Service* and that the sums payable under any *Service Level Agreement* entered into represent *Value for Money*;
- The relevant *Head of Finance* keeps a record of all payments made and any *Grants* received under the *Service Level Agreement*;
- The *Service Level Agreement* is time limited and subject to renewal under the arrangements identified in this Rule.

Approvals will be obtained as provided for in Rule 13.1, as appropriate for the estimated total value of the intended arrangement and in all cases any overriding requirements of the *Public Contract Regulations* will be observed.

3.8 E Procurement Arrangements

3.8.1 All *Officers* are required to make use of the Council's *E Procurement System* (ProContract) when carrying out any Contracting activity which has an estimated value of *£5,000* and above, unless otherwise agreed with the *Head of Procurement*. Where the Council's *E Procurement System* is not used the relevant *Chief Officer* shall ensure that the information required by CPR 6 is recorded and included within any information required to be published by the Council.

3.8.2 The use of e-procurement technology does not negate the requirement to comply with all elements of these Contract Procurement Rules, particularly those relating to completing contracting activity in a fair and transparent way, with any necessary degree of competition and in a way required to establish *Value for Money*.

3.8.3 Unless otherwise agreed by the **Director of Finance** any Purchase Orders placed must make use of and be issued through one of the Council's standard electronic IT systems / processes via *I Proc; Carefirst or Confirm*.

4. RELEVANT CONTRACTS

4.1 All *Relevant Contracts* must comply with these *Contract Procedure Rules*. A *Relevant Contract* is any arrangement made by, or on behalf of, the authority (including schools) for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The supply or disposal of goods;
- The hire, rental or lease of goods or equipment;
- The delivery of services, including (but not limited to) those related to;
 - the recruitment of staff;
 - land and property transactions;
 - financial and consultancy services;

4.2 *Relevant Contracts* do not include:

- Contracts of employment which make an individual a direct employee of the authority, or
- Agreements regarding the acquisition, disposal, or transfer of interests in land (for which *Financial Regulations* shall apply). or
- Are otherwise include in Section 10 of the *Public Procurement Regulations 2015*.

However, any such Services must be procured in a way which demonstrably secures *Value for Money* and/or as appropriate, *Best Consideration*.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

5.1 The **Officer** must review the intended *Procurement* in a manner commensurate with its complexity, risk and value, taking into account any relevant guidance contained in the *Council's "Guide to Successful Procurement, by: Best Practice Guidance Notes and associated processes included in the Procurement Element of the Managers Toolkit,*

- Taking into account the requirements from any relevant *Best Value Service* review;
- Appraising the need for the expenditure and its priority;
- Defining the objectives of the purchase;
- Assessing the risks associated with the purchase / procurement and how to manage them, including those associated with any required consultation, TUPE, Pensions, Insurance and the Tax implications of any contracting arrangements proposed, together with the Social Value Act Legislation;
- *Undertake Preliminary Market Consultation* with the "Market" and Service Providers as appropriate and to the extent provided for in the Public Contract Regulations (Cl.40), providing this does not distort or compromise the contracting process;
- Considering what *Procurement* method is most likely to achieve the *Procurement* objectives, including internal or external sourcing, partnering, packaging strategy and collaborative *procurement* arrangements with another local authority, government departments, statutory undertakers, public service procurement consortium or Central Purchasing Organisations (CPO's); Contract Length;
- Consider the appropriate time limits allowed for the completion of the tender process and any statutory requirements that may apply;
- Consulting users, staff and other interested parties, as appropriate, about the proposed *procurement* method, contract standards and performance and user satisfaction monitoring;
- Identify and record the reasons for any "Lotting" Strategy to be used;
- Drafting the terms and conditions that are to apply to the proposed contract;
- Consider the approach to be taken to performance and contract management and the reporting arrangements needed to ensure the delivery of the required service.
- Ensuring the correctness of any use of member or delegated approval for the expenditure and that the purchase is in accord with the approved policy framework, *Scheme of Delegation* as set out in the *Constitution*;
- If the purchase is a *Key Decision*, all appropriate steps have been taken
- Setting out these matters in writing if the *Total Value* of the purchase exceeds **£50,000**.
- Ensure that for any Contracts involving the Outsourcing (or Insourcing) of any requirements, the necessary Legal, Finance, Pensions, HR, Procurement and IT advice is obtained.

5.2 Where the estimated value of the intended arrangement requires the publication of an *OJEU* and / or *Contract Finder Notice*, the required Procurement Documents must be available at the point of publication.

5.23 Where the estimated value of the intended arrangement is **£500,000** or more the relevant **Portfolio Holder** will be *Formally Consulted* on the intended action and contracting arrangements, having submitted, for consideration, a formal “*Gate Report*”, covering, as appropriate, the matters identified in the Council’s Standard “*Gate Reporting Template*”. Reports produced must identify, after discussion with the *Relevant Officers in Legal, Finance, Human Resources, Procurement and Information Technology*, any service and cost implications arising from the proposals being considered.

5.34 Where the value of the intended arrangement is **£1,000,000** or more the **Executive** will be *Formally Consulted* on the intended action and contracting arrangements, having submitted for consideration a formal “*Gate Report*”, covering as appropriate, the matters identified in the Council’s Standard “*Gate Reporting*” Template..

6. RECORDS

6.1 Information to be maintained under the requirements of the “Local Government Transparency Code 2014”

6.1.1 As provided for within the above Code, for all Invitation to Tender or Requests for Quotations with an estimate value of **£5,000** and above, the relevant **Chief Officer**, shall ensure that the following Information and Procurement Records (including that for staff who are employed via consultancy firms of similar agencies or otherwise work on behalf of the Authority), is maintained and provided for publication as necessary.

At the time of the issue of any Invitation to Tender or Request for Quotation the required information to be provided shall include the following;

- reference Number;
- title;
- description of Work / Goods or Service Required;
- the Start and End Date together with any Review Dates envisaged;
- the Service Area responsible.

At Contract and/or Award, the following additional information shall be provided for publication;

- the suppliers name and details;
- the sum to be paid over the length of the Contract (or the estimated annual spend or budget for the Contract);
- any Value Added Tax that can’t be recovered;
- whether or not the contract was a result of a Request for Quotation or a published Invitation to Tender;
- Whether or not the supplier is a small or medium sized enterprise and/or community sector organisation and if so provide the relevant registration number.

The information identified within CPR 6.1 are mandatory fields for completion within the Council’s E Procurement System (ProContract). The System will automatically publish the

required details and the use of the Council's E Procurement System, therefore, negates the need for a separate record of this information to be maintained by the relevant Chief Officer. The published E Procurement System Record will be considered to be the Council's Contract Register for activities valued between £5,000 and £50,000. Check what Confirm and Carefirst set out

6.21 Where the information is not held on the Council's E Procurement System and for Contracts with an estimated value Where the Total Value is less than £50,000, the following contractual records must also be kept by the relevant Chief Officer:

- Invitations to quote and *Quotations*;
- A record:
 - of any exemptions and the reasons for them,
 - of the reason if the lowest price 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.

6.2 Where the Total Value exceeds £50,000 the Officer must also record:

- The method for obtaining *Bids* (see Rule 8.1);
- Details of any required Notice and/or advert placed;
- Any *Contracting Decision* and the reasons for it;
- Any exemption under Rule 3 together with the reasons for it;
- The *Award Criteria* in descending order of importance;
- *Tender* documents sent to and received from *Candidates*;
- Pre-tender market research;
- Changes to the contracting timetable
- 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.

6.3 Records required by this rule must be kept for six years (12 years if the contract is under seal) after the end of the Contract. (However, written documents which relate to unsuccessful *Candidates* may be microfilmed or electronically scanned or stored by some other suitable method or disposed of after 12 months from award of contract), provided there is no dispute about the award. Documents may then be disposed of as identified in the Council's *Financial Regulations*

6.4 Where the Total Value exceeds £50,000 the Directorate or Department concerned shall maintain a record of the contract placed in the *Service Contract Register*, using the corporate system, unless otherwise agreed by the Head of Procurement.

6.5 Where the Total Value exceeds £200,000 the Director of Finance Head of Procurement will maintain a record of the contract placed, using the information provided under CPR 6.4, to compile using the information provided by the *Corporate Contract Register*.

7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS – Restrictions on Use

7.1.1 The Public Contract Regulations and their accompanying guidance limit the opportunity to make use of “Approved Lists” for requirements with an Estimated Value above £100,000, without the opportunity also being advertised in Contracts Finder and allowing any who respond to be considered in the tender process.

7.1.2 Where the Estimated Value of an Opportunity is lower than the EU Threshold for Supplies and Services the Authority is also prevented from making use of any Pre-Qualification process and is required to invite all those expressing an interest, who pass any Suitability Criteria set, to Quote or Tender for the Opportunity identified.

7.1.3 As a result Approved Lists, such as *Constructionline*, should only be used in appropriate circumstances, as agreed in discussion with the *Head of Procurement*. For opportunities with an Estimated Value below £100,000 the arrangements identified in the Council’s “**Local Rules - OK**” procedure (as included in the Appendices to these Rules), may also be used, unless there are operational considerations which prevent their use.

7.1.4 Where the Councils E Procurement system is not used to manage the tender process the *Chief Officer* will be responsible for ensuring the issue of any Contract Notices and Advertisements, including those for Contract Finder, required.

7.21 Identifying and Assessing Potential Candidates

7.21 .1 *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Candidates* located in other member states of the EU or as otherwise required within the *Public Contracts Regulations*, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements / notices may be placed include:

- The Council’s website;
- Portal websites specifically created for contract advertisements;
- National official journals; or
- The Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED) (even if there is no requirement within the *EU Procedure*);
- Contracts Finder **Supply2Gov**.

However, the contract opportunity must always be published in Contract Finder if any type of advertisement is to be made.

7.21.2 Where the estimated value of the Contract is greater than £100,000 The *Officer* shall consult with the *Head of Procurement* on the detailed requirements of Part 4 of the *Public Contract Regulation* and their requirement for the envisaged contracting arrangement (see Annex B of these Contract Procedural Rules).

7.21.32 **Officers** are responsible for ensuring that all *Candidates* for a *Relevant Contract* are suitably assessed. The assessment process, shall establish that the potential *Candidates* have sound:

- economic and financial standing;
- technical ability and capacity;

to fulfil the stated requirements of the authority. However, where the estimated value of the contract is below that identified in CPR 7.1.2 the “*Suitability Assessment*” shall be incorporated into the tender process and documentation as part of the Invitation to Tender.

7.21.43 This shall be achieved in respect of proposed contracts by selecting firms from:

- *Approved Lists* of providers, maintained by the authority or on its behalf, and compiled following responses to a public advertisement; or
- Shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement, placed on Contract Finder in the first instance.

In the case of *Contracts* with an *estimated value* above the relevant *EU Thresholds* the authority must only consider candidates who respond to the relevant *OJEU Contract Notice*.

7.21.54 Public advertisements issued in respect of Rule 7.1.3.2.4 above shall reflect the potential degree of interest from *Candidates* located within other member states of the EU.

7.32 Approved Lists

7.32.1 *Approved Lists* should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. *Approved Lists* cannot be used where the *EU Procedure Public Contract Procedures* apply.

7.32.2 **Chief Officers** may draw up in consultation with the **Head of Procurement**;

- *Approved Lists* of persons ready to perform contracts to supply goods or services of particular types including without limitation on the basis of agreed contract terms:
- Criteria for *Shortlisting* establishing the suitability of those being invited to participate from the lists.

7.32.3 No person may be entered on an *Approved List* until there has been an adequate investigation into both their financial and their technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.

7.32.4 *Approved Lists* must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers as appropriate for the nature and value of the intended contract and in compliance with any EU Public Procurement requirements. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 7.32.3 are met.

7.32.5 The list and *Shortlisting* criteria must be reviewed, by the **Chief Officer** at least annually or as otherwise considered necessary and re-advertised at least every three years unless otherwise agreed by the **Director of Corporate Services** and **Director of Finance**. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply. Review means:

- The reassessment of the financial and technical ability and performance of those persons on the list, unless such matters will be investigated each time bids are invited from that list;
- The deletion of those persons no longer qualified, with a written record kept justifying the deletion.

7.32.4 All *Approved Lists* shall be maintained in an open, fair and transparent manner, and be open to public inspection and be compiled and operated in compliance with the relevant Public Contract Regulations.

7.32.5 A register of pre-qualified contractors and *Consultants* maintained by or on behalf of Central or Local Government, a Central Purchasing Organisation or similar body will be deemed to be an *Approved List* for the purpose of these contract procedure rules and shall not be subject to the requirements of Rules 7.32.2 to 7.32.6 inclusive.

7.32.6 Any *Approved List* compiled and operated by the Council will reflect the overarching basic principles identified in Rule 1.1.

7.43 Framework Agreements, Dynamic Purchasing Systems and Electronic Catalogues

7.43.1 The term of a *Framework Agreement* unless otherwise agreed, by the **Director of Corporate Services** and **Director of Finance**, must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

7.43.2 In general terms Contracts based on a *Framework Agreements* may be awarded by either:

- Applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- Where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
 - inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the contract to submit written *Tenders*
 - fixing a time limit which is sufficiently long to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract

- awarding each contract to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.

However, the specific requirement on the operation of Framework agreements, identified below, for opportunities valued above and below the stated thresholds must be followed.

7.4.3 Where a Framework agreement is intended to be used for a Contract with an Estimated Value **above** the relevant EU Thresholds it must be operated as provided for in Part 2 / Section 4/ 334 of the Public Contract Regulations (see Annex B of these Contract Procedure Rules).

7.4.4 Where a Framework agreement is intended to be used for a Contract with an Estimated Value **below** the EU Thresholds it must be operated as provided for in Part 4 /Section 106 of the Public Contract Regulations (see Annex B of these Contract Procedure Rules).

7.4.5 In a similar fashion use may be made of Dynamic Purchasing Systems and Electronic Catalogues providing they are operated in accordance with the arrangements identified in 7.4.4 above.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The **Officer** must calculate the *Estimated Cost (or Value)*.

The following procedures apply where there are no other procedures, which take precedence. Other procedures may include **Regulatory Requirements**, agency agreements with Government or other Public Bodies. If in doubt, **Officers** must seek the advice of the **Director of Corporate Services**.

It is a requirement of the Public Contracts Regulations that, for both above and below EU threshold activity all contract documentation should be available prior to the issue of any required Notice or posting to “Contract Finder”.

To encourage SME engagement in the tender process and unless there is good reason not to do so, consideration should be given (and a reason not to do so recorded) to divide the opportunity in to “Lots”, however the total value of all such “Lots” will determine the value to be taken in to account when determining the Procurement route to be taken.

Under Regulatory Powers introduced by the UK Government, Prior Qualification Questionnaires are only permitted to be used for contracting arrangements with an estimated value at or above the EU Threshold for Services and Supplies. The Content of the Questionnaire to be use is prescribed by the legislation and any deviation from it are required to be reported to Crown Commercial Services. Below the value identified above a “Suitability” Assessment Process, which is relevant and proportionate to the subject matter of the intended procurement, included within an open tender process, must be used unless other arrangements around these requirements, have been specifically allowed for by the Secretary of State.

8.1 Procurement – Competition Requirements

8.1.1 Where the *Estimated Cost or Value* for a purchase is within the limits identified in the in the first column below, the *Award Procedure* in the second column must be followed. *Shortlisting* shall be done by the persons specified in the third column.

<i>Estimated Cost (or Value)</i>	<i>Sourcing Procedure</i>	<i>Short Listing By</i>
Up to £5,000 (£25,000 for Consultancy Services)	One oral <i>Quotation</i> (confirmed in writing where the <i>Estimated Cost or Value</i> exceeds £1,000) using the Approved List as appropriate Using the Council’s “Local Rules” Process where possible and other Approved Lists where Authorised	Officer
£5,000 - up to £25,000	3 written <i>Quotations</i> using the Approved List as appropriate Council’s “Local Rules” Process where possible and other lists as Agreed with	Officer

	the Head of Procurement .	
£2550,000 – up to £100,000	Request for Quotation using the Council’s “Local Rules” Process where possible and other lists as Agreed with the Head of Procurement ., to at least 3 and no more than 6 Candidates If for whatever reason, a Request for Quotation is made using a Public Advertisement, the opportunity must also be included on “Contract Finder”, with all Suitable Candidates responding, being considered. In both cases use must be made of the Council’s E Procurement System, unless otherwise agreed by the Head of Procurement .	Officer and Line Manager
£100,000 up to the EU Threshold for Supplies and Services (applies to all activities)	<i>Invitation to Tender to at least three and no more than five Candidates using the Approved List as appropriate</i> making use of a Public Advertisement. The opportunity must also be included on “Contract Finder”, with all Suitable Candidates responding, being considered. No Prior Qualification process is permitted Use must be made of the Council’s E Procurement System, unless otherwise agreed by the Head of Procurement .,	Officer, HOS and Head of Procurement Head of Finance
£100,000 – up to The EU Threshold and / or £500,000	<i>Invitation to Tender by an Appropriate EU Notice / advertisement / Approved list to at least three and no more than six Candidates</i>	Officer, HOS and Head of Procurement
Above EU Threshold for Supplies and Services (applies to all activities) and / or £500,000	<i>The appropriate EU / Public Contract Procedure or, where this does not apply, Invitation to Tender by an Appropriate Notice / Advertisement / Council Approved List to at least five and no more than eight Candidate</i>	As above + in Consultation with the Director of Corporate Services and Customer Services and Director of Finance – see Rules 7.21.3 & 8.1.4
<i>Note – Where an intended arrangement is for the provision of Consultancy Type Service, including those for Construction related activity and the estimated value of the intended arrangement is above the EU Threshold £50,000 the relevant Portfolio Holder will be Formally Consulted on the intended action and contracting arrangements to be used. Was part of 8.5</i>		

8.1.2 Where it can be demonstrated that there are insufficient suitably qualified *Candidates* to meet the competition requirement, all suitably qualified *Candidates* must be invited.

8.1.3 An **Officer** must not enter into separate contracts nor select a method of calculating the *Total Value* in order to minimise the application of these Contract Procedure Rules or the *Public Contract Regulations*.

8.1.4 Where a Public Contract Regulations the *EU Procedure* applies, the **Officer** shall discuss with the **Head of Procurement** and Consult with the **Director of Corporate Services** and **Director of Finance** to determine the arrangements to be used for the completion of the *Procurement*. In any case the Final Contract Documentation shall be available for viewing, via the internet, from the date of publication of any required Contract Notice, unless otherwise agreed.

8.2 Assets for Disposal

8.2.1 Assets for disposal must be sent to public auction except where better *Value for Money* is likely to be obtained by inviting *Quotations* and *Tenders*. (These may be invited by advertising on the Council’s internet site.) In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the relevant **Head of Finance**. (see also Financial Regulation / Procedure 19)

8.3 Providing Services to External Purchasers and other Public Sector Organisations

8.3.1 The **Director of Corporate Services** and **Director of Finance** must be *Consulted* where contracts to work for organisations other than the authority are contemplated.

8.4 Collaborative and Partnership Arrangements

8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these *Contract Procedure Rules*. If in doubt, **Officers** must seek the advice of the **Director of Corporate Services** and **Head of Procurement**.

8.5 The Appointment of Consultants to Provide Services

8.5.1 Consultant architects, engineers, surveyors and other professional *Consultants* shall be selected and commissions awarded in accordance with the procedures detailed within these Contract Procedure Rules as outlined above **below**.

<i>Estimated Cost(or Value)</i>	<i>Tender procedure</i>	<i>Shortlisting</i>
Up to £25,000 £30,000	One oral <i>Quotation to be confirmed</i> in writing where the <i>Estimated Cost(or Value)</i> exceeds £1,000	Officer and Line Manager
£25,000 30,000 – up to £100,000 EU Threshold for “Supplies & Services”	Three written <i>Quotations Request for Quotations</i> issued via “ <i>Contract Finder</i> ” using the Council’s E Procurement System, with all Candidates responding being considered.	Officer, HOS and relevant Head of Finance
£100,000 – up to EU Threshold	<i>Invitation to Tender</i> by advertisement/list to at least three and no more than six <i>Candidates</i>	Officer, HOS relevant Head of Finance and

Above EU Threshold	EU Procedure or, where this does not apply, Invitation to Tender by advertisement / Council Approved List to at least five and no more than eight Candidates	Head of Procurement As above In agreements with Head of Finance and Head of Procurement and in Consultation with Director of Corporate Services and Director of Finance – see Rule 8.1.4
<p>Note – Where the estimated value of the intended arrangement is above the EU Threshold £100,000 or more the relevant Portfolio Holder will be Formally Consulted on the intended action and contracting arrangements.</p>		

8.5.2 Where it can be demonstrated that there are insufficient suitably qualified Candidates to meet the competition requirement, all suitably qualified Candidates must be invited.

8.5.23 The engagement of a Consultant shall follow the preparation 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.

8.5.34 Records of consultancy appointments shall be kept in accordance with Rule 6.

8.5.45 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant Head of Finance for the periods specified in the relevant agreement.

9. PRE-TENDER PRELIMINARY MARKET RESEARCH AND CONSULTATION

9.1 The Officer responsible for the purchase:

- May consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Candidate; but
- Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition; and
- Should Must seek advice from the Head of Procurement where the tender under consideration has an estimated value greater than the relevant EU Threshold and observe the requirements of the Public Contract Regulations Cl.40/41 in the approach taken on such consultation and any subsequent involvement, by those consulted in the tender process.

10. TECHNICAL SPECIFICATIONS, STANDARDS, LABELS, SELECTION, SUITABILITY AND AWARD CRITERIA

10.1 The **Officer** must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The **Officer** must include those standards which are necessary properly to describe the required quality. The **Director of Corporate Services** must be *Consulted* if it is proposed to use standards other than European Standards.

10.2 Where the use of a specific Label is to be used to identify a particular technical requirement others proposed as being equivalent must be considered

10.3 In any case the requirements of the above Rules 10.1 and 10.2 shall be operated as required by Clauses 42 – 44 of the Public Contracts Regulations.

10.4 *Selection Criteria* used, as further identified in Cl.68 of the *Public Contract Regulations*, must be related and proportionate to the subject matter of the contract and may consider factors such as, suitability, economic and financial standing and technical, financial and professional ability. Statutory Guidance on the Standard PQQ Documentation to be used and the approach to its assessment is stipulated by Crown Commercial Services and where such arrangements are used the **Officers** must seek the advice of the **Director of Corporate Services** and **Head of Procurement**, if they wish to depart from the use of the Standard arrangements identified in the Councils *Procurement Practice Notes* and *Model Documents*.

10.5 Where the Estimated Value of any procurement process is below the EU value identified for Supplies and Services, a selection process may not be used and an Open Tender Process. Based on a two stage “Suitability” evaluation and tender submission, by all those found to be suitable, must be followed.

10.6 **2** The **Officer** must define *Award Criteria* that are appropriate to the purchase, linked to the subject matter of the contract and designed to secure an outcome giving *Value for Money* for the authority. The basic criteria shall be:

- ‘most economically advantageous’ (“MEAT”), where considerations other than price also apply; or
- ‘lowest price’ where payment is to be made by the authority;
- ‘highest price’ if payment is to be received;

Where “MEAT” If the latest criterion is adopted, it must be further defined by reference to sub-criteria, which may refer only to relevant considerations. These may, for example, include price /cost of service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. The criteria used, and where possible the weighting attributed to them, shall be included in the Notice and or tender documentation as appropriate.

10.5 Award Criteria shall not have the effect of conferring an unrestricted freedom of choice on the Authority and shall ensure the possibility of effective competition.

10.36 Unless there are valid and justified reasons to do otherwise, the Council's preferred method of determining *Value for Money* in its *Procurement* arrangements is by the consideration of the *Whole Life Cost* and / or the *Life Cycle Costing* of the intended arrangement aligned with its *Sustainable Procurement* practice.

10.47 *Award Criteria* must not include:

- *Non-commercial Considerations*;
 - Matters, which discriminate against suppliers from the *European Economic Area* or signatories to other *Government Procurement Agreement*.
-

11. INVITATIONS TO TENDER/QUOTATIONS

11.1 The *Invitation to Tender* shall state that no *Tender* will be considered unless it is received by the date and time stipulated in the *Invitation to Tender*. No *Tender* delivered in contravention of this clause shall be considered, unless agreed by The **Director of Corporate Services**.

11.2 All *Invitations to Tender* shall include the following:

- (a) A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
- (b) A requirement for tenderers to declare that the *Tender* content, price or any other figure or particulars concerning the *Tender* have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for tenderers to complete fully and sign all *Tender Documents* including a form of *Tender* and certificates relating to canvassing and non-collusion.
- (d) Notification that *Tenders* are submitted to the council on the basis that they are compiled at the tenderer's expense.
- (e) A description of the *Award Procedure* and, unless defined in a prior advertisement, a definition of the *Award Criteria* in objective terms and if possible in descending order of importance.
- (f) Notification that no *Tender* will be considered unless it has been submitted using the Council's E procurement System or, where agreed otherwise, as identified in (g) below, is enclosed in a sealed envelope or container which bears the word '*Tender*' followed by the subject to which it relates, but no other name or mark indicating the sender.
- (g) A stipulation that any *Tenders* submitted by fax or other electronic means shall not be considered, unless specifically provided for in the *Invitation to Tender* and with the prior agreement of the **Director of Corporate Services** and **Director of Finance** as to the process to be used. (see also Rule 14.3)

(h) The method by which any arithmetical errors discovered in the submitted *Tenders* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender*, or vice versa. (See also Rule 16.4)

11.3 All *Invitations to Tender* or *Quotations* must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 17).

11.4 The *Invitation to Tender* or *Quotation* must state that the Council is not bound to accept any *Quotation* or *Tender* and may extend the closing date where appropriate.

11.5 All *Candidates* invited to *Tender* or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

11.6 It is a requirement of the of the Public Contract Regulations 2015, that all relevant Contract documentation and information is available at the point of any required Notice (either in OJEU or Contract Finder) or at Tender, should a Notice not be required.

12. SHORTLISTING

12.1 Where permissible any *Shortlisting* must have regard to the financial and technical standards required relevant to the contract; and the *Award Criteria* and be relevant and proportionate to the intended Procurement and be consistent with the selection criteria outlined in the Public Contract Regulation cl.60(9). Special rules apply to UK procurement activity, as stipulated in the Lord Young Procurement Reforms, which legislate for different requirements and treatment for all types of contracting arrangement valued between £25,000; £100,000 and the EU Threshold for Supplies and Services. These are in addition to those identified for above EU Threshold activity the respect of the *EU Procedure* and the advice of the *Head of Procurement* should be sort before commencing any the *Shortlisting* process..

12.2 The *Officers* responsible for *Shortlisting* are specified in Rule 8.1.1.

12.3 Where *Approved Lists* are used, *Shortlisting* may be done by the *Officer* in accordance with the *Shortlisting* criteria drawn up when the *Approved List* was compiled (see Rule 7.2.2). However, where the *EU Public Contract Regulations Procedure* applies, *Approved Lists* must not be used (where outside of any local dispensation), must be placed via an OJEU or Contract Finder Notice as appropriate (see Rule 7).

13. EXEMPTIONS TO THE NEED FOR COMPETITIVE TENDER

13.1 A decision to negotiate with one or more candidates on any arrangements required within the *Procurement* process shall not be made except in compliance with the following and any Public Contract Procurement Regulations (see also Rule 3). *Note* - For the purpose of this Rule the establishment of a *Service Level Agreement* is treated as being a negotiated arrangement;

Estimated Value)	Cost(or	Authorisation Requirement
£5,000 - £50,000		Chief Officer Agreement
£50,000 - up to £100,000		Chief Officer in agreement with <i>Director of Corporate Services</i> and <i>Director of Finance</i> with a report of the use made of this exemption being made to <i>Audit Sub committee</i> on a bi-annual basis.
£100,000 – up to £1,000,000		Chief Officer in agreement with <i>Director of Corporate Services</i> and <i>Director of Finance</i> and following Approval of the relevant <i>Portfolio Holder</i> , with a report of the use made of this exemption being made to <i>Audit Sub committee</i> on a bi-annual basis.
£1,000,000 and above		Chief Officer in agreement with <i>Director of Corporate Services</i> and <i>Director of Finance</i> and the approval of the <i>Executive or the Council</i> as appropriate.

13.2 The Officer concerned will need to ensure that the records necessary to justify the intended action are maintained and issued where necessary, for above and below EU Threshold activity as set out in the Public Contracts Regulations.

13.3 In determining the Value (and any Aggregate Values) for a particular requirement, together with those used to calculate the values of any modifications and /or extensions proposed to existing arrangements, care must be taken to value such activity using the approaches identified in the various parts of the Public Contract Regulations. In general terms it is the Value of an activity across the Council, and not of a contract in isolation which determines its treatment within the Public Contract Regulations.

13.4 Subject to the satisfactory completion of any required Contract Monitoring Report (see CPR 23), and where the Report produced as required by CPR 5 provides for a discretionary Extension of the Contract for an additional period of time. Providing the Authorising Committee have indicated their agreement at the point of the CPR 5 Report, without the need for further referral, then the relevant Chief Officer may, in Consultation with the Portfolio Holder, make use of this permissible extension providing it is notified to the Audit Sub committee, as part of the Bi Annual Report produced and identified in this CPR.

13.5 2 Chief Officers with Social Care responsibilities have specific exemptions provided to them under the Council’s *Scheme of Delegation* for certain contracting arrangements

14. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS

14.1 *Candidates* must be given an **adequate period** reasonable and proportionate amount of time in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of *Tenders*. The *EU Procedure* lays down specific time periods which must be observed. (see guidance in the Council’s “*Guide to Successful Procurement*”).

14.2 All *Quotations* or *Tenders* must be returned in compliance with the following requirements;

Estimated Value)	Cost(or	Receipt Procedure	Opening Procedure
Up to £5,000		Opened on arrival	By Officer
£5,000 – up to £200,000 the £100,000		Held in the custody of the Relevant Chief Officer or their representative until the time appointed for their opening	Opened and recorded by two Officers nominated by the Relevant Chief Officer, Initiating Officer may also attend.
£200,000 £100,000 and above		Held in the custody of the Director of Corporate Services or their representative until the time appointed for their opening	Opened and recorded by two officers nominated by the Director of Corporate Services, (Initiating Officer may also attend) and returned by them to the Initiating Officer.

The Council's preferred method of issuing an *Invitation to Tender or Requests for Quotation* and receiving any responses made is via the use of its E Procurement System, which should be used for all such activity, unless otherwise agreed by the *Head of Procurement*. Where a paper based process is agreed to be used it must follow the following requirements.

In all cases the tender instructions or notice shall state that no *Quotation* or *Tender* shall be received by the Council except in a plain sealed envelope/package which shall bear the words "Tender/Quotation" (as appropriate) followed by the subject matter to which it relates, but shall not bear any name or mark which would identify the sender. They must also make it clear to whom and where the completed tender should be returned, as provided for in the above detail.

14.3 The *Director of Corporate Services* must approve any receipt of tenderers by Fax or other electronic means (eg email), which should otherwise be rejected. **must be rejected, unless they have been sought in accordance with an electronic tendering process approved by the *Director of Finance***

14.34 Where the Council is utilising an electronic reverse auction as a *Procurement* procedure enabling suppliers/providers to adjust their tender price in the light of information from the tender prices submitted by competing suppliers/providers, then alterations will be accepted as permitted by the auction process. No *Procurement* shall take place by an electronic reverse auction unless the *Director of Finance* agrees that such process is appropriate for the *Procurement* in question and the e-auction is completed in line with methods agreed by the *Head of Procurement*.

14.45 The relevant *Officer* as identified in Rule 14.2 shall be responsible for the safekeeping of *Tenders* until the appointed time of opening and:

- Suitably recording, the date and precise time it was received;
- Securely storing on receipt to guard against amendment of their contents;

- Recording immediately on receipt in the *Tender Record Log*.

14.56 Upon opening, a summary of the main terms of each *Tender* (i.e. significant issues that are unique to each *Tender* submission and were not stated in the *Tender* invitation documents such as *Tender* sum, construction period, etc) must be recorded in the *Tender Record Log*. The summary must be initialled (or tagged as actioned on any E Procurement System used) on behalf of the relevant *Officer* as identified in Rule 14.2.

14.67 In the event that a *Any* tender that does not comply with the Council's requirement, as set out in the tender invitation e.g. is qualified, arrive late and /or after other tenders had been opened, is received **should normally be excluded from consideration**, with the circumstances recorded on the *Tender Record Log* and any evidence of the relevant events retained (i.e. envelop, packaging, receipt documentation etc.). *Chief Officers* may, however, seek the agreement of the *Director of Corporate Services* and the *Director of Finance* to relax these requirements in appropriate circumstances. Any such relaxation shall be identified when seeking any necessary authorities required before the acceptance of a tender, and will include consideration of any reasonable endeavour made by a tenderer to properly submit their tender by the appointed time, and any opportunity presented that might allow the amendment or change of details submitted so as to offer the opportunity for an unfair advantage to be taken.

14.78 For *Tenders* with an estimated *Value* of **£50,000** or above, where fewer than the minimum number of *Tenders* required have been received the *Director of Corporate Services* and the *Director of Finance* shall be *Consulted*, prior to any award decision, on any steps considered necessary to establish and maintain the adequacy of the tender process. Where the *Tender* has an estimated *Value* of less than **£50,000** the relevant *Chief Officer* may decide, on a Value for Money basis, the need for any additional actions required to maintain the adequacy of the tender process.

15. CLARIFICATION PROCEDURES AND ANY PERMISSABLE POST-TENDER NEGOTIATION

15.1 Providing clarification of an *Invitation to Tender* to potential or actual *Candidates* or seeking clarification of a *Tender*, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a *Tender* and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price.

15.3 Where information or documentation submitted at tender is, or appears to be, incomplete or erroneous, or where specific documents are missing, consideration as to allowing the tenderer to submit, supplement, clarify or complete the relevant documentation or document (within an appropriate time limit) shall be made in consultation with the *Head of Procurement* and with the agreement of the *Director of Finance* and the *Director of Corporate Services*.

15.2 If post-tender negotiations are permissible and necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Candidates* have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the *Tender* documents. *Officers* appointed by the *Chief Officer* to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

15.3 Post-tender negotiation must only be conducted in accordance with the guidance issued by the *Director of Finance* in consultation with the *Director of Corporate Services* who, together with the *Head of Procurement*, must be *Consulted* wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a division independent to that leading the negotiations.

15.4 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered unless the *Director of Corporate Services* and the *Director of Finance* agree to an alternative course of action.

16. EVALUATION, AWARD OF CONTRACT AND DEBRIEFING CANDIDATES

16.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Candidates* must be preserved at all times and information about one *Candidate's* response must not be given to another *Candidate*. Any processes used must ensure compliance with the principles of transparency and the equal treatment of those submitting tenders.

16.2 Contracts must be evaluated and awarded in accordance with the stated *Award Criteria*, which must be linked to the subject matter of the *Procurement* and be contract specific. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

16.3 Care should be taken in the evaluation process, where it is anticipated there may be subsequent changes to Council requirements, to ensure the impact of a reduction or increase in the volumes of expected activity are considered

16.4 The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, and dealt with in the following manner:

- The tender(s) should be given details of the error(s) found during the examination of the tender and shall be given an opportunity of confirming without amendment, or withdrawing the tender; or
- Amending the tender to correct any genuine arithmetic error(s) apparent on the face of the document, providing that in this case, apart from the these genuine errors no other adjustment, revision or qualification is permitted.

Such amendments should only be made in circumstances agreed with the **Director of Corporate Services**.

16.5 Unless otherwise agreed by the **Head of Procurement**, the Council's standard approach to Tender Evaluation, as contained in the CIPFA "Standing Guide to the Commissioning of Local Authority Works and Services, shall be used for the evaluation of all contracts with a value of **£25,000** and above.

16.65 **Officers** may accept, within their relevant financial limit, delegated authority and providing the stipulated degree of separation of duties is maintained, Quotations and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules and, in respect of proposed contracts that are expected to exceed **£500,000**, the approval of the relevant **Portfolio Holder** has been secured. The awarding of contracts that are expected to exceed **£1,000,000** shall be approved by the **Executive or the Council**, the responsible **Officers** having submitted for consideration a formal "Gate Report", covering, as appropriate, the matters identified in the Council's Standard "Gate Reporting Template for consideration at Award of Contract

16.7.6 Where the actual value of any intended contract is greater than that provided for in the original budgetary provision, or any tolerance provided for in the Council's *Capital Programme Procedures and/or Financial Regulations* the tender should not be accepted without seeking the advice of the **Director of Finance** and obtaining any necessary authorisations for increased budgetary provision.

16.87 Where the intended contract has a value in excess of **£200,000** it should be completed under seal as provided for in Section 17 of these Rules.

16.98 Where the Council is in receipt of income or net benefit under a contract it should be signed as a Deed.

16.10 In all cases the tender evaluation must be carried out as provided for in the Invitation to tender unless otherwise agreed with the **Director of Corporate Services** following Consultation with the **Head of Procurement**.

16.119 Where the *Total Value* is over **£100,000**, the **Officer** must notify all *Candidates* simultaneously and as soon as possible of the intention to award the contract to the successful *Candidate*. The **Officer** must provide unsuccessful *Candidates* with a period of at least ten days in which to challenge the decision before the **Officer** awards the contract. If the decision is challenged by an unsuccessful *Candidate* then the **Officer** shall not award the contract and shall immediately seek the advice of the **Director of Corporate Services**.

16.1210 The **Officer** shall debrief in writing all those *Candidates* who submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of the **Director of Corporate Services**:

- How the *Award Criteria* were applied;
- The prices or range of prices submitted, in either case not correlated to *Candidates'* names;
- The names of *Candidates* where there were three or more *Candidates*.

16.1311 If a *Candidate* requests in writing the reasons for a *Contracting Decision*, the **Officer** must give the reasons in writing within 15 days of the request. If requested, the **Officer** may also give the debriefing information at Rule 15.6 above to *Candidates* who were deselected in a pre-tender *Shortlisting* process.

16.1312 Where the award of the contract is a *Key Decision* any award must take account and observe the Council's *Call in Procedure* (see Annex C)

16.1413 Mandatory Standstill Period – 10 Days

16.14.1. Where a contract decision is required for a tender process completed under the Public **Contract** Regulation (and unless otherwise provided for), the Council must inform any *candidate* that has submitted an offer, has applied to be amongst those selected to tender for or negotiate the contract, or any candidate who has applied to be party to a *framework agreement*, of its decision in relation to the award of the contract or the conclusion of (setting up) a *framework agreement*.

16.14.2 The process adopted and information sent must be completed in compliance with the requirements set out in Clause 86 of the Public Procurement Regulations and identify, on an individual basis the "...characteristics and relative advantages..." of the successful tenderer(s) and those not successful.

16.14.3. Unless agreed otherwise with the **Head of Procurement**, the required Notice must be sent using the Council's E Procurement System and the recipient must be given until midnight on the end of the 10th day from issue (or if this is a weekend or bank holiday the end of the next working day?), to respond before it can **the Council must allow at least 10 days between the date of despatch of the required information and the date on which it proposes to finalise the process and enter in to a contracting arrangement.**

16.15. Call in Period

While the periods may run concurrently, officers need also to ensure their compliance with the Council's "*Call In*" requirements as identified in part 4 of the Council's Constitution (summarised in Annex D).

16.165 End of Standstill and Call in Period

At the satisfactory completion of the time periods identified in 16.143 & 16.154 the **Head of Service** shall notify the **Director of Corporate Services** and the **Head of Procurement** of their end to enable the issue of the necessary Contract Documentation and Award Notices.

16.17 Action on the Receipt of Any Challenge

In the event of any letter being received by the Council which indicates a *Challenge* to any element of the Tender or Award Process or if any correspondence is received from the "*Mystery Shopper Team*" at *Crown Commercial*, no further actions should be taken on the Tender or Award Process until the **Director of Corporate Services** and the **Head of Procurement** have been Consulted and a response agreed. The Council requires that a

review of the tender process is completed by the Officers identified above if any formal *challenge* to the tender arrangements is made.

SECTION 4: CONTRACT AND OTHER FORMALITIES

17. CONTRACT DOCUMENTS

17.1 Relevant Contracts

17.1.1 All *Relevant Contracts* that exceed **£100,000** shall be in writing.

17.1.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- The provisions for payment (i.e. the price to be paid and when);
- The time, or times, within which the contract is to be performed;
- The provisions for the council to terminate the contract.

17.1.3 Unless otherwise agreed by the **Director of Finance**, the *Council's Official Order Form*, as provided for in *Financial Regulation 5*, shall be used **Director of Corporate Services** shall also agree the use of any standard terms and conditions issued by a relevant professional body which it is proposed to use.

17.1.4 In addition, every *Relevant Contract* of purchase over **£50,000** must be completed under **Legal Guidance** and **also** state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent;
- Any insurance requirements;
- Health and safety requirements;
- Sustainability requirements;
- Ombudsman requirements;
- Data protection requirements, if relevant;
- That charter standards are to be met if relevant;
- Race relations requirements;
- Disability Discrimination Act requirements;
- Freedom of Information Act requirements;
- **Payment requirements within 30 Days to the Contractor and their Sub Contractor to the same effect.**
- **Variation Clauses which fully reflect the Councils potential requirements and the implications of the Public Procurement Regulations (Clause 72) and any valid associated Guidance**
- Where *Agents* are used to let contracts that *Agents* must comply with the Council's contract procedure rules;
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.
- Include the Council's standard requirements with regard to "*Whistle Blowing*"
- Any appropriate measures required to support the Council in the event of a Civil Emergency being declared or the Council's Business Continuity Plan invoked.

17.1.5 Where it is envisaged that there may be a need to a *Variation* to the Council's requirements during the period of a contract, appropriate conditions should be included allowing for the valuation of any subsequent changes.

17.2 Contract Formalities

17.2.1 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the **Director of Corporate Services**.

17.2.2 The **Officer** responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

17.2.3 Prior to the commencement of the contract (if not provided as part of the tender process) the **Officer** responsible shall request that the Main Contractor provides the names of their Sub Contractors and their representative. The Main Contractor will also be required to advise the Council of any changes in this information during the term of the contract.

17.3 Sealing

17.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be signed by at least two **Officers** which, together with the fixing of the council's seal, must be witnessed by a further officer on behalf of the **Director of Corporate Services**.

17.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the **Director of Corporate Services**.

17.3.3 A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end;
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;
- There is any doubt about the authority of the person signing for the other contracting party; or
- The *Total Value* exceeds **£200,000**.

18. BONDS AND PARENT COMPANY GUARANTEES

18.1 The **Officer** must *Consult* with the **Director of Corporate Services** and the **Director of Finance** about whether a *Parent Company Guarantee* is necessary when a *Candidate* is a subsidiary of a parent company and:

- The *Total Value* exceeds **£200,000**; or
- Award is based on evaluation of the parent company; or
- There is some concern about the stability of the *Candidate*.

18.2 The **Officer** must *Consult* with the **Director of Corporate Services** and the **Director of Finance** whether a *Bond* is needed: where the *Total Value* exceeds **£200,000** or where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the *Candidate* or there are other risks associated with the intended contract which require additional security.

18.3 Where the intended *Tender* and/or *Contract* is likely to have *TUPE* implications or require amendment to the Council's Pension Fund arrangements, the **Director of Finance** in consultation with the **Director of Corporate Services** shall agree the intended actions and the value of any Pensions Bond required, prior to any further authorisation otherwise identified.

19. PREVENTION OF CORRUPTION

19.1 The **Officer** must comply with the *Code of Conduct* and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the *Officer* to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 19.2 below.

19.2 The following clause must be put in every written Council contract: *"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:*

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or*
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or*
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.*

Any clause limiting the Contractor's liability shall not apply to this clause."

20. DECLARATION OF INTERESTS

20.1 If it comes to the knowledge of a Member or an employee of the authority that a contract in which he or she has a personal or pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the **Chief Executive**. The **Chief Executive** shall report such declarations to the appropriate *Committee*.

20.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.

20.3 A shareholding in a body not exceeding a total nominal value of **£25,000 or 1%** of the nominal value of the issued share capital (whichever is the less) is not a personal or pecuniary interest for the purposes of this *Contract Procedure Rule*.

20.4 The **Chief Executive** shall maintain a record of all declarations of interests notified by members and **Officers**.

20.5 The **Chief Executive** shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

21. MANAGING CONTRACTS

21.1 **Heads of Service** in sponsoring departments are to name **Contract Managers** for all new contracts. All contracts must have a named Council **Contract Manager** for the entirety of the contract.

21.2 **Contract Managers** must follow the reporting requirements and procedures set out in these **Contract Procedure Rules** and any supplementary Guidance issued by the **Council's "Guide to Successful Procurement"**. **Head of Procurement**.

21.3 As a minimum requirement the named **Contract Manager** will compile and maintain the standard "Contract Monitoring Summary" Template Document (as included in the Procurement Pages of the "Mangers Tool Kit" on OneBromley), and ensure their content is maintained and accurately reflects the information included in the Service Contracts Register required to be maintained by CPR 2.2 and 6.4.

22. RISK ASSESSMENT AND CONTINGENCY PLANNING

22.1 All *Procurement* activity and projects with an estimated value above **£100,000** must incorporate the use of the *Council's Programme and Project* methodologies as appropriate for the cost, complexity and risk associated with the intended activity, including those associated with TUPE, Pensions and Tax liabilities. This includes the preparation of a business case. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

22.2 For all contracts with a value of over **£50,000**, **Contract Managers** must:

- Maintain a risk register during the contract period;
- Undertake appropriate risk assessments and for identified risks;
- Ensure contingency measures are in place.

23. CONTRACT MONITORING, EVALUATION AND REVIEW

23.1 All contracts which have a value higher than **£200,000** limits, or which are *High Risk*, are to be subject to monthly formal review by the **Head of Service**. The review may be conducted quarterly if agreed by the **Director of Finance**.

23.2 For all contracts with a value higher than **£500,000**, or which are *High Risk*, an annual report must be submitted to the **Portfolio Holder** the responsible **Officers** having submitted for consideration a formal "Gate Report", covering, as appropriate, the matters identified in the

Council's standard "Gate Reporting Template for consideration as part of Contract Monitoring/Management requirements.

23.3 For all contracts with a value higher than **£1,000,000**, or which are *High Risk*, an annual report must be submitted to the **Executive** the responsible **Officers** having submitted for consideration a formal "Gate Report", covering, as appropriate, the matters identified in the Council's standard "Gate Reporting Template for consideration as part of Contract Monitoring/Management requirements.

23.4 A Council agreed *Gateway Review* process must be applied to all contracts deemed to be *High Risk*, *High Value*, or *High Profile*. This process must be applied at key stages of major procurements.

23.5 During the life of the contract, the **Officer** must monitor in respect of:

- Performance;
- Compliance with specification and contract;
- Cost;
- Any *Value for Money* requirements;
- User satisfaction;
- Risk management.

23.6 Where the *Total Value* of the contract exceeds **£500,000**, the **Officer** must make a written report to the relevant **Portfolio Holder** evaluating the extent to which the *Procurement* need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract and the authorisation requirements identified in Rule 5.1 and 16.5 above.

23.7 *Variations and Extensions*

23.7.1 No *Variation* should be issued or *Extension* agreed unless there is sufficient budgetary provision for each contract or where it is permitted under the Council's *Capital Programme Procedures* and related responsibilities for financial control of capital projects.

23.7.2 All *Variation* Orders must be issued promptly and authorised before the work is undertaken. All variations will be contained within agreed limits for each contract and made within the authorised limits determined by the **Chief Officer** as provided for in *Financial Regulations* and the *Capital Programme Procedures*.

23.7.3 Subject to any requirements of *Financial Regulations*, statutory restrictions and compliance with any provisions of the **Public Procurement Regulations** *EU Procurement Regulations* (particularly those relating to negotiation; **modifications and extensions** and any **limitations imposed by Clause 72 of the Regulations** above), a **Chief Officer** may authorise the following extension to an existing contact:

- An extension for a particular period provided for within the terms of the contract (but subject to satisfactory outcomes of contract monitoring, such information having been provided to where required in these Rules to the relevant **Portfolio Holder** and/or **Executive**); or
- A single extension of the contract by up to one year; or
- An increase in the scope of activities being undertaken.

Providing that where the value of any single and/or all extensions granted is greater than **£50,000** the processes and authorisation procedures required shall be the same as those identified in Rule 13 above.

23.7.4 The **Chief Officer** shall consult with the **Head of Procurement** and **Director of Corporate Services** on any need to issue a *Modification Notice* or take other action required by Cl.72 of the *Public Contract Regulations*.

DEFINITIONS APPENDIX (Needs to be update to amend/add 2015 review requirements)

Agent - A person or organisation acting on behalf of the Council or on behalf of another organisation.

Agree / Agreement – the process whereby a written record of the agreement of the relevant officer/Member is produced. For the Purpose of the operation of Contract Procedure Rules, the evidence of agreement required in writing can either be the physical endorsement /signature of a prepared document or an Email sent from a Council E mail Address associated with the Authorising Officer, providing the necessary records are maintained either in a soft or hard format.

Approval – the process whereby a formal report is submitted to and written approval obtained from the relevant officer/Member/Committee/Council.

Approved List - A list drawn up in accordance with Rule 7.2.

Award Criteria - The criteria by which the successful *Quotation* or *Tender* is to be selected (see further Rules 10 and 11.2e).

Audit Sub Commiitie – A Sub Committee of General Purposes and Licensing Committee having the role and responsibilities described within the Council’s Constitution.

Award Procedure - The procedure for awarding a contract as specified in Rules 8, 10 and 15.

Best Value - The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. Value for Money has now in many instances superseded this terminology.

Bids – oral or written quotations or written tenders as the context required or demands.

Bond - An insurance policy: if the contractor does not do what it has promised under a contract with the council, the council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the council against a level of cost arising from the contractor’s failure.

Business Continuity Plan – A plan compiled and included within the Council’s Business Continuity arrangements in compliance with and support of its responsibilities and duties as identified in the Civil Contingencies Act.

Call In Procedure – The procedure whereby 5 or more Members of the Council can require any decision of the Executive, Portfolio Holder, or Committee of the Executive or any decision mad by an officer under delegated authority from the Executive to be subject of scrutiny by the relevant PDS Committee as set out of Part 4 of the Constitution (see Annex D).

Candidate - Any person who asks or is invited to submit a *Quotation* or *Tender*.

Capital Programme (Control) Procedures – as set out and included in the Capital Programme/Budget book

Central Purchasing Organisation (CPO) – A Central Purchasing Body (CPB) as defined in the Public Contracts Regulations which acquires or concludes arrangements for works, goods and services, in compliance with the Regulations and which is intended for the use of one or more contracting authorities.

Chief Executive – the Council’s Head of Paid Service as defined in the Scheme of Delegation

Chief Finance Officer – the Council’s *Director of Finance* or their nominee or such other officer as may be designated Chief Finance Officer by the Council.

Chief Officer - The officers defined as such in the *Constitution*.

Code of Conduct - The code regulating conduct of *Officers* issued by the *Director of Legal, Democratic and Customer Services*.

Committee - A committee, which has power to make decisions for the Council, for example a joint committee with another local authority, but not a scrutiny committee.

Constitution - The constitutional document approved by the council which:

- allocates powers and responsibility within the council and between it and others
- delegates authority to act to the *Cabinet, Committees, Portfolio Holders and Officers*
- regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

Consult /Consultation - A process whereby the advice and necessary input to any particular contracting process is obtained and properly considered

Consultant - Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to employees with the skills, experience or capacity to undertake the work.

Contract - A "contract" is an agreement between two or more parties which is intended to give rise to legal relations.

The Council will accept tender documents supported by electronic signature, which have been submitted through the mandated E Procurement System, providing that where the value is £100k+ the contract document is formally compiled and signed with Legal input and overview. Those over £200k are required to be signed under seal as per CPR 17.3.

Contractor - A person or entity that enters into a contract

Contracting Decision - Any of the following decisions:

- composition of *Approved Lists*
- withdrawal of *Invitation to Tender*
- whom to invite to submit a *Quotation* or *Tender*
- *Shortlisting*
- award of contract
- any decision to terminate a contract
- any resulting amendments of the Councils Pensions Scheme.

Contracts Manager – The officer within a service or client department of the Council with principle responsibility for the letting and management of any contract for the supply of *Goods, Services or Works* on behalf of the Council.

Contract Monitoring Summary Template - A Document held and maintained by the designated **Contract Manager** to accurately record pertinent Contract information on a standard basis, to better inform management, members and other interested parties on the particular circumstances and requirements of Contracts placed.

Contract Notice – The notice published in the Official Journal of the Economic Union advertising the Council's intention to seek tenders or expressions of interest in a contract for the supply of *Goods, Services and Works*.

Corporate Contract - A contract placed by the *Corporate Procurement Division* or endorsed by the *Head of Procurement* for Corporate use.

Corporate Contracts Register - A record of contracting activity maintained by the *Council's Corporate Procurement Group* which records all contracts placed with an estimated value of **£200,000** and above.

Corporate Procurement Group -The council's central procurement unit charged with providing strategic direction and advice to secure *Value for Money* in the Council's procurement activities.

Director of Corporate Services - As defined in the *Constitution*.

Estimated Cost (or Value) - The expected value of *Goods, Services and Works* to be purchased by the Council including any which may be acquired during any optional extension to the term of the contract.

EU Procedure - The procedure required by the EU where the *Total Value* exceeds the *EU Threshold*.

EU Procurement Regulations – Requirements as set out in the “Public Procurement Regulations 2006 (SI 2006/5) as may be amended from time to time.

EU Threshold - The contract value at which the EU Public Procurement Directives apply – as advised from time to time by the **Head of Procurement** and detailed in the Procurement Tool Kit:

Executive (of the Council) - As defined in the Council's *Constitution*.

Exemptions – the specific waiver of a requirement for securing competitive *Bids*.

Extensions – The provision whereby an additional period of time is included and/or authorised to allow for continued performance of the contract or the scope of the arrangement and /or requirement carried out is increased.

Extreme Urgency – events unforeseeable by, and not attributable to, the Council which preclude compliance with time limits for tendering contracts in accordance with the *EU Procurement Regulations*.

Director of Finance - – As defined in the *Constitution*

Financial Officer - The most senior *Officer* representing the or designated by him to provide financial advice to the *Chief Officer*.

Financial Regulations - The financial regulations outlining *Officer* responsibilities for financial matters issued by the **Director of Finance** in accordance with the *Constitution*.

Formal Consultation / Formally Consult – A process where a written record and response/acknowledgement of the document considered is produced.

Framework Agreement - An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Gateway Review – A review process completed using the Council's Programme and Project Management guidance or similar best practice, such as that identified in the Cabinet Office / GPS Gateway process, to overview and validate the direction and outcomes from any particular contracting arrangement.

Goods – A physical asset or consumable such as materials, products or equipment and can include a commodity such as Gas, Water or electricity.

Government Procurement Agreement - The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the *European Economic Area* are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

Grant Payments - are a means of providing financial assistance to third sector organisations for a special purpose, for example to support the wider objectives of the local authority in promoting the social, economic or environmental well being of the area. Grant funding is usually preceded by a call for proposals. The grant offer letter will normally set out general instructions as to how the special purpose is to be achieved (i.e. through conditions that limit or guide the behaviour of the third sector organisation).

Guide to Successful Procurement - The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these contract procedure rules. The guide is available on the council's intranet.

Head of Finance – An Officer designated by the **Director of Finance** – As defined in the *Constitution* as having responsibility for financial matters within a particular Directorate, Department or part thereof.

Head of Procurement – The Officer, appointed from time to time, with a “Head of Profession” responsibility for overseeing the Council's Procurement activity.

Head of Service (HOS) – The Officer identified in the departmental structure as having responsibility for a particular activity or service below Chief Officer Level

High Profile - A high-profile purchase is one that could have an impact on functions integral to council service delivery should it fail or go wrong.

High Risk - A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.

High Value - A high-value purchase is where the value exceeds the *EU Threshold* values.

Invitation to Tender - Invitation to tender documents in the form required by these contract procedure rules.

Key Decision - Decisions that are defined as key decisions in the *Constitution*.

Line Manager - The *Officer's* immediate superior or the *Officer* designated by the *Chief Officer* to exercise the role reserved to the line manager by these contract procedure rules.

Nominated Suppliers and Sub-contractors - Those persons specified in a main contract for the discharge of any part of that contract.

Nominee(s) – A named individual to whom a *Chief Officer* has delegated certain of his/her specific duties, powers and functions in writing.

Non-commercial Considerations -

(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').

(b) Whether the terms on which contractors' contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.

(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.

(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').

(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.

(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.

(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.

(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (*TUPE*) may apply.

Officer - The officer designated by the *Chief Officer* to deal with the contract in question.

Official Order – as provided for in Financial Regulations

Parent Company Guarantee - A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the council, the council can require the parent company to do so instead.

Portfolio Holder - A member of the *Cabinet* to whom political responsibility is allocated in respect of specified functions.

Priority Services - Those services required to be tendered as defined in the EU public procurement directives.

Procurement - The process of acquiring goods, works and services from suppliers. The process spans the whole *Procurement* cycle from the identification of the need through to the end of the service contract or the end of the useful life of an asset. It therefore covers everything from “paper clips” to PFI”.

Procurement Strategy - The document setting out the Council’s approach to *Procurement* and key priorities for the next few years.

Quotation - A quotation of price and any other relevant matter (without the formal issue of an *Invitation to Tender*).

Relevant Contract - Contracts to which these contract procedure rules apply (see Rule 4).

Service Contracts Register – A sub set of the Corporate Contracts Register recording contracting activity required to be subject to competitive tendering and /or valued **£50,000** or above estimated value.

Service Level Agreement (SLA) - An arrangement with a VSO (or similar organisation) which provides the cost and outcome of any given service provision.

Services – An intangible asset, activity or facility provided by a third party (e.g. advertising space).

Scheme of Delegation – The arrangements made by the Council to delegate parts of its decision making processes, as provided for by its *Constitution*.

Shortlisting - The process of selecting *Candidates* who are to be invited to quote or bid or to proceed to final evaluation, including tender lists compiled under a two stage tender process.

Supervising Officer - The *Line Manager's* immediate superior.

Supplies – Generally relates to a purchase or hire of goods (including electricity, gas etc.).

Sustainable Procurement – A process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only for the organisation, but also society and the economy while minimising damage to the environment.

Tender - A *Candidate's* proposal submitted in response to an *Invitation to Tender*.

Tender Record Log - The log kept by the Relevant *Officer* to record details of *Tenders* (see Rule 14.5).

Total Value - The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:

- (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period
- (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months
- (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48
- (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result
- (e) for *Nominated Suppliers and Sub-contractors*, the total value shall be the value of that part of the main contract to be fulfilled by the *Nominated Supplier or Sub-contractor*.

TUPE - Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246) - Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (eg following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Value for Money – The optimum combination of *Whole Life Costs* and benefits to meet the service requirements.

Variation – Any amendment to a contract agreed in writing by the parties in accordance with its terms or by means of negotiation. Where *Extension* to the duration of a contract are considered the provisions of Para. 23.7 of these Rules apply.

Voluntary Sector Organisation (VSO) – Also known as the “third sector” it includes a range of organisations from unincorporated associations to companies limited by guarantee with charitable status. Generally, but not always, they funded by grant and contract with the Council by way of a *Service Level Agreement*, Note - the same organisation may have separate funding arrangements for different elements of the activity required.

Waive or Waiver – the dispensation of the need for compliance with a particular requirement of these *Contract Procedure Rules*.

Whistle Blowing – The raising of concerns under the Public Interest Disclosure Act 1998, in accordance with the Council’s Whistleblowing policy, about some danger or illegality arising or potentially arising from performance (or non performance) of its function.

Whole Life Costs – The consideration of all costs incurred during the life cycle of the work, goods, service or utility purchased, including those identified by adopting good *Sustainable Procurement* practice.

Work or Works – Those activities listed as Schedule 2 of the *EU Procurement Regulations* being, in general terms, construction, engineering or building works.

Council's Guide to Successful Procurement

EU Contracting Values and Summary of Contracting Arrangements

ADD

CCS “A brief Guide to the New Public Contracts Directive 2014”

ANNEX C

Contracting Extract - Officer Scheme of Delegation

PART I

GENERAL CONDITIONS GOVERNING DELEGATION OF FUNCTIONS TO CHIEF OFFICERS

	Responsibility Delegated from
1. These General Conditions and any amendment of or addition to made by the Council, shall apply to the delegation of functions specified in Part II of this document, and to any amendment of or addition to made by the Council or the Leader or the Monitoring Officer under paragraph 12 of this Part.	-
2. Powers delegated shall be exercised in conformity with the Constitution, Standing Orders, Financial Regulations and other directives of the Council in force from time to time, and in accordance with the expressed policies and objectives of the Council, the Executive or Committees relevant to the matter upon which action is to be taken.	-
3. The delegation of authority to deal with any matter shall not derogate from the power of the Council, the Executive, or Committee, Sub-Committee or Panel to call for a report on any decision or action taken, or to require any such matter under consideration to be referred to the Council or to the appropriate Executive body or Committee Sub-Committee or Panel for determination so far as this accords with the law.	Council/Leader
4. A Chief Officer may refer a matter to the Executive, the appropriate Executive Portfolio Holder or to the Chairman of an appropriate Committee and will, in any event, ensure that care is taken to identify any case within his delegated authority where unusual circumstances or other reasons suggest the desirability of Member consideration.	Council/Leader
5. If a matter involves considerations not within the purview of the Chief Officer primarily concerned, he shall consider whether it is necessary to consult any other Chief Officer concerned before authorising action, shall do so if he concludes it is necessary and shall take due account of any views that are expressed.	Council/Leader
6. When the implementation of a decision taken under the delegated authority by a Chief Officer requires the preparation of formal documents, legal proceedings or other legal process or advice, the Chief Officer concerned shall refer the matter to the Director of Corporate Services for appropriate action.	Council

<p>7. Authority to take decisions and other action including but not limited to the signing of documents and the requirement to arrange consultations shall be exercised and undertaken on behalf of the Council in the name of the Chief Officer to whom the authority to act is given, but not necessarily personally by him.¹ Therefore, under this condition each Chief Officer has power to authorise others to exercise any power conferred on him provided that any such authorisation shall be subject to these General Conditions and be commensurate with the nature of the matters to be dealt with. Further, the Chief Executive may authorise any other Chief Officer to exercise any power delegated to him in this scheme which in his judgement is consistent with that other officer's responsibility. Authorisations given by Chief Officers to others to exercise powers delegated under this scheme should be recorded in writing in a list maintained by each Chief Officer. This shall be taken to mean that, provided a Chief Officer has authorised the person making a decision on his behalf to act, that person may sign in his own name or in his Chief Officer's name when he makes that decision.</p>	<p>Council/Leader</p>
<p>8. The Chief Executive may, after consultation with any Chief Officer, refer to the Executive, the appropriate Executive Portfolio Holder, or appropriate Committee for decision any matter which has been brought to his notice and which, in his opinion, because of special difficulty or otherwise, warrants such reference.</p>	<p>Council/Leader</p>
<p>9. For the purposes of these General Conditions and the general and specific authorities to act to which they apply, the expression 'Chief Officer' shall mean:- e Chief Executive, the Director of Corporate Services, the Director of Education and Care Services, the Director of Environmental Services, the Director of Renewal and Recreation, the Assistant Chief Executive, Human Resources, the Director of Finance and the Chief Planner.</p>	<p>Council</p>
<p>10. Reference to an enactment in a grant of delegation shall be deemed to extend to and include reference to any subsequent enactment having like or similar effect as though the delegation had been granted under the subsequent enactment.</p>	<p>Council/Leader</p>
<p>11. An officer exercising any power under this scheme of delegation shall ensure that some written or other permanent record is made of his decision and, in cases where a range of alternative decisions presented themselves, shall record why he made the particular decision.</p>	<p>Council/Leader</p>

¹ This shall be taken to mean that, provided a Chief Officer has authorised the person making a decision on his behalf to act, that person may sign in his own name or in his Chief Officer's name when he makes that decision.

<p>12. For the avoidance of doubt, the Council and the Leader hereby declare that any exercise of a power by a Chief Officer, or an officer authorised by him and which, if expressly provided for by this Scheme of Delegation, could have been lawfully exercised by an officer under powers delegated to him by the Council or a Committee, shall be deemed to be authorised by this Scheme notwithstanding such express provision may not have been made in it; PROVIDED THAT, where an officer relies on this paragraph, the Monitoring Officer shall be informed by the officer of this action and the Monitoring Officer shall make a report on the matter to the next ordinary meeting of the Council.</p>	<p>Council/Leader</p>
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PART II

Subject to the foregoing, and without derogation from the powers or duties now or hereafter conferred or imposed upon officers of the Council, by statute or by any statutory instrument or regulation, authority to act for and on behalf of the Council without reference to the Council or Executive body or any Committee shall be delegated as follows:-

A. GENERAL AUTHORITIES	Responsibility Delegated from
<p>1. To each Chief Officer Authority to:-</p> <p>(i) Take all necessary action for the effective day-to-day management, administration and supervision of their Department and of the services for which they are responsible, and for the efficient discharge of the professional responsibilities of their office.</p> <p>(ii) Within budgetary provision, take all necessary action for the effective day-to-day management, administration and supervision of the land and buildings for which they are responsible, such action to include for each property concerned and as far as practicable</p> <ul style="list-style-type: none"> (a) proper documentation; (b) appropriate occupation; (c) maintenance to retain value; (d) security and satisfactory appearance; (e) an annual review to ensure property is still required; and (f) prompt release if surplus to requirements. <p>(iii) That all powers delegated to Chief Officers include authority to take action in respect of any London Residuary Body matter transferred to Bromley by virtue of the London Residuary Body (Transfer of Property etc) Order 1990 in the same way and to the same extent that they have delegated powers in respect of any</p>	<p>Council/Leader</p> <p>Council/Leader</p> <p>Leader</p>

equivalent Bromley matters.	
(iv) Incur expenditure and accept tenders for items provided for in the approved revenue estimates or approved capital programme, in accordance with the Council's Contract Procedure Rules.	Council/Leader
(v) Select quotations and tenders for works, services and/or goods within approved budgetary provision on all contracts in accordance with the Council's Contract Procedure Rules.	Council/Leader
(vi) On the best terms obtainable, dispose of stores, plant, vehicles, equipment, furniture or other such items which are obsolete, or are unusable for or surplus to the Council's requirements, subject to the Director of Finance's prior agreement to any consequential writing off of balances of book value.	Leader
(vii) Make adjustments of stock ledgers and accounts following stocktaking, subject to the Director of Corporate Services' prior agreement.	Leader
(viii) Authorise officers under their control to attend conferences, courses and similar events appropriate to their personal, official responsibilities and to the work of the particular Department, in accordance with an approved list or agreed code of practice.	Council/Leader
(ix) Vary annually fees and charges (except car parking) within policy established by an Executive body or Committee.	Council/Leader
(x) Deal with applications for re-grading in accordance with the Council's agreed procedures.	Council
(xi) Sign authorisation documents, with the exception of the Chief Officer's own personal authorisation, which shall be signed by the Director of Corporate Services.	Council
(xii) Where a complaint has been made through the Council's complaints system, decide whether there is a justifiable case for which the Council should apologise and pay compensation, up to a limit of £5,000 in any one case (or, in the case of the Chief Executive, £10,000).	Council/Leader
(xiii) Approve trips to EU countries made on Council business subject; in each case, to a subsequent report to the appropriate Executive body or Committee on the action taken.	Leader
(xiv) Enter into contracts with any voluntary sector organisation (VSO) for the provision of services by way of a service level agreement (SLA) without the necessity of competition, provided that:	Council/Leader

<p>(1) the Chief Officer is satisfied that the VSO is able to provide a satisfactory quality of service and that the sums payable under the SLA represent best value;</p> <p>(2) the relevant Portfolio Holder is notified of any new SLAs being entered into;</p> <p>(3) any approval, extensions or renewals of such SLAs comply with the provisions of rule 13.1 of the Contract Procedure Rules;</p>	
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<p>3. To the Director of Corporate Services Authority to:-</p> <p>(i) authorise proceedings before any Court of Summary jurisdiction in respect of any offence for which the Council by virtue of any Act of Parliament; , regulation, order or bye-law, is now or may hereafter be empowered to prosecute or to authorise the institution of such proceedings; except in cases where some other officer is specifically authorised to act;</p> <p>(ii) authorise proceedings for the recovery of debts of all kinds due to the Council (other than rates) and for the recovery of possession of premises;</p> <p>(iii) authorise the institution or defence of proceedings in the Courts to safeguard the Council's interest;</p> <p>(iv) obtain Counsel's Opinion to ensure adequate advice to the Council or Committees;</p> <p>(v) in accordance with instructions given, institute or defend any legal proceedings authorised to be taken or defended on behalf of the Council, or serve notices, including directions under section 77 of the Criminal Justice and Public Order Act 1994;</p> <p>(vi) take any action urgently required to settle legal proceedings during the course of a trial or other hearing;</p> <p>(vii) authorise permanent or temporary members of staff to represent the Council under Section 223 of the Local Government Act 1972 in proceedings before a Magistrates' Court or a Juvenile Court or Family Proceedings Court and under Section 60(2) of the County Courts Act 1984 to represent the Council in the County Court;</p> <p>(viii) issue written authorities to individual officers to act as the Council's authorised officers in the performance of their statutory or other duties (as evidence of their bona fides); provided that any written authority to enter upon land or premises is in pursuance of a statutory power of entry or inspection;</p> <p>(ix) sign and serve on behalf of the Council notices authorised by statute to ascertain ownership and other interest in land;</p> <p>(x) sign and approve service of Notices to Treat in pursuance of confirmed compulsory purchase orders and, where possession is required without waiting for settlement of terms of acquisition, sign and approve the service of Notices of Entry;</p>	<p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council/Leader</p> <p>Council</p> <p>Council/Leader</p> <p>Council</p> <p>Leader</p>
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(xi) approve the assignment of contracts;	Council/Leader
<p>4. To the Director of Education and Care Services , authority to:-</p> <p>Negotiate schedules of rates and other contractual provisions with registered residential and nursing home providers and/or care service providers to facilitate client choice within community care legislation. Clients should be directed to providers on such Approved Lists although the Director may agree to placement with a non approved provider provided that</p> <p>(i) the clients' choice is appropriate to their needs and</p> <p>(ii) the client meets the relevant eligibility criteria</p> <p>(iii) the costs fall within the rates accepted by the Council for accommodation and/or care for clients with their specific eligibility or a third party has entered into a binding contract with the provider and Council to meet any difference</p> <p>(iv) as far as possible inflationary increases in such rates should be negotiated at the outset.</p>	Leader

AUTHORITIES RELATED TO THE FUNCTIONS OF INDIVIDUAL PORTFOLIO HOLDERS AND COMMITTEES

DECS	(27)	Approve the placing of children with special educational needs in suitable schools as specified in a statement and including day, residential, independent and non-maintained special schools and special schools maintained by other authorities.	Leader
DECS	(28)	Arrange for home or hospital tuition in appropriate cases.	Leader
DECS	(30)	Make arrangements for transport of pupils.	Leader
DECS	(31)	Provide support services as requested by establishments.	Leader
DECS	(41)	In cases of urgency seek planning permission for mobile accommodation at primary and secondary schools in accordance with Regulation 3 of the	Leader

Town & Country Planning General Regulations Act 1992 on the understanding that a full explanation for the need will accompany each application.

Minor Improvement Budget Schemes

DES (62) Approve expenditure on schemes from within the minor improvement budget. Leader

Traffic Management Schemes – Civil Engineering Costs

DES (63) Following agreement in principle to traffic management schemes by the Council, approve the detailed civil engineering element costs. Leader

Contractors Bonds

All (44) Allow contractors to obtain their own bonds for due performance of any proposed contract, subject to the nominated bondsman being acceptable to the Director of Corporate Services and to any additional cost being met by the contractor. Leader

FD (46) The Director of Finance shall be the Chief Finance Officer for the purposes of Section 114 of the Local Government Finance Act 1988. Council

Energy Contracts

FD (51) In consultation with the DECS and relevant Executive Portfolio Holders, to accept energy tenders for gas and electricity for those schools which have opted into a corporate contract (in accordance with the decision of the Executive on 21st July 2008). Leader

FD (52) To accept energy tenders for gas and electricity for the remainder of the Council (in accordance with the decision of the Executive on 21st July 2008). Leader

DECS (18) Authority to allocate Housing Association Programme funds in accordance with the criteria contained in Social Services and Housing Committee Minute 232(g) (21st July 1997). Leader

Libraries

DRR (2) Select and purchase books and other library and museum materials and arrange loan exhibitions. Leader

KEY DECISIONS, MEMBER AUTHORISATION AND DELEGATION

GUIDELINES FOR KEY DECISIONS MADE BY OFFICERS

Where a Chief Officer is taking a Key Decision it must in most respects be dealt with in a similar way to a Key Decision being made by a Portfolio Holder or the full Executive at a meeting. The following guidelines explain what action is required to comply with the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 and the Council's Constitution.

What is a Key Decision?

A Key Decision is an executive decision which

(a) results in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or the function to which the decision relates – the thresholds for the various portfolios are set out below –

Adult & Community Services/Children & Young People/Environment & Leisure Resources	£500,000
Public Protection & Safety/Local Economy	£250,000
	£50,000

(b) is significant in terms of its effects on communities living or working in an area comprising two or more wards. Any decision likely to have an impact on the amenity of a community or quality of service provided by the authority to a significant number of people should be regarded as key.

A Key Decision may be taken by the Council, the Executive, an individual Executive Portfolio Holder or by an officer using delegated powers. Decisions made by Chief Officers concerning the award of contracts will be key decisions where the total value of the contract is likely to be above the relevant portfolio threshold.

Before a Key Decision is made -

- it must be included up to four months beforehand in the monthly **Forward Plan of Key Decisions** issued by Democratic Services.

(The Forward Plan is updated in the middle of each month and a request for new items for inclusion is issued by Democratic Services* at the beginning of each month.)

- a **report** should be prepared by the officer dealing with the matter and issued to the decision taker five clear days** before the decision is to be taken. *The report must be supplied to Democratic Services to be copied to Members. The report need not follow the corporate Committee report format in all respects, but it should set out clearly the recommended decision and the reason for the decision. The report should also include a section for the decision taker to sign and date after the five clear days have expired signifying their agreement.)*

After a Key Decision has been made -

- a **statement of decision** must be issued to all Councillors by Democratic Services
(This must state who has taken the decision, what the decision is and give a statement of reasons - a blank example is attached. Democratic Services will draft the statement of decision from the recommendations and reasons contained in the report.)
- A further period of five calendar working days is allowed during which time the decision may be called in by any five Members (unless reasons of urgency determine that the decision must be implemented immediately.) Only after the call-in period has expired can the decision be implemented. This means that you may need to build in extra time to allow not only for this period, but for the possibility of a call-in. If a decision is called in it will need to be considered by a relevant PDS Committee, which may decide to refer it to the Executive for re-consideration.

Where a matter for decision qualifies as exempt/part 2, no exempt information will be disclosed to the public, but it will still be necessary for the matter to be included in the Forward Plan and for a Part 1 summary of the statement of decision to be available for the public.

* *Democratic Services Contact = Graham Walton, tel. 020 8461 7743*

**** Five clear days excluding the day the report is issued, the day the report is signed and any intervening weekends, public holidays etc**

Updated 15/8/06

LONDON BOROUGH OF BROMLEY
STATEMENT OF KEY DECISION

SUBJECT:

Notice is hereby given that the following Key Decision on the above mentioned subject has been taken by

.....

for the reason(s) set out below.

Summary of Decision:

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Reason(s) for Decision:
(to include details of any alternative options considered and rejected)

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Mark Bowen
Director of Corporate Services

Publication Date:

Decision Ref: 2006/.....

(This decision will come into force, and may then be implemented on the expiry of 5 working days after the publication of the decision, unless it is subject to call-in.)

SUMMARY OF THE COUNCIL'S "CALL IN" REQUIREMENTS

Holding the Executive to Account

Moving to an Executive decision making model should mean that decision-making is quicker and more efficient but to ensure that decisions made are effective, the Executive and individual Portfolio Holders must be held to account.

This role involves scrutinising Executive and Portfolio Holder decisions at a number of different stages of the decision-making process: before decisions are made, before they are implemented and after they are implemented.

There are a number of ways in which the Executive can be held to account:

- ❑ Examining Executive and Portfolio Holder minutes and agendas
- ❑ Using call-in procedures
- ❑ Attending Executive and Portfolio Holder meetings
- ❑ Examining the Forward Plan of Key Decisions
- ❑ Calling the Portfolio Holder as a witness
- ❑ Meetings with Portfolio Holders
- ❑ Officer briefings

Call-in Procedure

When a decision is made by:

- ❑ the Executive,
- ❑ an individual member of the Executive,
- ❑ a Committee of the Executive or
- ❑ an officer with delegated authority from the Executive;

the decision will be published and sent to all Members of the Council normally within two working days. The decision will come into force, and may then be implemented, five working days from the date of publication.

During that five-day period the decision can be 'called-in'. This procedure allows executive decisions to be scrutinised before they are implemented - an important part of the PDS process. Requests for call-in must be submitted to the Director of Legal, Democratic and Customer Services during this five-day 'call-in' period. Requests should be made, in writing, detailing the reasons for the call-in. Each call-in needs to be supported by five Members of the Council.

The relevant PDS committee will then meet within a time period agreeable to all parties of the call-in. Having considered the decision, the PDS Committee has three options –

- (i) if it decides that the decision is correct, no further action is taken on the call-in and the decision may then be implemented;
- (ii) if it decides that the decision should be reconsidered it may refer it back to the Executive, giving its reasons. The Executive (not just a single Portfolio Holder) must reconsider the matter;
- (iii) in exceptional circumstances, if the Committee considers that the decision contradicts the Council's policy and financial framework, it can refer the matter to a full Council meeting for reconsideration.

By virtue of paragraph(s) 1, 3, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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